STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on August 16, 2012

COMMISSIONERS PRESENT:

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

CASE 11-C-0048 – Tariff filing by Verizon New York Inc. to Require Customers to Support Claims for Overbilling on Disconnected Lines.

ORDER DIRECTING VERIZON NEW YORK INC. TO FILE A TARIFF CANCELLATION SUPPLEMENT

(Issued and Effective August 16, 2012)

BY THE COMMISSION:

INTRODUCTION

On July 12, 2011,[1] Verizon New York Inc. (Verizon or the Company) filed a tariff revision establishing new requirements for issuance of credits due to overbilling resulting from termination or disconnection of services[2] provided to business customers. Its proposed tariff would (1) supersede its overbilling tariff; (2) authorize the Company to decide each claim and issue appropriate credits or refunds, if warranted, on the basis of the facts and circumstances of each claim and in accordance with applicable law; and (3) establish liability only

[1] On January 31, 2011, Verizon filed an initial tariff change, which it cancelled at the time it filed its second proposal.

[2] Recurring monthly charges for exchange access lines, private lines, service features, such as Custom Calling Service, and equipment (PSC NY No. 1 – Communications, §1.H.16 (General)).

for claims presented in writing within six years after the alleged overbilling occurs.

The effect of the proposed tariff revision is to eliminate three clauses in Verizon's overbilling tariff. These clauses require: (1) credit to the date of disconnection up to a maximum of six years when verification of the date overbilling began is available; (2) credit up to the date of physical activity on the line up to a maximum of three years if no record of disconnection exists and a record of physical activity is available; and (3) if no record exists, credit to the date the Company initiated billing, up to a maximum of three years (No Record Clause. Instead, Verizon would comply with Commission rules for complaint handling and, if no evidence exists, consider the lack of service an out-of-service condition, eligible for credit under its six-month credit provision for other overbilling disputes (PSC NY No. 1 –Communications, §1.D.2.a). Verizon claims that, under other regulatory requirements, it is obligated to provide the credits established in the first two clauses in its overbilling tariff.

After reviewing the comments received, we understand that the first two clauses provide valuable guidelines for the Company's business customers and the telecommunications consultants and auditors that advise them in resolving claims. Thus, we determine that these clauses should remain in the Company's overbilling tariff and, therefore, direct Verizon to file a tariff cancellation supplement of the tariff amendment scheduled to go into effect on August 20, 2012. With respect to the third clause, Verizon is authorized, if it chooses, to file a future tariff revision effective upon a minimum of 90 days notice pursuant to Public Service Law (PSL) §92 as follows: "When no disconnect record or record of other activity is available, credit is given to the date billing commenced, up to

a maximum of six months." Verizon would apply this proposed tariff amendment prospectively to overbilling complaints submitted to the Company after the effective date of any tariff revision it submits to the Commission for approval. Verizon's provision of 90 days before the tariff amendment becomes operative would provide an opportunity an orderly transition to the new tariff requirements.

This modification recognizes the unfair burden resulting from the imposition of liability when no record exists, unnecessary costs imposed upon the Company, changes in the historical circumstances that resulted in the current requirements, evolution in telecommunications technology and markets since the 1989 adoption of the overbilling tariff, development of technology expertise at major commercial and industrial enterprises, use of consultants and auditors to monitor Verizon services and bills, need to avoid stale complaints and fairness of requiring business customers to bring overbilling complaints to Verizon within a reasonable amount of time.

PUBLIC NOTICES

On February 22, 2011, the Secretary to the Commission issued a Notice Inviting Comments no later than March 21, 2011 on Verizon's initial proposed tariff.[3] The parties submitting comments include: (1) 19 telecommunications consultants and

[3] This Order provides a summary of the comments filed on the initial January 31, 2011 tariff and subsequent July 12, 2011 tariff because the comments provide general information relating to changes in the overbilling tariff proposed in both tariff revisions.

auditors offering services[4] to Verizon's business customers: Allan Rotto Consultants, Inc. (ARC); DIgby 4 Group, Inc. (DIgby) ECONOBILL Corporation (ECONOBILL); Electronic Business Systems Corporation (EBS); Fortune Consulting (Fortune); Law Office of Martha Buyer, PLLC (Martha Buyer); On Line Marketing Inc. (On Line);[5] Phone Review; Shaheen & Associates, Inc. (Shaheen); Sheraga and Storch Associates (S&S); Tangoe, Inc. (Tangoe); Telecom Expense Management Industry Association (TEMIA); Tele-Review Telecommunications Consultants (Tele-Review); Telstar Resource Group, Inc. (Telstar); Three Rivers Telecom Consulting (3Rivers); TRAK Communications (TRAK); Troy & Banks Utility; Telecommunication Consultants (T&B); and Utility Refund Solutions, Inc. (URS); (2) three large customers: Jameson Health System (JHS); Deutsche Bank (Deutsche) and UBS submitting similar letters; and 21 businesses, listed in Appendix A, that, upon request, submitted form letters (Form Letter I). In a letter dated March 21, 2011, Senator Suzi Oppenheimer stated that consumer advocates expressed concerns to her relating to the proposed tariff change.[6]

On July 20, 2011, the Secretary to the Commission issued a Notice Inviting Comments no later than August 18, 2011 on Verizon's second revision to its tariff. The parties submitting comments include: (1) eight telecommunications consultants and auditors: Advantage IQ; ARC; Communications

[4] Services include consulting, auditing, physical inventories, bill management and contract negotiation.

[5] On Line is a website providing information and advice on running and growing small businesses and a provider of software and technology-enabled services.

[6] Senator Oppenheimer expressed the concern that the proposed tariff change would delete provisions that provide important protections to consumers; she requests careful consideration of the issues and continued protection for consumers who are victims of billing errors.

Consulting Services, Inc. (CCS); Levine Blaszak Block & Boothby LLP (LB3); Shaheen; Tele-Review; Utility Cost Reductions, Inc. (UCR); and Utility Rate Analysis Consultants (URAC); four customers: New York Presbyterian Hospital; Tiro A Segno of New York, Inc.; Tudor Investment Corporation (Tudor); and, Village of Lloyd Harbor (Village);[7] and, as listed in Appendix A, 15 businesses submitting Form Letter II, six business submitting Form Letter III and three businesses submitting Form Letter IV.

On October 28, 2011, Verizon filed a reply to the comments submitted in this proceeding. No other parties submitted reply comments.

ARC, on July 25, 2011, and DIgby and Tele-Review, on July 26, 2011, submitted additional comments, generally reinforcing the arguments presented in the documents they submitted in response to the Notices Inviting Comments on Verizon's two proposed tariff revisions.

VERIZON'S OVERBILLING TARIFF

Verizon's overbilling tariff ((P.S.C. No. 1 – Communications, §1, §1.H.16.1) provides:

> Overbilling: When a claim for overbilling is made to the Company and that claim is verified by a physical inventory or other Company verification procedure, credit is given to the date of disconnection, if available from Company records or reasonable evidence provided by the customer, up to a maximum of six years. If a disconnect record is not available, but a record of physical activity other than disconnection is available, credit is given to the date of that activity, up to a maximum of three years. Where neither a disconnect record nor a record of other activity is available, credit is given to the

[7] Deutsche Bank and UBS submitted the same letters filed as comments in response to the February 22, 2011 notice on Verizon's initial tariff revision.

date billing commenced, up to a maximum of three years.

In 1989, the tariff provided for application of simple interest on overbilling credits, at the same rate paid on security deposits. The tariff in effect provides for interest, compounded monthly on customer overpayments at an interest rate that is the greater of the unadjusted customer deposit rate or the rate paid as the late payment charge. The current tariff provision is consistent with a Commission rule, effective July 15, 1992, that establishes the interest rate for customer overpayments (16 NYCRR §634.3). The late payment charge is established as a charge not in excess of 1.5% per month on unpaid balances of bills, including interest.

VERIZON'S PROPOSED TARIFF REVISIONS

January 2011 Tariff Revision

On January 31, 2011, Verizon proposed to delete a portion of its overbilling tariff requirements (P.S.C. No. 1 – Communications, §1, §1.H.16.1 and 2)[8] and adopt a new tariff provision stating:

> When a claim is made to the Company for overbilling on account of termination or disconnection of service, no credit shall be given for the overpayment(s) unless the Customer provides verifiable documentation to the Company that it provided written notice of termination of service or that Customer complied with established Company procedures for the disconnection of service.

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[8] P.S.C. No. 1 – Communications §1 §1.H.16.2 establishes, for overbilling purposes, that an exchange access line and its associated features and equipment are deemed in service, where dial tone exists at the demarcation point, the 42A block or similar authorized point of interconnection and that a private line and its associated features and equipment are deemed in service where a continuous dedicated circuit exists between interconnection points.

The Company described its purpose as limiting disconnection credits for overpayments to claims that a customer supports with verifiable documentation that the customer provided written notice of termination or complied with Company disconnection of service procedures. In support of its proposal, Verizon states that, based upon its information, no other telecommunications Company in New York operates under a similar tariff, which it describes as onerous, and that other telephone corporations may require customers to support refund claims with evidence that they ordered service disconnections, in the absence of Company records indicating a disconnect order.

Verizon explains that the overbilling tariff resulted from an agreement between New York Telephone Company (NYT), its predecessor, and the Department of Public Service Staff (Staff) following a Commission determination resolving an overbilling complaint filed by Bellevue Hospital.[9] Verizon states that the Bellevue Decision held NYT liable for disconnection credits because it did not possess documentation necessary to rebut the customer's claim that circuits provided were disconnected at the customer's request.

Verizon states that application of the Bellevue Decision is no longer warranted. It asserts that the Bellevue Decision imposes the burden of proof on the Company to disprove disconnection, due to its obligations to retain records under the Commission's rules. The Company states that, because it changed its record keeping practices and relies upon new software programs (Rendezvous2 (R2)) and Verizon Enterprise Center (VEC)) to preserve customer requests for service disconnections, the burden of proof should shift to the customer to prove placement of the request to disconnect. Verizon

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[9] Case 26358, Bellevue Hospital Complaint, Untitled Order (issued July 17, 1985) (Bellevue Decision).

asserts that its overbilling tariff is costly and onerous, imposing over $4 million annually to pay for non-documented claims and $1.2 million annually to perform physical inspections to verify overbilling claims due to service disconnections.

The Company avers that the proposed alternative is a reasonable sharing of responsibility with its customers, especially in light of the account management capabilities it offers and that the overbilling tariff places an unfair burden of proof on the Company to provide a negative, that the customer did not place a disconnection order. It asserts that customers should bear some responsibility to manage their own accounts, disconnect lines no longer needed on a timely basis and report non-working lines.

Although its proposed tariff would delete the first two clauses of its overbilling tariff, Verizon asserts that, under its proposal, it would continue to exercise an obligation to issue credits for up to six years, if records indicate that disconnection occurred or the customer filed a notice of disconnection and the Company failed to perform the disconnection.

July 12, 2011 Tariff Revision

On July 12, 2011, Verizon submitted a second proposed revision to its overbilling tariff to supersede its initial proposal. The second revision would revise P.S.C. No. 1 – Communications, §1, §1.H.16.1 and reinstate §H.1.16.2[10] to provide:

> Overbilling: When a claim for refund is made for overbilling on account of termination or disconnection

[10] Its revised tariff makes a correction to its initial proposal to retain a provision that defines the meaning of the term, in-service line, for various buildings (PSC NY No. 1 – Communications, §1.H.16.2.

> of service, the Company will decide each claim, and issue appropriate credits or refunds, if warranted, on the basis of the facts and circumstances of each claim and in accordance with applicable law. The Company will not be liable for refunds of charges in any case where the claim is not presented in writing within six years after the alleged overbilling occurs.

Verizon claims that its second revision is an effort to respond to comments opposing its initial proposal. The Company claims that the consultants misunderstand the limited purpose of the proposed initial tariff revision. It states that its purpose is only to eliminate the automatic entitlement to a substantial credit of up to three years when no evidence exists to substantiate a disconnection claim. It points out that other requirements obligate the Company to investigate a disputed invoice (16 NYCRR §600.8) and report the results of the investigation to a customer; if it received a disconnection of service order and failed to terminate billing, it is required to report the finding and make the billing adjustment.

It describes the second revision as requiring consideration of the facts and circumstances of each claim, a customer's documentary evidence and Verizon's evidence. In the event that a customer is dissatisfied with the result, the customer may file a complaint with the Commission.

The Company asserts that no other telephone corporation is subject to a similar onerous tariff provision.[11] It states that, subsequent to the adoption of its overbilling tariff, substantial changes occurred in the telecommunications market, including the emergence of a highly competitive industry and substantial loss of Verizon access lines due to the

[11] Verizon provides by way of example: "No adjustment will be made nor refund given if no records exist to substantiate a claim of overbilling or incorrect billing" (Citizens Telecommunications Company of New York, Inc. (PSC No. 2-T, §H.11.2).

migration of customers to companies providing wireless and interconnected VoIP technologies. It maintains that these conditions warrant modifications of the unfair burden placed on Verizon relating to overbilling claims due to service disconnections.

Reply Comments

Verizon responds to the principal objections expressed in the substantive comments on its initial tariff revision. These objections are: (1) the proposed change would transfer responsibility for record keeping and shift the burden of proof to customers; (2) the Company would no longer conduct physical inspections to verify disconnections of service lines; and (3) Verizon would act as sole arbiter of refund claims.

Verizon states that its proposal means that the three year limitation applicable when physical activity occurred and the No Record Clause would no longer apply; and, it would provide credits to the date Verizon disconnected service, up to six years, based upon records of disconnection and physical activity. If the line is disconnected due to other causes, it would consider the lack of service an out-of-service condition, eligible for credit under its six-month credit provision for other overbilling disputes (PSC NY No. 1 – Communications, §1.D.2.a).

Verizon argues that, under its overbilling tariff, if it has no record of disconnection, a customer exercises no obligation to provide any evidence to support the claim that the customer requested a service disconnection and, thus, the Company is required to prove a negative, that is, it did not disconnect a line upon request. Verizon maintains that customers exercise a joint obligation with the Company to ensure that charges are properly billed by reviewing bills and

notifying the Company of errors, a responsibility acknowledged by UBC in its comments. It claims that it proposes a very narrow change: elimination of the automatic entitlement to a three year credit when Verizon has no record of a disconnection, other activity, or usage, to support the claim. If a customer requested service disconnection and no Company or customer documentation exists, Verizon asserts that denial of a refund in these circumstances is commercially reasonable.

Verizon explains that its proposed tariff revision does not eliminate its obligation to investigate a disputed invoice and report the results of the investigation to a customer. It states that it will continue to evaluate lack of a dial tone at the demarcation point in reviewing an overbilling claim.

Verizon maintains that, in any industry, the supplier, or seller, resolves each claim, similar to its proposal. It points out that, unlike unregulated industries, its customers have recourse to dispute the Company's resolution by means of a complaint to the Commission.

Verizon avers that changes in the telecommunications market have resulted in the emergence of intermodal communications alternatives to the Company's landline service, resulting in a substantial loss of access lines and customers to competitive providers. It states that these developments warrant modifications to the automatic three year rule to eliminate the unfair additional evidentiary burden placed on Verizon relating to service disconnection overbilling disputes.

BACKGROUND

Bellevue Decision

A consultant filed a complaint on behalf of Bellevue Hospital against NYT, charging that the company, after writing up credit orders, refused to issue an estimated $825,000 in billing credits as a result of billing errors discovered during a 1983 inventory of lines and equipment prior to a cut-over to private equipment. NYT personnel had made a mistake in assuming that verification occurred for each of the lines billed to Bellevue Hospital. When NYT found out about the amount involved, it investigated further and found errors in the list, discovered that no records existed to establish disconnection dates for some of the lines, negotiated a credit settlement in writing dating back approximately four years (1979) based on the probability that some lines were disconnected earlier and some later. Then, after four months, NYT refused to honor the agreement and credit Bellevue Hospital. During the Staff's investigation of the complaint, it reviewed NYT records to establish disconnect dates for each line. NYT accepted decisions to issue credits for lines, if records established a disconnect date; it opposed decisions to issue credits for lines if no records supported a disconnect date or the last physical activity was unrelated to disconnection (service connection or repair).

The Commission rejected the NYT appeal of the Staff decisions, finding that, contrary to NYT's assertions: NYT had considerable opportunity to verify the discrepancy list, viewed the list as credible and reliable without verification and negotiated credits based on the list; although Bellevue Hospital failed to produce its own records, it was NYT's obligation to maintain accurate and complete records (16 NYCRR §644.2); the NYT records that were available provided an adequate basis on

which to identify disconnection dates for many of the lines and it should not prevail because of its own poor record keeping practices; the burden of proof was correctly assigned to NYT because, once a complaint raises a question, a utility has the burden to justify its actions because it possesses the billing and service information necessary to decide the complaint; and, the NYT tariff authorizing six months of credits for overbilling when no record existed conflicted with NYT's accepted practice of entering into settlements that provided refunds to the midpoint of the disputed period when inadequate records existed to determine a precise disconnect date.

Several years of controversy ensued, as the Commission applied the process developed in the Bellevue Decision to subsequent overbilling disputes. NYT filed an Article 78 proceeding challenging these cases because the method used for resolving overbilling disputes conflicted with its approved tariff relating to overbilling. That tariff provided that bills were deemed accurate after six months, unless other evidence is available. After negotiations among the parties, NYT submitted a revised overbilling tariff, continuing to this day, to settle litigation over the lawfulness of the Bellevue Decision and its construction of the Company's tariff. The Commission order approved the tariff because it was acceptable to the parties and the Company agreed to withdraw its appeal before the Appellate Division relating to the Bellevue Decision's lawfulness.[12] Because Verizon's overbilling tariff differs from the provisions in the Bellevue Decision and is the result of a settlement, the Bellevue Decision does not control Verizon's overbilling requirements.

[12] New York Telephone - Billing Discrepancies, Untitled Order (issued January 11, 1989), p. 4.

Record Retention Requirements

In 1993, the Commission adopted record retention rules applicable to telephone corporations (16 NYCRR §§644.2 and 651.19), effective November 1, 1993. This action was taken, due to the Federal Communications Commission (FCC) decision to eliminate retention periods for specific records (47 C.F.R. §42.9) in favor of a telecommunications carrier's own record retention decisions as documented in a master record (47 C.F.R. §42.4).

The Commission's rules establish the requirement that telephone companies retain Customer Service Records (CSRs) for six years. The Commission has not made any determination to waive these record retention rules, in light of the development of a competitive market; and, it has not issued any decision establishing these rules as the basis for its resolutions of overbilling complaints. Specifically, the rules require: retention of copies of service orders used as a basis for entries to customer service records for six years (§651.19(22)(a)(4)); completed service orders and other authorizations used as a basis for billing (§651.19(22)(e)(4)) for six years; contracts, applications, correspondence and memoranda relative to establishing, changing, or discontinuing service to customers for one year ((§651.19(23)); records of customers and memoranda of contacts associated with service records used for billing for six years (§651.19(24)(b)); and, customer billing and other accounts receivable records for disconnected service and record of telephone message and service usage for six years ((§651.19(54)(a)and (b)).

COMMENTS IN RESPONSE TO FEBRUARY 22, 2011 NOTICE

A comprehensive summary of these comments is provided in Appendix B. This section provides a compilation of the major substantive arguments presented in the comments.

Poor Record Keeping

A number of parties assert that, although Verizon's inaccurate billing is unintentional, it is capable of correcting the situation through better record keeping and should improve its records before allowing any tariff change. Others state that Verizon should not unduly burden customers with this responsibility, when the Company is required under the Commission's record retention rules to maintain these records. Shaheen reports difficulties that interfere with record keeping, including disconnection of services without completion of a billing change and removal of a facility without forwarding the information to the responsible billing office. Tele-Review states that Verizon's billing system is inadequate and has not evolved with technology; and, repetitive errors result in overcharges. It maintains that Verizon often offers incentives to entice customers to upgrade to the next generation of service; and, the Company lacks motivation to ensure accurate billing.

Other Reasons for Overbilling

TEMIA is sympathetic to the billing challenges that Verizon faces because telecommunications carriers have the most complex billing of any industry, with a wide range of products and services, regulations, taxes and continual changes due to technology and customer moves, change, adds and disconnects (MACD) activity. TRAK maintains that Verizon's copper wire pairs are often hijacked when circuits are installed for other customers, or lines removed at the demarcation point; and, facilities are not removed after an upgrade.

Tele-Review asserts that overbilling cases are far more complex than Verizon claims. It recognizes that the billing/service errors may result from a combination of

challenges, specifically in New York City, involving aging facilities and buildings, significant volume and concentration of businesses and an outdated billing system. However, it points out that Verizon has not taken steps to address the need for adding or maintaining its copper facilities.

Burden of Proof

A number of parties assert that the initial tariff revision, including cancellation of the first two clauses, would shift the entire burden of proof onto the customer, in violation of New York State law. They state that the proposed initial tariff would transfer to customers the obligation to maintain copies of disconnect instructions for up to six years, contrary to the Commission's record retention rules. Others claim that the revision would unfairly shift the entire burden of ensuring accurate billing to customers and remove incentives for Verizon to invest in the people and technology necessary to ensure more accurate billing.

Inadequate Software Systems

The parties claim that the: R2 and VEC systems are unreliable and the R2 system is not available to customers. They state that the software programs contain numerous shortcomings. As examples, the parties assert that: VEC portals do not allow access to orders older than 90 days; the programs require a customer request ID and reassign numbers of disconnect orders to new customers; requested orders are not always available for customer review; orders may remain pending for years; orders are limited to ten lines per order; a request to disconnect a circuit may not translate into a billing change; numerous glitches remain in the core billing database; and, the Company's databases do not talk to each other.

Other Tariffs

The parties point out that other telecommunications companies may not have similar tariff requirements because they do not have the same customer base, market share, or deployed infrastructure. TEMIA questions Verizon's claim that the current tariff imposes onerous costs, stating that Verizon is the only Company with this tariff due to its unique circumstances of providing extensive network infrastructure in New York and its failure to address billing errors.

Removal of Consultants' Incentive

The parties state that elimination of the three year plus interest requirement will remove the incentive for consultants who earn livings recovering refunds for Verizon customers to provide the service (interest is provided at the late payment charge rate, or 1.5% a month). As a result, they claim that Verizon customers will be on their own; and, most firms do not possess the skills or resources in-house to recover refunds.

No Physical Inspections

Several parties object to the purported elimination of the requirement for physical inspections, which, they claim, would occur if the first two clauses are cancelled.

Proposed Revisions to No Record Clause

One party recommends that the tariff continue to include the six year statute of limitations provision, requirement for a physical inventory and review of a usage record, contained in the first two overbilling tariff clauses. He recommends revision of the No Record Rule to provide that no credit is given if no record is available.

Competition Not a Solution

Tele-Review points out that the Commission's policy is that each utility is governed by its own tariff and no legal requirement compels the same practices and policies for each utility.[13] It states that, due to the magnitude of local service required by some government and extremely large customers, Verizon is the only suitable vendor with the ability to provide large quantities of voice and data services. It claims that a shift to a reseller may result in unacceptable lag time for repair of services; due to use of different platforms, customers cannot blend various services without losing connectivity; and Verizon has the advantage of name recognition and ownership of infrastructure.

COMMENTS IN RESPONSE TO JULY 20, 2011 NOTICE

A comprehensive summary of these comments is provided in Appendix C; this section provides a compilation of the major substantive arguments presented in the comments.

Scope of Proposed Tariff Revision

LB3 asserts that Verizon claims that its only problem relates to the third provision, establishing the automatic three year credit when no evidence of a disconnection notice or other physical activity exists on the line, although it proposes a rewrite of the entire provision. It maintains that the Company's proposed changes go well beyond alterations necessary to eliminate the unfair three year automatic credit when no evidence exists, including designating the Company as the arbiter of claims notwithstanding its substantial financial

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[13] Case 07-C-0430, Appeal by Women's Prison Association of the Informal Decision Rendered in Favor of Broadview Networks,Inc.,_ Commission Determination (issued August 22, 2008).

interest in the outcome. Shaheen interprets the proposed tariff language to: eliminate the six year rule for overbilling; retain the six year rule for back-billing; eliminate the requirement for a physical inventory performed by Verizon; and eliminate reference to consideration of reasonable evidence provided by the customer.

LB3 suggests that the Commission leave the first two sentences unchanged and amend the third sentence to provide that, when a service is used to carry calls or data, Verizon is entitled to the presumption that the customer did not disconnect the line and, after six months of non-use, the customer is entitled to the presumption that it did request disconnection of service.

Eliminate Requirement for Physical Inspection

Several commentators claim that the tariff revision would eliminate the requirement for a physical inspection, established in the first clause of the overbilling tariff, and, thus, their ability to obtain evidence regarding disconnections.

Record Keeping

Some parties state that incumbent local exchange companies are accountable for the accuracy of invoices and the tariff revision would make it more difficult for businesses to recover monies that Verizon was not entitled to collect. LB3 states that Verizon's record-keeping is not good and the Company continues to charge for disconnected services.

Other Reasons for Overbilling

The parties comment that they are sympathetic to the challenges that Verizon faces, due to extremely complex billing, wide range of products and services, regulations, taxes, and

continual changes due to technology and customer activity. They state that these complexities should not exempt Verizon from the obligation to bill accurately and provide refunds for billing errors.

Burden of proof

Several parties interpret the second tariff revision as shifting the burden of proof to support issuance of credits due to erroneous billing to customers and note that a utility has the burden to provide justification for a tariff change (PSL §92.2(f)). LB3 points out that someone must bear the evidentiary burden of establishing the discontinuance of a service; and, despite Verizon's poor history of record keeping, it proposes to shift the burden to its customers.

Increase in Complaint Appeals to Commission

One party predicts that a significant increase in the volume of complaints to the Commission would result, if Verizon is both judge and jury of overbilling claims. LB3 suggests that the tariff include a reference to the availability of the Commission's Alternate Dispute Resolution Services when a dispute occurs and require Verizon to mediate or arbitrate disconnection disputes, at the customer's option.

Verizon as Sole Arbiter

Some parties maintain that the second tariff revision places Verizon in the position as sole arbiter of facts and circumstances on a claim-by-claim basis and that this will result in denial of all claims, without any research of records, or databases, and specifically denial of all claims filed by consultants. Shaheen surmises that Verizon is seeking to become the sole arbiter of each claim and that the new changes would

result in a blanket denial of all claims, if no written disconnection request is available. It predicts that customers will file fewer complaints with the Commission because, without a copy of a disconnection notice, they would not have a valid claim and a successful appeal.

Difficult Process

LB3 states that it is in the Company's financial interest to make the disconnection process difficult, including a requirement for first class mailing of disconnection requests to two separate addresses. Tele-Review asserts that Verizon makes it extremely difficult for its customers to obtain credits for erroneous charges; and, faced with these challenges, customers are compelled to hire consultants to resolve billing disputes.

Effect of Competition

Regarding the argument that the emergence of a highly competitive market and substantial loss of access lines justifies the tariff revisions, Shaheen states that most customers are extremely reluctant to terminate relationships with Verizon because changing service providers is a very time-consuming process and carriers risk an interim loss of service.

Public Hearing[14]

UCR and several other parties state that failure to hold a public hearing on the proposed tariffs would disadvantage the public sector. Tudor requests that the Commission provide

[14] In providing an opportunity for public comment on Verizon's two proposed tariff revisions, the Commission established an opportunity for a public hearing on the proposals, and parties made their views known through the written documents they submitted.

an opportunity for interested parties to express their opinions before it makes a determination on the proposed tariff provision.

Three Year Refund

URAC states that the overbilling tariff provides an incentive for Verizon to seek out and uncover records short of the three year limit to reduce the refund and the proposed tariff would eliminate this incentive. It claims that the proposed tariff would result in undue discrimination among similarly situated customers because Verizon would exercise its discretion in different ways, requiring a six month refund for one customer and a one year refund for another.[15]

DISCUSSION

Scope of Proposed Tariff Revision

The first two clauses in Verizon's overbilling tariff provide specific guidelines for customers and impose detailed requirements upon the Company, avoid confusion, and prevent unnecessary disputes. These provisions set forth reasonable requirements; and Verizon recognizes that the clauses are consistent with the general statutory and regulatory requirements relating to overbilling complaints. Retention of the clauses is consistent with Verizon's stated primary purpose in proposing revisions to its overbilling tariff, specifically, its intention to eliminate the inequities resulting from only the third clause in the overbilling tariff, the No Record Clause. We see no harm to the Company in retaining the first two clauses in its overbilling tariff. Their retention will provide assurance to the parties who expressed serious concerns

[15] As long as the facts and circumstances relating to the complaints justify the different settlements, no undue discrimination occurs.

that their deletion would remove important protections, including verification based upon physical inspections and other procedures, and the policy, when a record is available, of providing overbilling credits up to a six year maximum. We determine that it is reasonable to retain these first two clauses in Verizon's overbilling tariff. In order to accomplish this result and retain these clauses, Verizon is directed to file a tariff cancellation supplement eliminating its proposed tariff revision.

The third clause – the No Record Clause - in the overbilling tariff requires Verizon to provide credits to customers when no evidence exists for determining the date when a line or service became inactive. As Verizon asserts, the clause imposes an unfair burden, one that no other telephone corporation assumes, and imposes unjustified costs upon the Company. We determine that this clause, adopted in 1989, has outlived the particular circumstances that brought it about and the new conditions existing today support revisions to this provision. Therefore, Verizon may modify the third clause as follows: "When no disconnect record or record of other activity is available, credit is given to the date billing commenced, up to a maximum of six months." Verizon would apply this proposed tariff amendment prospectively to overbilling complaints submitted to the Company after the effective date of any tariff revision it files. This proposed revision would achieve an effect similar to Verizon's proposal, when no record is available, to apply the six month limitation in its out-of-service tariff to overbilling complaints. Inclusion of a separate provision in the overbilling tariff may provide the benefit of additional guidance for customers and consultants involved in overbilling complaints.

Record Retention

Although the Bellevue Decision was based, in part, upon NYT's poor record keeping, the overbilling tariff did not adopt the structure set forth in the Bellevue Decision, and, instead, set forth a compromise framework negotiated among the consultant, Staff and NYT. The Commission approved the tariff because it was acceptable to the parties and the company agreed to withdraw its appeal before the Appellate Division relating to the Bellevue Decision's lawfulness.[16] Although past considerations regarding poor record keeping may have resulted in the parties' agreement to impose a three year liability for the failure to keep records, it is not reasonable under conditions existing today and, after 23 years, has certainly served its purpose. Some parties argue that the Commission rules require Verizon to retain billing-related records for six years, and, therefore, if no record exists, Verizon is at fault and assumes liability. As Verizon points out, the No Record Clause requires it to prove a negative; and, it cannot retain a record that did not exist. Further, although the Commission's retention rules require telephone companies to keep service billing records for six years, we have made no determination to impose a general liability on telephone corporations for failure to maintain these records, as established in the No Record Clause.

We determined, in relation to another complaint, that absence of records cannot establish disconnection of service when no information exists to determine when the line, circuit, or equipment ceased to function and reliance on absence of records constitutes mere speculation as to a line's

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[16] New York Telephone – Billing Discrepancies, supra.

disconnection.[17] In the absence of any records, Verizon's responsibility for inaccurate billing cannot be established; and, thus, less justification exists for holding the Company accountable for a refund.

As a number of parties commented, Verizon and its customers face a number of challenges, other than record keeping, in determining billing accuracy, including extremely complex billings, a wide range of products and services, regulatory and tax changes, continual technological developments, and customer activity relating to upgrades and assessments of telecommunications requirements and changes in equipment and MACD activity. Tele-Review points out that, in New York City, Verizon's billing/service errors may involve aging facilities and buildings, significant volume and concentration of businesses and an outdated billing system.

Verizon initiated software programs to improve its billing practices. As the parties state, these programs are inadequate for the purpose of tracking customer disconnection requests. We would encourage Verizon to use the technology available to improve its record keeping and billing to facilitate customer interactions with the Company and to reduce the costs associated with overbilling complaints.

Changes in Telecommunications Markets

The dramatic differences between NYT in 1989 and Verizon in 2012 result from drastic changes in the telecommunications industry. In 1989, when the Commission approved the overbilling tariff, Regional Bell Operating

[17] Case 06-C-0575, Appeal by Deer Park Fire District of the Informal Decision Rendered in Favor of BridgeCom International, Inc., Commission Determination (issued July 18, 2008) and Commission Determination on Rehearing (issued October 21, 2008).

Companies, developed after the 1984 AT&T divestiture, provided telecommunications services on a monopoly basis and the Commission exercised comprehensive regulation, including the establishment of a revenue requirement sufficient to provide an opportunity to recover costs, including costs relating to payment of overbilling claims. In 1989, NYT was the dominant provider of local telephone service in its service territory. Subsequently, the Commission adopted polices to promote local competition;[18] and, the Federal Telecommunications Act of 1996 adopted a national policy promoting local telephone competition, including an obligation that local exchange carriers resell at wholesale rates any of the services they provide at retail and interconnect with competing carriers. These competitive local exchange carriers (CLECs) compete directly with Verizon in its service territory for the provision of services to business customers. Thereafter, the development of other modes of telecommunications services, specifically cable interconnected Voice over Internet Protocol (VoIP) and wireless services provided additional alternatives to Verizon service to commercial customers. Although some of the parties maintain that commercial customers are reluctant to switch to competing carriers, the presence of successful CLECs in the telecommunications market and the loss of business customers to other carriers attest to the effectiveness of competition in Verizon's service territory.

These circumstances caused the evolution of a highly competitive market and resulted in considerable loss of access lines and decline in revenues for Verizon. When we approved the overbilling tariff, NYT had the ability to recover its costs through the revenue requirement that we authorized. Verizon

[18] See Case 29469, Regulatory Policies - Competition, Opinion No. 89-12 (issued May 16, 1989), 1989 N.Y. PUC LEXIS 20, 103 PUR 4th 1.

operates under a service quality plan that does not include an assurance of recovery of required revenues and competition may constrain its ability to recover losses. Thus, the imposition of a minimum standard for alleged overbilling when no record exists to establish the culpability of the Company may lead to particularly egregious results.

No Record Clause

Verizon maintains that business customers should bear some of the responsibility for billing accuracy. Since the 1989 adoption of the overbilling tariff, a dramatic evolution in telecommunications technology and markets has occurred, resulting in the development of technology expertise at major commercial and industrial enterprises and the use of consultants and auditors to monitor Verizon services and bills. It is when Verizon issues an erroneous bill for service that it may fail to do what is required and impose inaccurate charges. At this point, it seems reasonable that business customers should also be responsible to review the charges, question Verizon or take other steps necessary to remedy errors. This places a burden of prompt detection of overcharges due to disconnect without a record on the party with the greatest incentive to ensure accurate billing and guards against later requests to recover stale claims. Through the exercise of diligence, the customer may prevent loss. However, customers should be given a reasonable amount of time to review their bills for inaccuracies and we believe that six months is an appropriate amount of time. Accordingly, we find customers that are able to sustain an overbilling compliant for disconnect without a record should be entitled to up to six months of refunds.

CONCLUSION

Verizon is directed to file a tariff cancellation supplement, effective August 20, 2012, that would result in the reinstatement of its existing overbilling tariff. The tariff revision it proposes is unacceptable because it would eliminate the first two clauses of its overbilling tariff and is inconsistent with its stated objective of modifying the No Record Clause to restrict credits to up to six months if no record is available. Verizon is authorized to file a tariff amendment upon a minimum 90 days notice to modify the No Record Clause to authorize, when no disconnect record or record of other activity is available, a credit for overbilling to the date billing commenced, up to a maximum of six months. The provision of 90 days notice before the tariff amendment becomes operational would provide the opportunity for an orderly transition to the new tariff requirement.

The Commission orders:

1. Verizon New York Inc. is directed to file a cancellation supplement, effective on not less than one day's notice, on or before August 20, 2012, cancelling the tariff amendments scheduled to go into effect on August 20, 2012.

2. Verizon New York Inc. is authorized to amend its tariff, effective upon 90 days notice, in accordance with the discussion in the body of this Order.

3. This proceeding is continued.

By the Commission,

(SIGNED) JACLYN A.BRILLING
Secretary

APPENDIX A - LIST OF COMMENTING PARTIES

Form Letter I
Advanced Copier Technology
All State Business Systems, Inc.
American Bible Society
Charles R. Ploof & Associates
*CostMarc
Information Technology Department
DJDRN, Inc.
Episcopal Health Services
Georgio Custom Builders
*GFIgroup
HENA Estate Grown Specialty Coffee
*ICAP
*Maricroft Asset Management, LLC
*Marketing Mechanics
Mash City Business Systems
Meyer Handelman Company LLC
*Tiernan & Company, LLP
Town & Design Group
Town of Hempstead Department of General Services
*Tudor Investment Corporation
*Tullett Prebon (Americas) Holdings
Form Letter II
Atlas-Acon Electric Service Corp.
The Dorn Group
B&G Electrical Contractors
Transitional Computing Inc.
Brown Harris Stevens Residential Sales, LLC
Malatesta Paladino, Inc.
Form Letter III
Armonk Hardware
*CostMarc
FRM Mechanical
*GFIGroup
*ICAP
David Lobl, Attorney at Law
*Maricroft Asset Management
*Marketing Mechanics
Merritt Staffing
Port Washington Water District
Prime Telecom Consulting, LLC
Schriefers Deli
*Tiernan & Company, LLP
*Tullett Prebon (Americas) Holdings Inc.
Vozza & Huguenot, Attorneys at Law
FORM LETTER IV
IT Effectiveness Group, LLC
Network-Control
TEMIA
* Seven businesses submitted two form letters.

APPENDIX B - COMMENTS IN RESPONSE TO FEBRUARY 22, 2011 NOTICE

Telecommunications Consultants and Auditors

ARC

ARC states that the firm's experience auditing bills for Verizon's customers since 1970 indicates that Verizon representatives do not have access to relevant databases or properly investigate an initial claim, resulting in failure to locate supporting records. It maintains that Commission rules require Verizon to retain service and other account records and that its databases are not well integrated and rife with errors and omissions. ARC asserts that the first proposed tariff revision would shift the entire burden of proof onto the customer in violation of New York State law and ignores the fact that Verizon is subject to a mandate to maintain records. It explains that the three year compromise is just and reasonable and protects Verizon against issuing costly refunds for more than three years of overbilling.

ARC claims that the overbilling tariff is as important as ever because of Verizon's poor record keeping and the lack of assurance that the R2 and VEC systems are accurate and accessible. It alleges that Verizon offers business customers who complain about overbilling a 30 day to six month credit, without providing information about the three-year credit. ARC states that other NY incumbent local exchange carriers (ILECs) maintain tariff provisions similar to the overbilling, including Frontier and Citizens (PSC No. 2-T, §2, Original Leaf 41.H.11).

In a supplement to its comments, on May 10, 2012, ARC states that countless Verizon billing errors result from service deficiencies, including failure to properly complete and execute its own orders and that Verizon failed to address the objections raised in comments and to establish that its new data bases are

more reliable than its older and seriously flawed databases. It maintains that Verizon's record keeping is inefficient because multiple Verizon offices and representatives handle claims and reconciliations.

DIgby

Jane Laino, owner of the DIgby communications consulting firm for 32 years, represents some of New York City's hospitals, law firms and advertising agencies. She states that, although Verizon's inaccurate billing is unintentional, it is capable of correcting the situation through better record keeping and should improve its records before any tariff change. She requests that, before the rule changes, advance notice is provided to provide adequate time to customers to do their own billing clean up. She points out that elimination of the three year plus interest requirement will remove the incentive for consultants who earn livings recovering refunds for Verizon customers to provide the service. As a result, Ms. Laino states, Verizon customers will be on their own; and, most firms do not possess the skills or resources in-house to recover refunds. Ms. Laino claims that Verizon may eliminate the need to repay three years plus interest for disconnected lines by transferring the billing from Verizon retail to Verizon wholesale, which she states is not fair or sensible. She requests a public hearing before the tariff is changed.

ECONOBILL

ECONOBILL, a telecommunications consultant for 25 years, interprets the proposed initial tariff as transferring to customers the obligation to maintain copies of disconnect instructions for up to six years and requests a public hearing. It states that the Verizon should not unduly burden customers with this responsibility, when the Company is required under the Commission's record retention rules to maintain these records.

It claims that the proposed initial tariff is anti-consumer because Verizon's billing system is antiquated, complicated and difficult to monitor and results in inaccurate billings. ECONOBILL states that this is contrary to the Company's ability to back-bill for six years when under-billing occurs.

EBS

EBS states that, during its 30 years of operation, it has seen a pattern of Verizon billing mistakes that overwhelmingly benefit the Company and almost never benefit customers. According to EBS, customers' ability to get a refund, with interest, provides the only relief.

Fortune

Fortune states that the overbilling tariff has protected the rights of customers for over 20 years and the proposed revision eliminates any responsibility and accountability on the Company's part; it requests a public hearing.

Martha Buyer

Martha Buyer opposes the tariff change because it would require enterprise customers to waive their rights under the Statute of Limitations (CPLR §213). She maintains that other telecommunications companies may not have similar tariff requirements because they do not have the same customer base, market share, or deployed infrastructure. Ms. Buyer states that Verizon's refund obligations are onerous because its own order and cancellation process is unclear and unnecessarily complex and questions whether the Company has established procedures for refunds. She argues that, if Verizon's R2 and VEC systems are working effectively, the tariff changes requested are unnecessary because proper service terminations would occur. Ms. Buyer states that a telephone call to Verizon is not sufficient notice to terminate service and the process is

considerably more complex. To limit customers' rights to seek credits or refunds for services no longer used is unfair.

On Line

On Line, a telecommunications firm for about 20 years, states that Verizon fails to control billing for disconnected circuits; and, the revision would place the obligation upon a customer to keep records for six years, contrary to record retention rules. It points out that if R2 and VEC systems operated properly, records would be available to determine credits and refunds. It asserts that Verizon seeks to eliminate a customer's right to a refund, but retains its right to charge a customer for under-billing for up to six years.

Phone Review

Phone Review[1] states that Verizon has no interest in its landline facility base and has lost nearly every health care facility on Long Island as a customer. It asserts that the Company is only interested in its fiber and cellular operations and that allowing the tariff change to take effect would, in effect, sanction abandonment of customers. It claims that no other carrier is obligated to maintain such a generous tariff provision because no other carrier is as mismanaged as Verizon and requires a tariff to level the playing field. It states that Verizon provides no refunds to customers who move to other locations and that, in many instances, Verizon fails to remove discontinued services/facilities from billing when customers upgrade facilities, such as Plain Old Telephone Service (POTS) lines to T1 lines.

[1] Mr. John Coyne, President of Phone Review, a constituent of Senator Dean Skelos, contacted the Senator to express his concerns about the tariff change; and, on March 8, 2011, Senator Skelos sent a letter to the Secretary to the Commission requesting our review and a direct response to Mr. Coyne. On March 11, 2011, the Secretary responded to Senator Skelos.

Shaheen

Shaheen opposes the proposed tariff revision for the following reasons: (1) it would eliminate credits for overbilling if records cannot be found, while allowing Verizon to back-bill for six years; (2) it would eliminate the requirement for physical inspections; (3) many inexperienced representatives have replaced experienced employees who have left the Company due to layoffs and retirements and established company procedures are often unfair; (4) VEC is a helpful, but not reliable, tool, with many flaws because it records only online orders, makes information available only for 90 days and does not always make request order available for customer review, limits each order to ten lines per order. Shaheen asserts that a disconnect of a circuit (often a $533.06 per month charge) request does not translate into a billing change. Shaheen reports other difficulties: services are disconnected separately without completion of a billing change; an engineer removing a facility does not forward the information to the responsible billing office; and the FCC line charge is not automatically removed when lines are disconnected.

Shaheen, after 25 years of auditing Verizon billing, asserts that Verizon's billing errors remain plentiful and that its cost of implementing its overbilling tariff would become a more legitimate concern if the Company maintained a world-class billing system which generated nominal billing errors. It states that Verizon benefits from unclaimed overbilling credits and negotiated settlements for lower amounts, including avoidance of payment of 1.5% monthly interest, and that Verizon employs a number of schemes to avoid resolution of claims from customers presenting sufficient documentation. Shaheen reports that Verizon instituted an aggressive corporate initiative called Revenue Assurance to identify customer under billing; and

that the Company's practice is to debit the customers without prior warning and adequate supporting documentation. Shaheen requests a meeting with Department of Public Service Staff before tariff changes are made.

S&S

SSA opposes the tariff because: (1) a customer may not have ordered the service subject to billing; (2) Verizon is allowed to back-bill for six years; (3) changes may occur in the sales teams that failed to disconnect service; (4) the Company's online portal will not allow viewing of orders filed more than 90 days previously; (5) in some cases, not all components of a service are removed; (6) a need to file the same order numerous times and follow-up monthly before Verizon removes the service from billing; (7) non-working lines due to a Verizon change in the connection in the basement frame room; (8) one Verizon division may know of a disconnect and fail to communicate to other divisions; and (9) not all customers, especially small companies and residential customers, keep copies of correspondence for years.

Tangoe

Elfren (Fred) Castro, Director of Telecom Audit and Consulting, states that the tariff should include the six year statute of limitations provision, requirement for a physical inventory and use of a usage record. He recommends revision of the three year automatic rule to provide that, no credit is given is no record is available.

TEMIA

TEMIA opposes elimination of the provision allowing a customer to receive three years credit for a disconnected line when a disconnect record or record of other activity is not available to support the claim. It states that TEMIA is sympathetic to the challenges that Verizon faces because the

telecommunications industry has the most complex billing with a wide range of products and services, regulations, taxes and continual changes due to technology and customer moves, change adds and disconnects (MACD) activity. It opposes the tariff change because: it would unfairly shift the entire burden of ensuring that Verizon bill accurately and remove incentives for Verizon to invest in the people and technology to ensure more accurate billing; the R2 and VEC systems are unreliable and the R2 system is not available to customers; VEC portals do not allow access to orders older than 90 days, require a customer request ID and reassign numbers of disconnected orders to new customers. TEMIA questions Verizon's claim that the current tariff imposes onerous costs and explains that it is the only Company with this tariff due to its unique circumstances of providing extensive network infrastructure in New York and its failure to address billing errors. Verizon does not perform the role of managing customer networks, as it claims, because it supplies services and is only responsible for facilities up to the point of demarcation; customers manage their own portion of the network; and the Company markets network management as a service to customers. TEMIA requests a public hearing to provide the Commission with complete information.

Tele-Review

Deborah Rigger, President, of Tele-Review, a private communications auditing company operating since 1972, states that since 2008, Tele-Review eliminated approximately $300,000 in monthly Verizon recurring overcharges and recovered $12 million for two customers. Ms. Rigger filed three documents dated March 16, 2011, April 15, 2011 and April 19, 2011.[2]

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[2] Ms. Rigger, one of the constituents of Senator Jack M. Martins, contacted the Senator regarding Verizon's proposed tariff revision. In a letter dated March 18, 2011, Senator Martins

In its March 16, 2011 Comments, Tele-Review asserts that overbilling cases are far more complex than Verizon claims and recognizes that the billing/service errors may result from a combination of challenges, specifically in NYC, involving aging facilities and buildings, significant volume and concentration of businesses and an outdated billing system. However, it points out, that Verizon has not taken steps to address the need for adding or maintaining its copper facilities. It opposes the new provision because it shifts total responsibility to customers; the Company does not provide dedicated billing representatives to ensure smooth transitions; it would eliminate customers' ability to obtain financial relief; and it would allow continued billing for disconnected services. Tele-Review asserts that Verizon would continue to back bill for services rendered and not billed.

Tele-Review states that the overbilling tariff provides a solution to the billing and service issues experienced by a large percentage of customers that continue to this day, that Verizon's billing system has not evolved with technology and that repetitive errors result in overcharges. She states that R2 is not available to customers, disconnect orders are not transferred to the Company's billing system, numerous glitches remain in the core billing database and the Company's databases are not related to each other.

In response to Verizon's argument that it is the only company required to operate under the overbilling tariff, Tele-Review asserts that the Commission held that each utility is governed by its own tariff and no legal requirement compels the

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requested that the Department of Public Service Staff contact Ms. Rigger directly after review of the tariff.

Tele-Review same practices and policies for each utility,[3] that Verizon is the owner of the majority of telecommunications facilities in NYC and consistently makes billing errors and that it billing products are inefficient. It asserts that, due to the magnitude of local service required by some government and extremely large customers, Verizon is the only suitable vendor with the ability to provide large quantities of voice and data services. It claims that: a shift to a reseller may result in unacceptable lag time for repair of services; due to use of different platforms, customers cannot blend various services without losing connectivity; and Verizon has the advantage of name recognition and ownership of infrastructure. Tele-Review states that it is employed to process monthly invoices at significant cost and still discovers billing errors that require the three-year remedy. Tele-Review maintains that Verizon often offers incentives to entice customers to upgrade to the next generation of service; and, a lack of motivation exists to ensure accurate billing.

Tele-Review claims that Verizon only pays the three year credit on lines that it confirms are not working or not located at the customer's premises. It asserts that the proposed tariff would significantly affect the contractual rights of customers.

In a letter filed on April 15, 2011, Tele-Review provided documentation of credits issued as a result of claims filed and reconciled with Verizon. The purpose of its submission is to demonstrate that overbilling continues today and that the proposed tariff revision would result in a significant impact on customers. In a letter filed on April 19,

[3] Case 07-C-0430, Appeal by Women's Prison Association of the Informal Decision Rendered in Favor of Broadview Networks,Inc., Commission Determination (issued August 22, 2008).

2011, Tele-Review provided additional documentation of erroneous circuit billing resulting from disconnection orders issued by a customer from 2004 – 2006 and subject to continued Verizon billing in 2009. Tele-Review states that the proposed tariff change would allow Verizon to profit from its inability to maintain accurate billing records. In a letter dated May 25, 2012, Tele-Review submits additional documents to support its claim relating to the disparities in various Verizon billing and operational records.

Telstar

Telstar claims that the proposed tariff change would eliminate Verizon's responsibility to track disconnect orders and discontinue billing for lines that are physically disconnected and that it identified instances when a customer was billed for lines actually used by another customer.

3Rivers

Three Rivers recommends rejection of the proposed tariff provision because: overbilling issues are widespread due to inadequate billing systems; a financial windfall due to Verizon's negligence would result; customers would incur obligations in excess of Verizon's responsibility; and, it would eliminate incentives to improve billing systems.

TRAK

TRAK maintains that Verizon often hijacks pairs when it needs to install circuits for other customers, removes lines at the demarcation point and keeps inaccurate records. It states that adoption of the proposed tariff revision would constitute a grave injustice to customers.

T&B

Troy and Banks states that, since adoption of the Bellevue Tariff, Verizon has continued to overbill and adopted no management practices to reduce the incidence of overbilling.

It asserts that Verizon could back-bill it customers, while avoiding payment of credits for overbilling. It complains that Verizon offers no refunds to customers that move from previous locations; and that, in many instances, Verizon fails to remove facilities after an upgrade.

URS

URS, a telecommunications consultant for over ten years, strongly opposes the proposed tariff. It claims that Verizon is asking customers to support claims for overbilling when it cannot provide its own records indicating termination of service on a line.

Customers

JHS, based upon 25 years of experience, asserts that a requirement for a disconnection letter in overbilling disputes is not reasonable and that the process of resolving billing disputes with Verizon is extremely painful. It explains that Verizon operates through numerous separate offices, such as, orders, installation, disconnection, billing and central offices, and that most often the various departments do not "talk" to each other. A written disconnection letter is not feasible in some situations, such as, cases in which a company did not order the service, an uncompleted disconnection order occurred, a change in Verizon account teams took place and billing was not removed. JHS states that Verizon should be responsible for its network and manage it appropriately.

UBS investment Services states that it is a large investment bank with approximately 45 New York State locations and that, over the past ten years, it experienced massive external US growth, with the acquisition of several firms, followed by a severe business contraction due to the September 2001 attacks and major market selloff in 2008. As a result of the efforts of a telecommunications consultant, Verizon paid UBS

in excess of $1 million and UBS generated several million dollars in savings through disconnections of non-working circuits still billed. Deutsche Bank states that the proposed tariff would significantly limit Verizon's liability for customer overbilling; it interprets the proposed tariff to eliminate credits when overbilling is due to a tariff error, in addition to instances of service termination and disconnection. UBS and Deutsche Bank note that, during recent years, it noticed attempts by Verizon to improve billing records and systems. However, they state that frequent billing anomalies and errors occur; and, a great deal of staff time is required to reconcile Verizon bills. They oppose the wording of the tariff, because it would eliminate Verizon's responsibility to conduct physical inspections and other verifications.

Form Letter I

The businesses submitting this form letter state that it is their understanding the Verizon submitted a tariff that eliminates critical components of its overbilling tariff, which would limit the Company's liability for refunds due to overbilling. They request that the Commission allow interested parties to express their opinions before it makes a formal determination on Verizon's request and that the Commission assures that the tariff provides equal rights to the Company and its customers relating to overbilling complaints.

APPENDIX C - COMMENTS IN RESPONSE TO July 20, 2011 NOTICE

Advantage IQ

Advantage IQ asserts that the tariff change would harm businesses in New York because it would likely increase the amount of overbilling and release Verizon for its record-keeping burden. It states that, in numerous cases, its clients issued disconnect records and billing continued for several months and even years and that, in other cases, Verizon ported lines to a CLEC and its clients did not receive a copy of the disconnection order because coordinated through the North American Numbering Plan Administration (NANPA). Advantage IQ states that billing systems are becoming increasingly more complex; and, providers are looking for ways to shed liability for billing problems. It maintains that ILECs are accountable for the accuracy of invoices; and, the tariff revision would make it more difficult for businesses to recover moneys that Verizon was not entitled to collect.

ARC

ARC states that the second tariff revision would shift the burden of proof to support issuance of credits due to erroneous billing to customers and notes that a utility has the burden to provide justification for a tariff change (PSL §92.2(f)). It claims that the tariff revision would eliminate the requirement for a physical inspection and the customer's ability to obtain evidence that a disconnection occurred. ARC asserts that it is important to recognize that the three year payment rule is triggered when Verizon establishes that it is not providing service to the demarcation point. In these cases, poor record keeping, an over six year old request or a verbal request may explain the lack of reasonable evidence to establish a disconnection date. It states that Verizon will accept only a

written disconnection request as evidence, even though it accepts verbal requests to disconnect service.

ARC characterizes the second tariff revision as placing Verizon in the position as sole arbiter of facts and circumstances on a claim-by-claim basis. It states that this will result in denial of all claims, without any research of records or databases, and, specifically, denial of all claims filed by consultants. Thus, it requests the Commission's guarantee that it will continue to render determinations on reasonableness of evidence presented by consumers, including last usage and activity records. ARC states that this type of evidence sustains the burden to secure the three year credit in New York. ARC notes that most businesses are not large corporations with staff to oversee billing. On September 22, 2011, it supplemented its filing through an email providing a record involving a Verizon customer in New Jersey, which, it states, is evidence of inaccurate and erroneous records maintained by Verizon and major failure of its record keeping system.

CCS

CCS states that it has firsthand knowledge of the severity of Verizon overbillings and that the second tariff revision would eliminate the requirement for physical inspection, resulting in denial of credit without a written disconnection request. It asserts that Verizon will no longer accept other reasonable evidence, such as reuse of facilities for other working and billable services. It provides examples: (1) an upgrade of services resulting in removal of analog trunk lines and reuse of the facilities for other billable service and continuation of a $14,000 per month bill for ten years; (2) continuation of billing for services to customers after the September 11, 2001 attack and request for a formal disconnect

notice; a physical inspection resulting in the determination that an old disconnected circuit was reused on a new circuit; and, 400 non-working lines confirmed by a physical inspection although no requests for disconnections were found.

LB3

LB3, a principal law firm representing enterprise users with negotiation of telecommunications services disputes, states that Verizon's record-keeping is not good and the Company continues to charge for disconnected services. It states that it is in the Company's financial interest to make the disconnection process difficult, including a requirement for first class mailing of disconnection requests to two separate addresses.

LB3 asserts that Verizon claims that its only problem relates to the third provision, establishing the automatic three year credit when no evidence of a disconnection notice or other physical activity exists on the line, although it proposes a rewrite of the entire provision. LB3 maintains that the Company's proposed changes go well beyond alternations necessary to eliminate the unfair three year automatic credit when no evidence exists, including designating the Company as the arbiter of claims notwithstanding its substantial financial interest in the outcome. Its second revision eliminates reference to reasonable evidence provided by the customer. LB3 points out that someone must bear the evidentiary burden of establishing the discontinuance of a service; and, despite Verizon's poor history of record keeping, it proposes to shift the burden to its customers. According to LB3, the fact that some smaller telephone corporations achieved the goal is hardly persuasive.

LB3 suggests that the Commission leave the first two sentences unchanged and amend the third sentence to provide

that, when a service is used to carry calls or data, Verizon is entitled to the presumption that the customer did not disconnect the line and, after six months of non-use, the customer is entitled to the presumption that it did request disconnection of service. It further suggests that the tariff include a reference to the availability of the Commission’s Alternate Dispute Resolution Services when a dispute occurs and require Verizon to mediate or arbitrate disconnection disputes, at the customer’s option. LB3 states that it would be helpful if the Commission adopted a reasonable person standard for determining a customer’s intention to disconnect service and expressly reject the requirement for submission of a disconnect notice in accordance with the notice provisions contained in contracts and service orders.

Shaheen

Shaheen contends that the proposed tariff revision ise one-sided favoring Verizon and penalizing its customers. It opposes the proposed tariff revision, stating that it would: eliminate the six year rule for overbilling; retain the six year rule for back-billing; eliminate the requirement for a physical inventory performed by Verizon; and, eliminate reference to consideration of reasonable evidence provided by the customer. Shaheen claims that the comments challenging Verizon’s representations regarding its R2 and VEC systems to support its first tariff revision caused the Company to present new justifications for its second attempt at a tariff revision.

Shaheen asserts that Verizon’s rationale for changing its tariff is misleading, inaccurate, or irrelevant. Regarding the argument that the emergence of a highly competitive market and substantial loss of access lines justifies the tariff revisions, Shaheen states that most customers are extremely reluctant to terminate relationships with a service provider.

This is so, according to Shaheen, because service termination is a very time-consuming process and could result in an interim loss of service. It notes that Verizon has itself to blame for its antiquated billing system due primarily to many mergers, numerous layoffs of seasoned managers and dedicated employees and its aging infrastructure. Shaheen maintains that Verizon is seeking to become the sole arbitrator of each claim and that the adoption of the proposed revisions would result in a blanket denial of all claims, if no written disconnection request is available. It predicts that customers will file fewer complaints with the Commission because, without a copy of a disconnection notice, they would not have a valid claim and a successful appeal.

Tele-Review

Tele-Review states that the second tariff does not address a number of key issues that impact Verizon customers, again seeks to transfer responsibility for record keeping to its customers and fails to correct the operations that result in billing errors and require the three year credit. It claims that the proposed tariff would eliminate the requirement for verification by physical inventory or other verification procedure. Tele-Review sees the proposed tariffs as an attempt to narrow the definition of a valid claim only to instances of requests for service disconnections, when, in fact, this is not the only underlying cause for billing for services that do not exist. Other causes include lines not found, cross-connected to feeders, or due to other conditions. It predicts that a significant increase in the volume of complaints to the Commission would result if Verizon is both judge and jury of overbilling claims.

Tele-Review asserts that Verizon makes it extremely difficult for its customers to obtain credits for erroneous

charges; and, customers, faced with these challenges, are compelled to hire consultants to resolve billing disputes. It maintains that Verizon has an obligation to bill for services provided and should not eliminate the methodology for assuring that it carries out the obligation.

On August 18, 2011, Tele-Review provided additional documentation to support its opposition to Verizon's tariff revisions.

UCR

UCR states that failure to hold a public hearing on the proposed tariffs would disadvantage the public sector. It opposes the tariff revisions because they would shift the burden to the customer by requiring a written notice of service disconnections. UCR asserts that the field of telecommunications auditors has grown, due to Verizon's enormous errors. The number of refunds that result from these audits indicates that Verizon's systems are flawed, and, instead of solving the problem, Verizon seeks to shift the burden to the public.

URAC

URAC interprets the proposed tariff revision as eliminating the provision that allows for a three year credit for accounts when no evidence is found regarding service disconnections. It asserts that although Verizon is required to maintain termination records for six years, it will most likely not possess the record and continue to overbill. The three year refund policy benefits Verizon because it provides a three year refund due to its self-serving policy of not retaining records for six years under Commission rules.

URAC states that the overbilling tariff provides an incentive for Verizon to seek out and uncover records short of the three year limit to reduce the refund and the proposed

tariff would eliminate this incentive. It claims that the proposed tariff would result in undue discrimination among similarly situated customers because Verizon would exercise its discretion in different ways, requiring a six month refund for one customer and a one year refund for another. URAC supports changing the current policy from three to six year refunds, consistent with the Commission practice of providing refunds for up to six years.

Customers[4]

New York Presbyterian states that a significant amount of resources are required to track and correct erroneous bills and late fees, because of the complexity of Verizon's different types of voice and data services. It claims that the proposed tariff change would make it easier for Verizon to retain, rather than refund, overcharges. It requests that the Commission require Verizon to support its charges and hold the Company accountable for the accuracy of its bills.

Trio A Seqno of New York, Inc., representing 250 business owners, states that Verizon should maintain its responsibility for accurate billing statements and upgrade its antiquated billing systems. It claims that it finds frequent Verizon billing anomalies and errors and spends a great deal of time reconciling bills.

Tudor requests that the Commission provide an opportunity for interested parties to express their opinions before it makes a determination on the proposed tariff provision. It describes its outstanding billing dispute with Verizon on non-working services. It states that Verizon refuses to provide a copy of its disconnection order placed in 2008 because it claims that it is proprietary information; and, that

[4] Deutsche Bank and UBS submitted identical copies of letters they submitted in response to the February 22, 2012 Notice.

Verizon is not working in good faith to resolve the billing dispute. It interprets the proposed tariff as removing all references to Verizon's obligation to reimburse customers for overbilling; Tudor requests that the Commission provide equal rights for the Company and its customers.

The Village opposes the tariff revision stating that it would eliminate Verizon's obligation to refund customers overcharged for services that are not provided. It is seeking to obtain a refund of Verizon overcharges for taxpayers.

Form Letter II

The businesses submitting this form letter state that they have firsthand knowledge of the severity of Verizon overbillings and that the proposed tariff revision would make it easier for Verizon to keep, rather than refund, overcharges. They request that the Commission require Verizon to support its charges and hold the Company accountable and responsible for the accuracy of its bills.

Form Letter III

The businesses submitting this form letter request that the Commission provide an opportunity for interested parties to express their opinions before it makes a determination on the proposed tariff revision and ensure equal rights for the Company and its customers. They interpret the proposed tariff revision as eliminating any reference to Verizon's obligation to reimburse customers for tariff over-billing issues and taking away reimbursement rights, if a customer is unable to provide a disconnection request letter. They state that the proposed tariff revision allows Verizon to become the sole arbiter of an overbilling claim, when it has an interest in avoiding payments.

Form Letter IV

The businesses submitting this form letter express their concerns relating to: elimination of references to reasonable evidence; deletion of the requirement to provide credits or refunds for up to three years; omission of the accrued interest requirement; removal of references to Verizon's obligation to conduct a physical verification; unreliable documentation of Verizon's billing and documentation of disconnect notices; little Verizon interest in correcting systemic problems with billing and inventory systems; complicated services, configurations and tariff options; shift of burden of proof to customers; Verizon's responsibility to retain records and ensure proper billing for services; and, significant reduction of customers' rights to refunds for overbilling. They state that they are sympathetic to the challenges that Verizon faces, due to extremely complex billing, wide range of products and services, regulations, taxes and continual changes due to technology and customer activity. They state that these complexities should not exempt Verizon from the obligation to bill accurately and provide refunds for billing errors.

August 1, 2012