

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held in the City of  
Albany on October 14, 2010

COMMISSIONERS PRESENT:

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

CASE 10-C-0215 - Petition of Verizon New York Inc. for Waiver of  
New York Code of Rules and Regulations, Title  
16, §602.10(b) Pertaining to the Distribution  
of Telephone Directories

ORDER GRANTING WAIVER WITH CONDITIONS

(Issued and Effective October 15, 2010)

BY THE COMMISSION:

INTRODUCTION AND BACKGROUND

On May 7, 2010, Verizon New York Inc. (Verizon) filed a petition requesting a waiver of the Commission's rule (16 NYCRR §602.10(b)) which requires Verizon to distribute a residential white page directory to its customers<sup>1</sup> in the local exchange areas where Verizon operates. Citing such factors as environmental concerns and reduced subscriber interest, Verizon requests that it be allowed to distribute residential white page

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<sup>1</sup> Verizon currently provides directories containing residential white pages to all of its customers statewide. In addition, Verizon also provides copies to most, and perhaps all, wireline competitive local exchange carrier (CLEC) customers operating in Verizon's local exchange areas pursuant to its various interconnection agreements (ICAs).

directories<sup>2</sup> only to customers who specifically opt-in to continued delivery. The pertinent provision in our rule states that:

Each service provider shall distribute at no charge to its customers within a local exchange area, a copy of the local exchange directory for that area, and one additional copy shall be provided for each working telephone number upon request. A copy shall be filed with the Commission.

These white page directories include the alphabetical listing of all Verizon residential customers, and may also include residential listings of customers of other incumbent local exchange carriers, CLECs and cable and wireless customers who live within the exchange areas covered by the directory. Verizon's directories also include business and government white pages, yellow pages and consumer guide pages. All of these directories are published by and delivered to consumers annually by Verizon's directory publisher SuperMedia LLC (SuperMedia).<sup>3</sup>

#### PETITION

Verizon states that technological advances such as the widespread availability and use of internet directories as well as the personal directories contained in virtually all wireless

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<sup>2</sup> In some large metropolitan service areas there may be separate white and yellow page directories delivered.

<sup>3</sup> Verizon spun off its directory publishing company, Verizon Information Services, in 2006; the company was originally called Idearc Media LLC, however, the name was changed to SuperMedia in 2009. Even though the directory publishing company is no longer owned or operated by Verizon, Verizon's obligation under the Commission's rule with regard to directory distribution remains intact.

and wireline handheld devices have allowed consumers to become much less reliant on, or interested in receiving, printed white page directories.

Many companies nationwide are repackaging their products or otherwise changing their business approach to encompass the concept of a "green" environment. Verizon believes that its request to discontinue the blanket distribution of residential white page directories reflects a more consumer-focused and environmentally conscious approach to the distribution of its directories.

Verizon contends that in recent years, customers have been using printed white page directories far less than in the past, due primarily to the proliferation of alternative methods of obtaining telephone numbers through online directories and the use of "smartphones." Verizon cites nationwide Gallup studies which indicate that households using residential white page directories declined from 25% in 2005 to 11% in 2008.

Moreover, Verizon cites other states such as Oklahoma, Ohio, Georgia and Florida<sup>4</sup> that have permitted AT&T to provide residential white pages only upon customer request and suggests that in one state at least, very few customers (approximately 2%) subsequently requested a copy of that directory.<sup>5</sup> If AT&T's experience in other states is indicative of what might occur in New York, Verizon estimates that approximately five thousand

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<sup>4</sup> Directory residential white page eliminations varied in these states: in Ohio, the elimination pertained only to the cities of Cleveland, Cincinnati, and Columbus; for Georgia it was Atlanta; and for Florida, the elimination was permitted only for a two-year trial period.

<sup>5</sup> Verizon cites "Georgia-PSC adopts Rule allowing ILECS to opt out of directory requirements," TR State News Wire, January 21, 2010.

tons of paper per year could be saved, as well as the significant energy costs associated with printing and distributing much larger directories statewide, yielding a significant environmental benefit and unburdening thousands of customers who have no need for a printed directory.

On the other hand, Verizon states that consumers who have a need for a printed residential white page directory will be able to obtain one upon request by calling a 1-800 number which will be staffed by SuperMedia representatives. A CD-ROM and online white pages directory service will also be available at no charge. Verizon, through SuperMedia, will also continue to deliver printed directories that include business and government white pages, the consumer guide and the yellow pages.

#### COMMENTS AND REPLIES

Verizon's request for a waiver of the Commission's rule was published in the State Register on June 2, 2010; comments are discussed below.

#### Consumer Comments

Consumer comments, most of which were filed electronically, were evenly split in their view of the proposal; half were completely in favor of discontinuing directory delivery,<sup>6</sup> and the other half were not in favor of the proposal, for various reasons including the fact that alternative services like cable and broadband services are not available in their area or that internet service is unaffordable. Several of those

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<sup>6</sup> Many suggested that all directory deliveries (including yellow pages) should be discontinued, but, in fact, directory publishing is a competitive business and this Commission exercises no control over independent directory publishing firms.

objecting to the proposal suggested that the elimination of white pages delivery is acceptable as a policy as long as consumers are personally able to obtain a directory for their own use. Several also suggested providing a CD in lieu of a manual directory.

Public Utility Law Project (PULP)

PULP filed comments on July 16, 2010. PULP contends that, because a "phone book" (yellow pages, etc.) will continue to be distributed, labor and delivery costs will be essentially unchanged; therefore the cost savings and environmental impact of a more limited directory distribution would not be as great as Verizon claims. PULP also argues that many people do not have internet access and would have to resort to using the "daunting" Verizon automated call system to request a directory. Therefore, PULP believes Verizon should be required to continue to deliver full directories to senior citizens, the disabled community and those using Lifeline service. In addition, PULP believes the company should provide two free Directory Assistance (DA) calls per month, claiming this would have minimal financial impact, based on Verizon's own assertion that 89% of the public will not miss a white pages directory, based on the 2008 Gallup study.

PULP is also requesting that the Commission dismiss Verizon's petition and instead initiate a generic proceeding to review and revise additional Commission rules and regulations pertaining to such things as service quality, consumer protections and universal service requirements; PULP would then extend any revised rules to other telecommunications providers such as cable or wireless carriers. It suggests that Verizon's attempt to have the Commission periodically waive portions of its rules is one-sided and is a wasteful "piecemeal" approach.

Verizon filed reply comments on July 23, 2010, calling PULP's comments "without merit" and requesting that the Commission reject its proposals.

Verizon disagrees with PULP's assertion that, since phone books containing business listings and yellow pages will continue to be distributed, the environmental impact of distributing a "thinner" phone book would not be as great as it suggested. Verizon says its cost savings estimates are, in fact, based on far less bulky directories than those Verizon currently distributes in New York and suggests that PULP has no basis for questioning those savings.

With regard to PULP's concerns that certain consumer segments might have limited access to internet-based directories, Verizon suggests that there is, in fact, wide availability of broadband services in New York State, and in those areas where it might not be available, or cannot be afforded by a customer, the state's public libraries provide internet access at no cost, enabling any customer, regardless of income level, to access telephone listings. Verizon claims that any process to identify certain consumer segments such as the elderly or disabled is unworkable and that in any case, consumers only have to notify the company once and the white page directories will be automatically delivered annually on a going-forward basis. In addition, important numbers that the elderly for example might require (doctors, pharmacies or government offices) are generally published in both the business white pages and the yellow pages which will continue to be delivered.

With regard to the potential difficulty of dealing with an automated call system, Verizon suggests that such concerns are unsupported and speculative. The 1-800 number that Verizon will provide to customers to request a directory, and

which will terminate in SuperMedia's directory distribution center, is automated, providing numerical choices to consumers, but live, specially trained representatives will also be available; SuperMedia will maintain adequate staffing levels to field all consumer calls once the new process is in place, and will regularly monitor call volumes. Verizon asserts that these systems are so widespread that very few consumers would be either unfamiliar with, or intimidated by them.

Verizon also asserts that with the abundance of other options that consumers have for obtaining listings, there is no sound basis for offering consumers two free DA calls per month, especially since any subscriber who wants a directory can receive a brand new one every year for as long as they want. The company claims it should not incur lost DA revenues from all consumers because a few consumers fail to make a one-time request to continue receiving printed white page directories.

Lastly, to PULP's request that this, and other issues be combined into a generic proceeding, Verizon argues that generic policy proceedings can be lengthy, particularly where more than one issue is under consideration as PULP advocates, and that there is no valid reason for deferring action on what it suggests is an important public policy objective and which adequately protects consumers.

Charter Fiberlink NY-CCO, LLC (Charter Fiberlink)

Charter Fiberlink filed late comments on August 17, 2010, requesting that the Commission impose certain requirements that it believes are necessary to ensure that its customers have the same opportunities as Verizon customers with regard to directory distribution, since it neither publishes nor distributes its own directory and will rely on Verizon to do so.

Charter Fiberlink is a competitive carrier certified by the Commission to provide both facilities-based and resale telephone service. While it currently has no customers in New York, the company states that it will begin offering both residence and business services in the state in the near future and has recently entered into an ICA with Verizon to enable it to provide such services.

Charter Fiberlink supports Verizon's petition for limited directory distribution, but believes the Commission should grant it (and other competitive communications carriers) a similar waiver and that the Commission should address certain requirements that would prevent Verizon from discriminating against Charter Fiberlink or its customers regarding the distribution of directories. The company believes that the "opt-in" process that Verizon intends to use to ascertain which customers want directories raises several concerns regarding how the process would work for its own customers. Specifically, the company is concerned that (1) there are no specific references in the Verizon petition pertaining to competitive carrier customers; (2) unless Verizon agrees to accept electronic files identifying Charter Fiberlink customers who want directories, its customers will have no choice but to contact the 1-800 number provided by Verizon to request a directory; and, (3) in having to use the Verizon-provided number, Charter Fiberlink customers could be subjected to marketing or sales information on behalf of Verizon.

The company has had discussions with Verizon on these issues, but because Verizon has declined to enter into a binding agreement or stipulation that would provide the assurances it is looking for, Charter Fiberlink has requested that the issues be addressed by the Commission. In addition, since the Commission's rule pertaining to the requirement for directory

distribution does not distinguish between incumbent and competitive carriers, the presumption is that the rule pertains to all wireline carriers; therefore the company believes that it should be granted a waiver.

The company is also requesting that the Commission explicitly require Verizon to do several things: make residential white pages directories available to its customers in the same manner as it does to its own customers--upon request and free of charge; that no sales or marketing of Verizon's services be made to its customers if and when they call the designated 1-800 number and that the 1-800 process be identical to that used for and by Verizon's own customers; and, finally, that it be permitted to periodically submit an electronic file identifying which of its customers wish to receive a directory.

Verizon filed reply comments on August 18, 2010, stating it has no objections, in principle, to working with Charter Fiberlink to alleviate its concerns. However, it suggests that Charter Fiberlink's comments stem primarily from a basic misunderstanding of how Verizon handles its directory distribution, in that it neither prints nor distributes directories, nor is SuperMedia a Verizon-controlled entity. Therefore, Verizon suggests that SuperMedia will not make any distinction between competitive and incumbent carrier customers in the manner in which it handles overall directory distribution. There will be no distinction among customers calling the 1-800 number, no sub-set of customers will be charged for a directory, and there will also be no attempts to market or otherwise promote the telecommunications services of any carrier. In addition, Verizon has indicated that it has advised Charter Fiberlink that it will work with it, and with SuperMedia, to establish a process for the transmission of electronic files. Verizon, therefore, believes that all of

Charter Fiberlink's concerns have been adequately addressed, and that specific Commission-ordered conditions are neither warranted nor necessary.

DISCUSSION

Customers today have many options in terms of locating telephone numbers. Statistics suggest that telephone directories are not nearly as valuable as they were even a decade ago. In addition, telephone books, by nature, are large and cumbersome and utilize a significant amount of natural resources to produce and distribute. Verizon's proposal to discontinue distribution of the residential white page listings is a reasonable one that will have a positive impact on the environment. However, our review of Verizon's waiver request warrants further discussion on: (1) Verizon's ongoing commitment to deliver white page directories to CLEC customers residing in Verizon's local exchange areas pursuant to its various ICAs and (2) the required notification to all customers (Verizon's and CLECs') of their right to opt-in to continued delivery of the white page directories.<sup>7</sup>

Our rule requires each service provider to distribute white page directories to its customers in those applicable local exchanges. Verizon currently provides directories containing residential white pages to all of its retail customers. In addition, Verizon also provides copies to most, and perhaps all, wireline CLEC customers operating in Verizon's local exchange areas pursuant to its various ICAs.

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<sup>7</sup> Carriers that publish and distribute their own directories and do not rely on Verizon via ICAs would need to request a specific waiver of our rule in order to discontinue distribution of their own residential white pages.

To construe Verizon's waiver request narrowly, would suggest that it should apply to its own retail customers exclusively and not to CLEC customers relying on Verizon for directory distribution services. However, Verizon has indicated that it also intends to discontinue its distribution services to CLEC customers in its local exchange areas; which makes sense, treats customers in a non-discriminatory manner and is in keeping with its stated environmental concerns. Therefore, to address the issue regarding CLEC customers, we construe Verizon's waiver request more broadly and apply it to all customers (Verizon's and CLECs') in Verizon's local exchange areas who rely on Verizon for delivery distribution of its white pages directory, subject to the notification requirements discussed below.

Verizon's petition suggested various ways in which it intends to notify customers of the changes in directory distribution including a press release, a bill message (to its customers), a notice in the table of contents and on the cover of the business white pages directories, as well as a SuperMedia notice and explanation in the front pages of the directory. The Office of Consumer Policy worked with Verizon to enhance these proposed notifications (e.g., the notice on the outside cover of the directories will be made more prominent and will appear permanently on the covers). Additional consumer communications beyond those initially proposed by Verizon include a printed notice on the outside of the protective bag in which the directory is delivered and a separate notification card, similar to those frequently seen in magazines, which will be inserted in the directory. Verizon also stated it will post a notice on its

website about the changes in directory distribution and SuperMedia will place a similar notice on its website.<sup>8</sup>

Because we have decided here to apply Verizon's waiver request broadly, our approval is conditioned upon Verizon providing notification that reaches all customers (Verizon's and CLEC customers relying on Verizon for distribution) in affected local exchange areas. We believe Verizon's commitment to provide notifications on the protective wrap and front cover of the business white pages as explained herein, the separate notification card to be inserted in the directory, the notice in the table of contents and Verizon's press release, fulfill this requirement. Additional public notice of the change in the residential white pages distribution process is also in the public interest. In reaching this decision, we rely on Verizon's statement that it will issue a bill message to its customers and accept that commitment as a condition of our approval. In addition, although not required by the Commission, we encourage all the CLECs who rely on Verizon for distribution services to consider individual bill notices as well. Under this proposal, all customers (CLECs included) in Verizon's local exchange areas will receive notification on how to obtain residential white pages directories in a format that is convenient to their individual needs going forward, if they so choose.

Finally, the Office of Consumer Policy has requested, and Verizon has agreed, to provide quarterly status reports on the number of customer complaints SuperMedia receives, as well

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<sup>8</sup> Verizon also recently sent out an industry letter to carriers with whom it has an interconnection or commercial agreement, alerting them to the change in the white pages directory distribution process, and will send a follow-up letter after the Commission's decision.

as the number of customer requests SuperMedia receives for the residential white pages. The first report should be provided to the Office of Consumer Policy three months after initial distribution of new directories begins. The status reports will continue for one year after all the streamlined directories are distributed.

While we understand PULP's concerns for certain segments of customers, we believe that adequate procedures and policies are in place to address those concerns, and that all customers who want a white pages directory will be able to obtain one on an annual basis. In addition, Verizon's request for waiver of a specific Commission rule is an inappropriate venue from which to launch a generic proceeding which encompasses other Rules.

Charter Fiberlink is concerned that its customers will be subject to the marketing of Verizon products and services via the 1-800 number. However, Verizon representatives are not handling any of the calls from customers who request a copy of the residential white pages directory and Verizon has stated that its directory agent, SuperMedia, would not engage in marketing activities; Verizon represent that there is no way for SuperMedia to distinguish callers who are Verizon customers and callers who use a competitive carrier for their telephone service. In the event such activities are discovered and brought to our attention, we will deal with the issue appropriately.

With regard to Charter Fiberlink's request that it, too, be granted a waiver of the requirements of our rule, to the extent that all competitive carrier customers can still, upon request, receive a residential white pages directory on an annual basis as required by the rule, those carriers remain in compliance and, therefore, separate waivers are not required.

Electronic files should be accepted by Verizon from CLECs and Verizon shall make arrangements to ensure requests for directories are promptly processed by SuperMedia.

CONCLUSION

Verizon proposes to carry out its public service responsibilities in a manner that conserves natural resources and reduces waste which is consistent with Public Service Law Section 5. Further, given the notification requirements for all consumers in Verizon's service territory to advise them of their options, and also given the fact that any customer who wants to receive a white page directory will be able to obtain one, we find there is a good basis to grant Verizon's request for a waiver of the Commission's rule pertaining to directory distribution. Quarterly status reports from Verizon will allow us to monitor the progress of the change in the distribution process.

The Commission orders:

1. Approval of Verizon New York Inc.'s request for waiver of 16 NYCRR Rule 602.10(b) regarding the distribution of its white pages telephone directories is granted subject to the conditions discussed in this Order.
2. Verizon New York Inc. shall provide quarterly status reports consistent with the discussion in this Order.
3. This proceeding is closed.

By the Commission,

JACLYN A. BRILLING  
Secretary