

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on June 17, 2010

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
Robert E. Curry, Jr.
James L. Larocca

CASE 10-C-0202 - Proceeding on Motion of the Commission to
Consider the Adequacy of Verizon New York Inc.'s
Service Quality Improvement Plan.

ORDER DIRECTING VERIZON NEW YORK INC. TO
FILE A REVISED SERVICE QUALITY IMPROVEMENT PLAN

(Issued and Effective June 22, 2010)

BY THE COMMISSION:

INTRODUCTION

Over the last two years, Verizon New York Inc. (Verizon or the company) has experienced difficulty in responding to requests for out-of-service repairs within 24 hours. In response to Department staff's (staff) concerns, Verizon submitted a Service Quality Improvement Plan (SQIP) to the Director of the Office of Telecommunications (Director) in December 2009 seeking to improve timeliness of repair performance.¹ In conjunction with its SQIP, Verizon also requested that the Director consider revising the Department's

¹ Verizon's SQIP focused on improvements in its ten upstate repair service bureaus (RSBs) which cover the company's territory north of Westchester County and includes the following ten RSBs: Adirondack, Capital North, Capital South, Elmwood, Hudson, Johnson City, Syracuse, Utica, Waterfront, and Watertown.

Uniform Measurement Guidelines (Guidelines)² to account for instances where a customer requests or accepts a repair appointment beyond the service standard-mandated 24 or 48 hour window and in circumstances where the company cannot gain access to a customer's premises (no access). The company claims that responding to these requests enables it to satisfy its customers' needs for flexibility, but reflects poorly on its service performance. In a Notice Inviting Comments on Verizon's request, staff tentatively supported the company's request for Guideline modifications in cases where customers requested appointments beyond the 24/48 hour window. Staff was initially less inclined to support instances when a customer "accepted" a company-offered repair outside of the mandated 24 or 48 hours and also less inclined to support modification of the Guidelines to exclude no access situations.³

The Commission's policy is to allow competition to set the level of service quality wherever possible. Overall, based on a consideration of the availability of competitive choice in New York, we find that additional flexibility in our service quality oversight is warranted.⁴ However, the Commission needs to protect "core customers" who cannot rely on competition to establish the appropriate level of service quality.

² The Guidelines provide details on the measurements of the various Commission service quality standards.

³ Matter 10-00319, Request of Verizon New York Inc. for Changes to the Uniform Measurement Guidelines of the Service Quality Standards, Notice Inviting Public Comments on Verizon New York, Inc's Request to Modify the Uniform Measurement Guidelines (issued February 24, 2010).

⁴ Pursuant to 16 NYCRR 603.4 all companies are required to report on customer trouble report rate, while only companies with more than 500,000 access lines are required to report on the other service standard metrics, including repair, installation and answer time performance. Currently only Verizon meets the 500,000 line threshold.

Accordingly, we agree that modifications to the metrics used to measure Verizon's performance against our standards are warranted.

Therefore, we direct Verizon to file a revised statewide⁵ retail⁶ SQIP: (1) reflecting revisions to the Guidelines that we tentatively endorse as discussed below; (2) defining and identifying "core customers" in need of regulatory protection (i.e., customers without competitive choice, those on Lifeline and those customers who are characterized as having special needs (e.g., those with medical conditions and elderly blind or disabled customers)); and, (3) ensuring that the revised SQIP meets the Commission's out-of-service performance threshold (20%) by the end of 2010 for these "core customers." Moreover, as explained herein, Verizon's revised SQIP should propose to eliminate reporting on answer time performance for non-repair customer calls to Verizon and performance associated with installations within 5 days and missed installation appointments. The Secretary should issue a Notice to ensure that interested parties are given an opportunity to comment on Verizon's revised SQIP once it is filed with the Commission.

BACKGROUND

Beginning in the summer of 2008, Verizon's timeliness of repair performance fell short of the threshold levels defined in the Commission's service standards. While over time there

⁵ Verizon's December 2009 filed SQIP was limited in scope to its upstate RSBs. Given the changes discussed herein, Verizon should revise the scope of the SQIP from an upstate program to a statewide SQIP.

⁶ To the extent any of the retail metrics are related to parity measures included in the Carrier-to-Carrier Guidelines or are used for Verizon's wholesale Performance Assurance Plan (PAP), the measures and underlying data provided in those proceedings should not be changed in any manner pending discussions in the Carrier-to-Carrier Working Group or the PAP Annual Review.

have been fewer out of service conditions in the aggregate, the percentage of customers who are out of service for more than 24 hours has increased over time. In response to staff's concern,⁷ Verizon filed a SQIP on December 19, 2009. Verizon's response presented a number of actions (preventative maintenance, transferring technicians during the summer months, and increased focus on cable maintenance) it believes will result in improved timeliness of repair performance in its ten upstate RSBs.

Verizon's SQIP also contended that the timeliness of repair metrics are outdated and do not reflect the profound market technology and customer preference changes that have occurred in the last two decades. The company notes that the timeliness of repair metrics were established in the 1970s, a time when customers did not have immediate alternatives (e.g., cell phone, instant messaging, etc.) or alternative service providers (e.g., customers can leave and select other companies if they are dissatisfied). Thus, the company argues, customers are now less impacted by being out of service than they used to be, and, in fact, many customers request a repair interval greater than 24 hours for their convenience.

Changes to the Uniform Measurement Guidelines

Verizon's SQIP included a request to change the Guidelines to exclude no access situations (where Verizon is unable to enter the premises or obtain access to the necessary facilities) and in situations where the customer requests or accepts a repair appointment beyond the standard interval windows (24 hours for out-of-service or 48 hours for service affecting conditions).

⁷ Letter from Mr. Chad G. Hume, Director, Office of Telecommunications to Mr. Richard Bozsik, Director Verizon - Regulatory, dated November 2, 2009.

On February 24, 2010, a Notice inviting comments was issued on Verizon's request to modify the Guidelines.⁸ In the Notice, staff tentatively supported Verizon's request to exclude customer "requests" beyond the 24 hour or 48 hour window from the calculation of both the out-of-service and service affecting metrics. Staff reasoned that the increasingly prevalent use of cell phones as an alternative means of communications subsequent to the Guidelines' adoption in 2000 lessen the need for a repair within the mandated window. Also, it did not appear to be reasonable to count such requests against a company for repairing service beyond the mandated 24 or 48 hour windows if the company was merely complying with a customer's request.

The Notice stated that staff was tentatively less inclined to support altering the metric calculations to exclude instances when a customer "accepts" a company-offered repair appointment outside the mandated 24 or 48 hour windows and that staff tentatively did not support altering the Guidelines to exclude no access situations. Three parties filed comments in response to the Commission's Notice: Verizon, Public Utility Law Project (PULP), and the New York State Telephone Association (NYSTA). Verizon filed reply comments in response to PULP.

Verizon commented on staff's tentative opposition to exclude customer-accepted appointments. The company stated that there is no basis for assuming that the customer's decision would be driven by a "perceived lack of alternatives," because Verizon clearly proposed to inform the customer that he or she can obtain an "in-window" appointment if one is desired and available. Given the fact that the customer will be fully informed, the company argued that staff should not seek to

⁸ Matter 10-00319, Verizon New York Inc. - Uniform Measurement Guidelines of the Service Quality Standards, Notice Inviting Public Comments on Verizon New York, Inc's Request to Modify the Uniform Measurement Guidelines (issued February 24, 2010).

override the customer's choice based on an assumption that the customer's decision may not be "full-hearted." The company also stated that it might be willing to offer some benefit, such as free forwarding of incoming calls to a customer's cell phone number to a customer willing to agree to a later date for repairing an out-of-service situation.⁹ In such a case, Verizon commented, the customer would continue to receive his or her calls and would receive a more convenient appointment time; and, Verizon would be able to free up resources that it could devote to more pressing service restoration problems.

Verizon objected to staff's lack of support to change the Guidelines in no access situations, based upon the rationale that a certain level of no access is already built into the 20% performance standard that applies to the timeliness of repair metrics. Verizon says this is a fallacious argument, because increased use of cell phones means that immediate restoration of landline service is no longer as critical to the average customer as it used to be. Customers are no longer as reluctant to miss a scheduled repair appointment if it conflicts with work, family, or other priorities. According to Verizon, to whatever extent the 20% performance standard accurately reflected customer past motivations and behavior, it no longer does so today. The company asserts that a service provider should not be penalized for situations in which the service failure is attributable to the customer rather than the provider, and that requiring Verizon to include such situations in its reported results creates a misleading picture of service quality. The company pointed to other retail and wholesale

⁹ The company informed staff that it, in fact, already forwards calls to an out-of-service customer's cell phone when the customer accepts a company suggested repair appointments outside of the 24 or 48 hour window.

service metrics where measures of the provider's performance exclude delays attributable to the customer.

PULP opposed Verizon's request for exclusion of no-access and customer accept or request situations in computing the OOS-24 and SA-48 metrics, on the grounds that "accessing emergency services through 911 does not work the same for wireless phones as it does for Verizon." PULP proposes that the Commission apply the Guidelines to all telephone service providers operating in New York State, including wireless and Voice over Internet Protocol (VoIP) services offered by the cable companies.

Verizon replied that the issue of how 911 works on cellular phones is irrelevant to the proposed changes in the Guidelines; Verizon merely based its request on the increased availability of cellular service which eliminated the customer's incentive to ensure that Verizon technicians receive prompt access to his or her premises, and increased customers' willingness to schedule repair appointments outside of the 24 and 48 hour windows. Verizon and NYSTA comments questioned the continued usefulness of the Commission's service quality metrics, applicable to landline services subject to continuing losses of access lines.

DISCUSSION

The success of Verizon's efforts to retain existing customers and obtain new customers in a competitive market rests on a combination of factors, including its mix of service offerings, price and service quality. Telecommunications choices have been long available in New York and have resulted in Verizon losing half of its New York landline access lines over the past 10 years and it continues to lose over 50,000 access lines a month. These access line losses represent significant revenue losses to the company, yet the regulatory

standards remain unaltered. We now propose a change. Verizon's argument with respect to the competitive nature of the market is consistent with the approach we laid out in our 2006 Competition III Order wherein we acknowledged the impact of competition on service quality indicators:

While we continue to ensure adequate service quality pursuant to the Public Service Law, many service quality indicators are intended to meet end user expectations and the importance of some service quality metrics diminishes with the availability of choice. Customers not satisfied with how quickly their calls are answered or how long it may take to get service installed may choose another provider.¹⁰

Providing increased focus on vulnerable or core customers and less emphasis on customers with competitive alternatives does not remove our concern (or responsibility) for ensuring the health and safety of the network. What follows is our approach for how to define "core" and "non-core" customers and how Verizon should amend its SQIP to focus its efforts on ensuring reasonable service quality for vulnerable core customers.

Core Customers - Certain customers or groups of customers can be considered core customers. We propose to define core customers as those who do not have wireline alternatives, customers subscribing to Lifeline service, or customers who are characterized as having special needs. For example, our regulations currently specify special protections for customers who have medical conditions, the

¹⁰ Case 05-C-0616, Examination of Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings (issued April 11, 2006) (Comp. III Order) p. 89.

elderly, blind or disabled customers.¹¹ We believe Verizon can identify customers without wireline alternatives and Lifeline customers and customers currently self-identified as special needs. Verizon's revised SQIP should propose and define "core customers" for purposes of service quality. The revised SQIP should also discuss how Verizon would go about informing special needs customers of their need to identify themselves as "core customers" and the process to be undertaken to pursue this approach.

Non-Core Customers - Non-core customers would be all customers who are not designated as core customers. These customers are not in need of additional protections and have the option to change service providers if they so desire.

Verizon's revised statewide SQIP should detail how it would define core and non-core customers and the process by which they would be identified. In addition, regardless of whether customers are core or non-core, we direct that Verizon incorporate the elimination of reporting performance for both installation metrics and answer time for non-repairs into its revised SQIP:

Missed Installation Appointments & % Installations Completed Within 5 Days

In the current environment of continuous access line losses, the company has profit incentive to satisfy customers with a prompt on-time installation. In other words, market forces, rather than regulation, may be relied upon to assure that installation orders are completed on time and/or within a reasonable amount of time.

Answer Time For Non-Repair

These non-repair calls are for billing or to add or drop features or service. Regardless of whether customers are core or non-core, we believe this metric should be eliminated. Customers not satisfied with how quickly their calls are being answered will express their dissatisfaction by seeking alternative service providers, or, as customers do in similar situations, escalating the complaint within Verizon.

¹¹ 16 NYCRR 609.5.

Regarding reporting of timeliness of repair, as detailed below, we endorse a greater focus on core customers, while at the same time balancing that focus with our responsibilities for network reliability. We do not contemplate any changes to reporting related to customer trouble report rate. Reporting should continue on a monthly basis by central office.

Proposed Revisions to the Guidelines

The proliferation of competitive alternatives and increasing availability of multiple forms of communication devices used by households warrants a review of the Guidelines. The Commission's 2006 Competition III Statement of Policy and Order discussed the appropriate service quality and consumer protection regulations for a competitive environment. The Statement of Policy and Order stated that the vast majority of New Yorkers can choose among traditional wireline service and at least two alternatives to the incumbents' wireline networks and concluded that:

. . . we believe that if competition is sufficiently vigorous, certain service quality requirements may be relaxed, or, in some cases, eliminated. The question becomes one of determining the appropriate level of carrier service quality reporting and oversight given a rapidly developing intermodal competitive market.¹²

Verizon's argument for revising the Guidelines revolves largely around whether customer behavior has changed due to increased competition in New York generally and increased availability of cellular service in particular. In discussions with staff, the company supported its argument with data indicating that 12-14% of instances where the company missed the

¹² Id., p. 91 (footnote omitted).

standard were due to customer requests and/or accepts of appointments outside the 24 or 48 hour window mandated by the service standards. In the case of customer accepts, the company's offer to forward calls to the customer's cell phone when it accepts an out-of-window appointment is a benefit that outweighs any possibility of coercion on the part of the company because it, in effect, renders the customer no longer out-of-service. Also, the customer is protected insofar as the customer is offered an in-window appointment whenever the out-of-window appointment is unacceptable to the customer. Thus, according to staff, there is support for the company's request for modification of the Guidelines in the case of customer requests and in the case of customer accepts, with the proviso that the company offers to forward incoming calls to a customer's cell phone.

In the case of no access, Verizon essentially argues that cell phone ownership renders customers more likely to fail to show up for scheduled repair appointments. However, staff concluded that Verizon offered no documentation that this phenomenon was becoming more prevalent or that no access situations were significantly impacting the company's performance results. Thus, according to staff, Verizon did not objectively refute staff's point that a certain level of no access was historically built into the 20% service standard thresholds and the staff found that the Guidelines should not be modified to exclude no access situations.

We endorse staff's tentative conclusions concerning revisions to the Guidelines. The revisions to the Guidelines are integrally related to the development of the SQIP and therefore, we propose that the revisions to the Guidelines be incorporated into the revised SQIP.

Meeting Performance Thresholds for "Core Customers"

The addition of a service improvement target to its original SQIP, while offering some goal for improvement, does not respond to the Director's December 2009 request to specify "any actions the company intends to implement in order to improve performance to threshold levels in the short and long term," meaning that each individual RSB level OOS>24 result has to be at 20% or lower rather than more aggregated region-level results. Given that the company's upstate region OOS>24 target, 28.34%, is far above 20%, the ten upstate RSBs are unlikely to consistently perform better than the 20% OOS>24 threshold.

However, our focus centers on the "core customers," and we emphasize that these customers must receive performance that meets our thresholds. Thus, in its revised SQIP, Verizon is expected to meet the repair performance for out of service and service affecting for core customers by December 31, 2010.

CONCLUSION

The continued loss of access lines cited by Verizon in its comments is one of many indicators that telecommunications competition continues to become more robust. Based on staff's review, Verizon's 2010 Service Quality Improvement Plan, as currently presented, is unlikely to improve the company's timeliness of repair performance to a level that would meet the metric thresholds for all customers; however, because of the existence of competitive discipline and the diminishing need for timely repairs with the prevalence of backup communications, consideration should be extended to focus service quality improvements on "core customers," as discussed above.

Based on the foregoing, we direct Verizon to file a revised retail SQIP: (1) reflecting our tentative conclusions as to Guideline revisions; (2) defining and identifying "core

customers" in need of regulatory protection (i.e., customers without competitive choice, the elderly, and those customers who are characterized as having special needs (e.g., those on Lifeline with medical conditions, the blind or disabled customers)); and, 3) ensuring that Verizon meets the Commission's out-of-service performance threshold (20%) by the end of 2010 for "core customers".

Finally, Verizon's revised statewide SQIP should propose that the Commission waive reporting on answer time performance for non-repair customer calls to Verizon and performance associated with installations within 5 days and missed installation appointments. Interested parties should be given an opportunity to comment on the revised SQIP as well as the continued merits, relevancy and need for enforcement of the answer time and installation metrics and the refocus of resources on "core customers".

The Commission orders:

1. Verizon New York Inc. is directed to file a revised Service Quality Improvement Plan consistent with the discussion in this Order within 21 calendar days.
2. The Secretary at her sole discretion may extend the deadline in Ordering Clause No. 1.
3. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary