

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on May 16, 2013

COMMISSIONERS PRESENT:

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

CASE 13-C-0197 - Tariff filing by Verizon New York Inc. to
introduce use of wireless technology as an
alternative to repairing damaged facilities.

ORDER CONDITIONALLY APPROVING TARIFF AMENDMENTS IN PART,
REVISING IN PART, AND DIRECTING FURTHER COMMENTS

(Issued and Effective May 16, 2013)

BY THE COMMISSION:

INTRODUCTION

On May 3, 2013, Verizon New York Inc. (Verizon, or the company) filed amendments to its PSC NY No. 1 - Communications tariff, to become effective on short notice on May 18, 2013. Specifically, Verizon seeks to add language setting forth the circumstances under which it can discontinue its current wireline service offerings in a specified area and instead offer what it characterizes as a wireless service (also known as Voice Link) as its sole service offering in that area. Verizon also includes language in its tariff amendment that would allow it to deploy Voice Link as the sole offering in other areas of the State where competitive facilities exist, subject to Commission approval.

As explained below, because it is critical that service be available to Fire Island immediately, we will allow Verizon's tariff amendment to use Voice Link in the western part of Fire

Island¹ to go into effect subject to further review, monitoring and public comment. However, we are suspending Verizon's tariff amendment regarding its use of Voice Link in other parts of the State subject to further review. We will provide notice of and seek comments on Verizon's entire tariff amendment as well as its certification and demonstration for the western part of Fire Island as discussed in more detail below.

BACKGROUND

Fire Island, located on a barrier island about five miles off the southern shore of Long Island, was heavily affected by Hurricane Sandy in late 2012. Prior to Hurricane Sandy, Verizon provided voice service to about 3,800 access lines on Fire Island, approximately 1,100 lines on the eastern portion of the island, and about 2,700 lines on the western portion. In the western portion of the island, Verizon states that a large percentage of its copper facilities were damaged beyond repair, and five of the six feeder cables that run between Fire Island and the mainland were badly damaged by the storm.

Verizon further states that for the present it can continue to provide service in the eastern portion of the island through the use of existing landline facilities. In the western portion, where existing copper pairs are still functional, Verizon will continue to use them to provide service to the extent possible. However, in the remaining western portion of the island, Verizon states that a large percentage of Verizon's copper facilities were damaged beyond repair and it proposes to offer its Voice Link service. According to Verizon, Voice Link service will be provided where outside plant facilities were destroyed by Hurricane Sandy,

¹ Verizon defines this area to be communities on Fire Island west of, but excluding, Sunken Forest; specifically Point of Woods, Ocean Bay Park, Seaview, Ocean Beach, Atlantique, Lonelyville, Fair Harbor, Saltaire, and Kismet.

and, then, as surviving copper facilities go out of service, the company plans to fulfill all new service orders using this wireless technology.²

Verizon states that the use of a Voice Link, a technology it describes as a wireless service, as the primary service option on western Fire Island makes sense for several reasons. Verizon indicates that the cost of replacing facilities is high, and there is a risk of further damage or destruction in the event of other severe storms in the future. Additionally, deployment of new landline facilities would delay the restoration of service for many customers for several months. In addition, Verizon submits that wireless service is already the predominant mode of voice communication on Fire Island.

Verizon also states that Voice Link utilizes the same cellular technology as a conventional mobile phone.³ However, a small Voice Link transmitter/receiver device is installed at the customer's premises, at a location chosen for optimum reception, ensuring that the unit will remain at a specified address, which will enable Verizon to offer conventional Enhanced 911 (E911) service to its customers. The device is plugged into a normal electrical outlet, and then into any telephone jack. The unit provides dial tone to all working jacks in the house and customers will be able to use their current telephone sets by plugging them into any jack.

² Verizon indicates that it will deploy and repair copper facilities to provide landline service to firehouses, police stations, and other municipal buildings.

³ To ensure sufficient coverage, Verizon Wireless has agreed to enhance the wireless coverage on Fire Island. Verizon Wireless is a joint venture partly owned by Verizon's parent corporation, Verizon Communications Inc. Voice Link service will be provided over Verizon Wireless' network. However, a customer using Voice Link service on Fire Island will remain a customer of Verizon New York Inc. In providing Voice Link, Verizon states it will act as a reseller of Verizon Wireless' service.

According to Verizon, Voice Link units require electrical power, which is normally obtained through an electrical outlet in the customer's house. In case of commercial power failures, the units are equipped with a rechargeable backup battery that provides up to two hours of talk time and 36 hours of standby time. Additionally, a new model planned for distribution shortly will accommodate customer-provided non-rechargeable "AA" batteries, which can be used during prolonged outages.

TARIFF FILING

Verizon's tariff amendment to its PSC NY No. 1 - Communications Tariff (Attachment A) has an effective date of June 2, 2013; Verizon requests, however, that the amendment take effect on short notice on May 18, 2013. The tariff amendment specifies that Verizon may offer service using Voice Link as its sole service offering in an area of the State under one of two circumstances:

(a) The company certifies and demonstrates that a substantial portion of its facilities in the area is destroyed, rendered unusable, or beyond reasonable repair; or

(b) The company demonstrates that the use of wireless to serve specified customers, or groups of customers, is otherwise reasonable in light of the geographic location, the availability of competitive facilities to serve those customers or groups of customers, or in light of other criteria acceptable to the Commission.

The amendment states that, when Voice Link is the sole service offering, the service will provide customers with the ability to make and receive voice telephone calls and to access local and toll calling, emergency services with E911 capability, directory assistance services and telecommunications relay services. In addition, the directory listing process will be the same as for

landline customers, including the availability of non-published service. Voice Link will also support a variety of popular calling features.

The amendment also states that Verizon will adhere to the Commission's requirements relating to customer protection, customer complaints, service quality, safety and reliability with respect to its Voice Link service offered as the sole service option.

The amendment further states that Voice Link pricing will be aligned with that of current landline service packages. Verizon will offer Voice Link residence plans that include features comparable to or more extensive than those included in the following service offerings: Regional Package, Verizon Local Package, Regional Essentials, Access Line Plus Flat-Rated Local Usage, and Access Line Plus Flat-Rated Local Usage at tariffed Lifeline pricing (Lifeline-eligible customers only). Verizon will also offer a business service that includes features comparable to or more extensive than those included in the Solutions for Business offering. The net price of each such Voice Link plan (inclusive of available credits) will be at or below the price of the comparable tariffed plan (inclusive of the federal Subscriber Line Charge applicable to the tariffed plan) as such price may change from time to time. Finally, the amendment will not apply in areas where Verizon offers the alternative wireless service as an optional service (i.e., traditional wired facilities are still in place).

The company submits (although not reflected in the tariff amendment) that Voice Link will be available to business customers as well as residential customers. Multi-line service will also be available for businesses, and Verizon Wireless will make available wireless data services and devices to support point-of-sale credit card processing and similar data functionalities required by small businesses.

DISCUSSION

It has been the Commission's policy that utilities determine how to provision service via any combination of facilities - wires, fiber optics, electronics - so long as the tariffed service meets the Commission's prescribed rules and customer expectations.⁴

In many respects, the Voice Link service will be similar to traditional service. E911 will operate the same as a wired line and availability of directory listings and assistance services will continue. In other respects, the proposed service will be materially different than the services previously offered by Verizon and experienced by its customers pursuant to the company's existing tariffs. For example, service over Voice Link will include unlimited calling (local, regional, toll, and long distance) and custom calling features that the customer may or may not have had prior to the damaged facilities. The customer must supply commercial power to the Voice Link device mounted inside the premises, resulting in no service if power is lost for a long-period of time. Fax machines, medical alert and home security monitoring systems, as well as credit card machines are incompatible. Digital Subscriber Line (DSL) services will not be available. As currently provisioned, the service will require use of mandatory 10-digit dialing (rather than 7-digits, which currently is the Commission-approved dialing pattern for calls within the 631 area code) and will not allow calls to certain specialized area codes, such as 900, or central office codes, such as 976 or 950. Finally, the service will not allow customers to accept collect calls or calls to the operator by dialing "0."

⁴ Pursuant to Public Service Law (PSL) §2(18), a telephone line is broadly defined to include not only wires, but transmitters and receivers.

We must balance the interest of consumers in maintaining their previous service arrangements and expectations with the desire to have a resilient offering that can better withstand future hurricanes and the economic viability of expeditiously repairing extensively damaged facilities with outdated technology. Many customers have "cut the cord" relying exclusively on cell phones as their sole source for voice communications. Customers on Fire Island may do the same here, rather than accept the use of the Voice Link service. In lieu of making repairs to wired facilities, Verizon is enhancing the wireless capability on Fire Island, from which residents and visitors to Fire Island will no doubt benefit, including use of wireless broadband in place of DSL. Based on the foregoing, we find, subject to further review, that the limitations of Voice Link are not sufficient to deny use of that technology in light of the unique circumstances brought on by the damage from Hurricane Sandy on the western portion of Fire Island.

The proposed tariff language establishes two situations where Verizon could invoke the use of Voice Link: (a) damaged facilities and (b) presence of competition. We will address each separately below.

Damaged Facilities

As noted above, Superstorm Sandy had a devastating impact on the coastal region of New York, including Fire Island. We are aware of the significant damage to network facilities on Fire Island through the Department's ongoing monitoring of Verizon's restoration efforts following Sandy and independent observations.⁵ The proposed tariff would apply where the company's facilities were

⁵ Staff continues to investigate consumer complaints regarding telephone service on Fire Island as well as a complaint by the Village of Saltaire (see Matter 12-02425). Staff is also investigating electric, gas and telecommunications outages caused by Superstorm Sandy in Case 13-C-0025.

destroyed or beyond reasonable repair, and Verizon has proposed that western Fire Island be the first place to use Voice Link. Under the proposed tariff language, Verizon would be required to certify and demonstrate that a substantial portion of its facilities in that area were destroyed, rendered unusable or beyond reasonable repair.

We are cognizant that seasonal residents and visitors are returning to Fire Island, especially as the Memorial Day weekend approaches, and we want to ensure that they have adequate telephone service. Pending our further review of Verizon's demonstration, the portion of Verizon's tariff amendment relating to the western part of Fire Island should be allowed to go into effect. While Verizon's facilities were certainly impacted and in need of repair on the western part of Fire Island, we are still reviewing the supporting certification and documentation filed May 10, 2013. We will seek comments to consider Verizon's tariff amendment in this regard along with its certification and documentation and report our findings at a later date.

Since we are allowing Verizon to deploy Voice Link pursuant to the tariff, all the Commission's pertinent rules and regulations relating to traditional service apply to Voice Link. Staff advises that, over the past several weeks, Verizon provided Voice Link customers a Terms of Service Agreement (TOSA) that was not fully consistent with the tariff modifications we are approving today. The TOSA should remove provisions in conflict with the Commission's regulatory requirements and substitute information relating to customer protections, while retaining the information unique to the use of wireless transmission for the service. The TOSA should also provide adequate assurance to customers that they retain the protections provided to them as customers of traditional service. We direct the company to file a TOSA complying with these requirements with the Secretary to the Commission no later than

May 20, 2013. The company, upon receipt of approval by the Director of the Office of Telecommunications, would distribute the authorized TOSA to each Voice Link customer.

Verizon is required to distribute an Annual Notification of Rights (ANR) to a residential customer at the time service is initiated and, at least, annually thereafter (16 NYCRR §609.13). An ANR pamphlet is available containing the summary of customer rights and obligations. Accordingly, in compliance with this requirement, Verizon shall distribute an ANR to each of its Voice Link residential customers at the time service is initiated, and to the customers who have subscribed to Voice Link to date.

We will conduct a review of Verizon's Voice Link service on Fire Island to determine, among other things, the value of authorizing the continuation of Voice Link service in the future and need for any modifications to the service. To facilitate our review, we direct Verizon to file with the Secretary to the Commission, no later than November 1, 2013, a report evaluating the provision of Voice Link service to Fire Island customers. At a minimum, the report shall include the following information: statement of the number of subscribers served by Voice Link in each month; description of the extent of customer acceptance of Voice Link as an alternative to traditional service; assessment of quality and reliability as measured by trouble reports, outages and repair intervals; description of performance during commercial power outages; description of the impact on customers' 911 access; statement of costs associated with providing the Voice Link service; description of customer complaints and customer satisfaction; and, any other information useful in evaluating the advantages and disadvantages of Voice Link as an alternative to traditional service and the need for modifications to the service. Prior to submission of Verizon's report on November 1, 2013, the Department of Public Service Staff will monitor and oversee Voice Link service

on Fire Island, with Verizon's cooperation and provision of any information necessary to assist Staff in assessing service conditions, including service quality, outages and repair needs.

Beyond Fire Island

The proposed tariff also would apply beyond Fire Island where the company demonstrates that the use of Voice Link to serve specified customers, or groups of customers, is otherwise reasonable in light of the geographic location and the availability of competitive facilities, or in light of other criteria acceptable to the Commission. This proposal introduces market exit issues, which should be reviewed further. For example, Verizon, as an eligible telecommunication carrier (ETC), must make a showing that there is another ETC to take its place. There may be wholesale issues as well, as copper plant retirement issues, impacting competitive local exchange carriers' abilities to service their customers.

While the demonstration would be subject to Commission review and there may be circumstances that warrant such consideration, the proposal goes beyond the immediate need for use of Voice Link in the western portion of Fire Island. Therefore, we are suspending that portion of Verizon's tariff amendment related to the expansion of the use of Voice Link to other areas of the State. We will seek comments from interested parties on this aspect of Verizon's proposal.

CONCLUSION

Damage from Superstorm Sandy compels us to consider alternative approaches to serve certain customers on Fire Island in an expeditious manner. As a result, Verizon will be permitted to deploy its Voice Link service pending further review of its certification and documentation, monitoring and public comment. We

do not, however, authorize at this time the general market exit proposal introduced in Verizon's tariff amendment and suspend that portion of the tariff amendment pending further review. A notice and comment process will be initiated to consider Verizon's tariff amendment and certification and documentation for the western part of Fire Island.

The Commission orders:

1. Verizon New York Inc.'s tariff pages detailed on Appendix A, with the exception of the language discussed above and subject to the modification below, are allowed to go into effect on short notice upon filing with the Commission.

2. Verizon New York Inc.'s tariff pages stating: "or (b) The company demonstrates that the use of wireless to serve specified customers, or groups of customers, is otherwise reasonable in light of the geographic location, the availability of competitive facilities to serve those customers or groups of customers, or in light of other criteria acceptable to the Commission" is hereby suspended pursuant to Public Service Law §92(2)(e).

3. Verizon New York Inc.'s tariff pages, Section C.3.d, shall be modified to add the following sentence: "The price of each such plan shall be posted on Verizon New York Inc.'s website" and allowed to go into effect on short notice.

4. Verizon New York Inc. is directed to file with the Secretary to the Commission no later than Monday, May 20, 2013 its revised Voice Link Terms of Service Agreement for review and approval in accordance with the discussion in the body of this Order.

5. Verizon New York Inc. is allowed to put into effect the tariff revision authorized in Ordering Clause 1 prior to the end of the 30 day notice period and without compliance with the statutory requirement for completion of newspaper publication once a week for four weeks (Public Service Law §92(2)).

6. Verizon New York Inc. is directed to file with the Secretary to the Commission, no later than November 1, 2013, a report evaluating the provision of Voice Link service on Fire Island, in accordance with the discussion in the body of this Order.

7. This proceeding is continued.

By the Commission,

(SIGNED)

JEFFREY C. COHEN
Acting Secretary

ADMINISTRATIVE DETAILS

Filing by: Verizon New York Inc.
Revisions to: P.S.C. NY No. 1 - Communications

Section 1
1st Revised Page 60
Original Page 60.1

Issued: May 3, 2013

Effective: June 2, 2013*

*To be put into effect on short notice on May 18, 2013.