STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on November 14, 2013

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

CASE 13-C-0458 – Petition of Verizon New York Inc. for Approval to Sell a Portion of an Office Building Located at 140 West Street, New York, NY.

ORDER APPROVING TRANSFER

(Issued and Effective November 20, 2013)

BY THE COMMISSION:

INTRODUCTION

By petition dated September 12, 2013, Verizon New York Inc. (Verizon) seeks permission to sell a portion (approximately 42%) of an office building located at 140 West Street, New York, New York (Property), for net proceeds of approximately $262 million and an intrastate gain of approximately $120 million. This building serves as the corporate headquarters for Verizon and its parent company, Verizon Communications, Inc. Verizon requests authority to retain the intrastate sale proceeds for general corporate purposes, including maintenance of service quality and network reliability, and reduction of costs.

In this Order, we approve the transfer because no effect on the Company's telecommunications operations at the Property will occur; the purchase price, based upon competitive bidding, is reasonable; and, the sale will improve the overall efficiency of its operations and reduce operating costs. The Company states that it intends, among other things, to use the proceeds for maintaining service quality and network reliability. Given the shift to a competitive telecommunications market and incentive-based regulation, and the concomitant risks imposed on Verizon, we authorize the Company to retain the gains from the sale. We expect that Verizon will apply net proceeds from the sale to improve service quality and network reliability, including implementation of the plan for service quality improvement and network reliability that we recently directed the Company to file in the Service Quality Proceeding.

PETITION

Verizon proposes to sell approximately 42% of an office building located on 140 West Street. It requests Commission authorization to retain the net proceeds for its corporate purposes. These purposes include offsets to its shortfall in intrastate earnings, cost reductions, continuance of its commitment to service quality and improvement of network reliability and security, and enhancement of its ability to survive and compete in the New York market.

Description of Transfer

Constructed in 1923, the Property consists of a 1.17 acre parcel of land in lower Manhattan, improved by an office building with 32 above-grade floors and 5 below-grade levels totaling 1,286,062 square feet. A major Verizon telecommunications switching center and cable facilities occupy a portion of the building; and, the remainder is used for office space and the headquarters for Verizon Communications Inc.

The portion of the Property subject to the sale includes floors 11 through 32 and portions of basement level C (Purchaser's Unit). Verizon will retain the remainder of the space for operation of its telecommunications switching equipment and cable facilities; and, the headquarters will return to space owned in its building located at 1095 Avenue of the Americas.

Verizon explains that it regularly reviews its real estate holdings to determine whether it is able to realize cost savings and other efficiencies through consolidation of work locations, selling properties, or terminating leases. Verizon is selling the Purchaser's Unit because it is no longer necessary for Verizon's operations in New York.

With the assistance of a broker, Verizon conducted a competitive bidding process and, on August 19, 2013, entered into a contract with an affiliate of Magnum Real Estate Group, the highest responsive bidder. The Purchaser intends to redevelop the Purchaser's Unit into residential condominiums. The contract for sale provides for a $274 million total purchase price, a down payment of $27.4 million, and other payments toward Verizon's costs, resulting in a total value of over $290 million.

Verizon states that the sale of the Property is in the public interest. It notes that the sale assists the Company in carrying out its long-standing consolidation program of combining its work locations and making optimum use of its real estate holdings. It asserts that the sale will assist in achieving greater efficiencies through reducing the approximately $16 million of annual expenses and taxes associated with ownership and operation of the Property.

The contract establishes a number of requirements to avoid any adverse affect on the telecommunications services provided from the central office equipment located on the Property, including Verizon's approval of major construction work that could affect its central office and control of the condominium's board of managers. Verizon's obligations under the contract are contingent upon a number of conditions, including obtaining Commission approval of the sale without the imposition of any conditions or requirements that are unacceptable to Verizon.

Accounting Treatment and Retention of Gains

According to the petition, Verizon will receive approximately $274 million for the sale of the Property. The Company estimates the closing costs of the sale at about $12 million, which results in net proceeds of approximately $262 million. Given the conditions in the real estate and financial markets and its marketing efforts, Verizon is confident that it has obtained the maximum possible value for the Property. Based upon the current book value of the land and building, Verizon estimates an overall net gain of approximately $167 million, including an approximately $189 million net gain on the land sale and an approximately $22 million net loss on the sale of the building.

Verizon proposes to credit the approximately $189 million gain on the sale of land to Account 7150, Gains and Losses from Disposition of Land and Artworks. As a result, the Company would retain the approximately $189 million gain on the land. The estimated intrastate portion of that gain is approximately $120 million.

Verizon requests authorization to retain the gain for its corporate purposes, because it (1) is consistent with Commission precedent in approving the Company's numerous transfers of property and allowing retention of the gain because of significant competitive pressures, and with Generally Accepted Accounting Principles (GAAP); (2) provides Verizon some measure of relief from its massive shortfall in New York intrastate earnings, associated with a decline in access lines resulting from Voice over Internet Protocol (VoIP), wireless, and cable telephony alternatives;[1] and, (3) helps Verizon to reduce costs, continue its commitment to service quality and improvement of network reliability and security, and increase its ability to survive and compete in the New York market. Verizon notes that the rise of VoIP and the growth of competition from wireless and cable telephony increase its risks of investing in and providing wireline networks. The Company asserts that it is vital for Verizon to manage its assets as efficiently as possible to continue to compete and invest in New York; it notes that, although retention of the intrastate gain will not turn around its financial situation, it will enable Verizon to continue to invest in New York. The Company asserts that, in the Competition III Order,[2] the Commission stated that it expected to allow utilities facing significant competitive pressures to retain refunds and gains on the sale of assets so long as cost-of-service based regulation is no longer relevant.

Expeditious Action

Verizon states that it and the Purchaser committed substantial time and resources to negotiation of the contract; they need to plan their future actions with a degree of

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[1] In its Annual Report for Calendar year 2012, Verizon reported a negative 24.50% rate of return and a $1.5 billion regulated net operating income loss; these figures are unaudited. As of December 2012, Verizon served approximately 8.4 million fewer telephone lines that it served on January 1, 2000, a decline of 70%.

[2] Case 05-C-0616, Intermodal Competition, Statement of Policy on Competition (issued April 11, 2006) (Competition III Order).

certainty; the Purchaser provided a significant cash deposit which should not be tied up unnecessarily; delays affect the cost of any financing available to the Purchaser; and Verizon is interested in reducing its more than $16 million ongoing operating expense and taxes associated with the Property. Verizon requests Commission action on the petition no later than November 15, 2013.

PUBLIC COMMENT

On October 10, 2013, Assemblymember Deborah J. Glick filed comments opposing the sale. The main reason for her opposition is that the sale would displace approximately 1,100 employees, moving them to the company's location in Brooklyn; and, only 600[3] workers would remain at the Property, potentially compromising the service provided to customers in her district and inconveniencing workers forced to relocate. She maintains that no service-related motive justifies the sale and relocation of workers. She expresses other concerns outside the Commission’s analysis of this property sale, specifically (1) Verizon’s receipt of public funds to restore the building following the September 11, 2001 attacks and her conviction that it is unconscionable for the Company to capitalize on that public investment by selling the Property;[4] and, (2) the historic value of the Property due to its proximity to the World Trade Center neighborhood and its addition to the National Register of

[3] According to Verizon, as of August 2013, 923 workers will remain at the Property.

[4] We note that it is reported that the only public moneys Verizon received involved federal historic rehabilitation tax credits worth $10 million over three years; and, the total rehabilitation cost after September 11, 2001 for the Property was $322 million (David W. Dunlap, New York Times, Verizon Unpacks at its Restored Ancestral Headquarters, December 9, 2005).

Historic Places in 2009 and her concern that development of luxury housing will compromise the building's integrity.[5]

BACKGROUND

In 2005, the Commission determined that it is reasonable to allow Verizon and its shareholders to retain the gain from property sales, given the competitive market and the risks it imposes, including possible non-recovery of costs; the need to retain cash proceeds for continuing operations; and the irrelevance of rate-of-return regulation for Verizon because it operates under an Incentive Plan, assuming risks associated with increased costs and declining revenues.[6] In its petitions for the 2005 transfers, Verizon stated that it intended to use the sale proceeds for general corporate purposes in New York State, including maintenance of service quality and network reliability and security. Consistent with these representations, the 2005 Order states that Verizon is expected to use sale proceeds to support service quality and other obligations to upgrade and maintain its physical plant. In each order allowing Verizon to use proceeds from property sales, the Commission reiterated its expectation that Verizon would use funds from gains to maintain and improve its network and service. The Commission also allowed Verizon to retain tax refunds, in light of the risks

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[5] Ms. Glick claims that her constituents have encountered difficulty dealing with the Company since Superstorm Sandy; and, many still are without phone service. We are referring this complaint to the Office of Consumer Services for further inquiry.

[6] Case 05-C-0091, Verizon New York Inc. – Manhattan Property and Case 05-C-0092, Verizon New York Inc. – Brooklyn Property, Order Approving Transfers (issued May 20, 2005) (2005 Order).

inherent in the Verizon Incentive Plan,[7] and to make available tax refunds for service quality improvement.

In its Competition III Order, the Commission adopted policies consistent with these decisions, stating that it would allow utilities facing significant competitive pressures to retain tax refunds and gains from sale of assets, so long as cost-of-service based regulation is no longer relevant. The Commission noted that it would continue to scrutinize Verizon's property transfers to ensure that overall network service is not compromised.[8]

STATE ENVIRONMENTAL QUALITY REVIEW ACT

Under the State Environmental Quality Review Act (SEQRA) (Environmental Conservation Law Article 8), state agencies are required to determine whether the actions they are requested to approve result in a significant impact on the environment. The Commission is considering approval of a sale by Verizon of a portion (approximately 42%) of its office building located at 140 West Street, New York, New York.

No other agency exercises jurisdiction relating to the proposed action; and no interested agency indicated a need to participate in the proceeding. Accordingly, we are the lead agency responsible for environmental review under SEQRA of the proposed action.

A lead agency is required to classify a proposed action as a Type I action that may have a significant impact on the environment and likely requires preparation of an Environmental Impact Statement, a Type II action that is

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[7] Case 02-C-0959, Verizon New York Inc. – County of Nassau Tax Refund, Order Allocating Property Tax Refund (issued March 12, 2003).

[8] Competition III Order, p. 125.

presumed to result only in minimal environmental impacts and does not require environmental review, or an unlisted action that is not specifically classified as a Type I or Type II action and requires a Full or Short Environmental Assessment Form (EAF). As lead agency for the environmental review of the proposed action, we determine that the approval of the property sale is an unlisted action because it is not specifically classified as a Type I or Type II action under SEQRA (6 NYCRR §617.2(a) through (k)).

As required by SEQRA for an unlisted action, the petitioner submitted a Full EAF Part 1; and, the Staff completed the parts of the EAF assigned to the state agency. Based upon our review of the petition, EAF, and criteria for evaluation of significant adverse environmental impacts (6 NYCRR §617.7(c)(1)), we make a determination that approval of the proposed sale of Verizon's office building will not result in any significant adverse impacts on the environment (determination of significance) and, consequently, no environmental impact statement is required, and adopt a negative declaration for the action. The approval is granted for transfer of a building that is already constructed on the site; the property is fully developed; and, no major effects on environmental elements will result. A Determination of Non-Significance Negative Declaration for approval of the proposed transfer is attached to this Order.

DISCUSSION AND CONCLUSION

Verizon will retain an ownership interest in a portion of the Property; and, the sale will have no adverse effect on Verizon's provision of service from the central office located on the Property. As Verizon asserts: the sale will improve the overall efficiency of its operations; the purchase price, based upon competitive bidding, is reasonable; no effect on its operations at the Property will result; and the sale will reduce the Company's operating costs. We find that the transaction is in the public interest and approve the sale of a portion of Verizon's office building located at 140 West Street, New York, NY.

Assemblymember Glick opposes the relocation in May 2013 of 1,100 workers to Brooklyn and the decrease in the number of workers remaining at the Property because these actions potentially compromise the service provided to customers in her district and inconveniences workers forced to relocate. Although we appreciate Ms. Glick's concerns and reservations about the sale, no adverse affect on provision of service is expected to occur; it is important that the Company continue to achieve cost savings and efficiencies in order to remain a viable operation and contain costs; and, it is possible that Verizon may improve its customer service and provide a better work experience for its relocated employees, at the modern, centralized customer service center, we understand, it is developing in Brooklyn.

Verizon is subject to significant competition and our regulatory decisions should take into account the effects of competition on Verizon's operations. In competitive markets, less need exists for economic regulation, such as specific regulatory accounting, and, market conditions influence Verizon's management of any gain, but the Commission continues its oversight to ensure service quality is maintained. As cost-based rate of return regulation is not applicable to the Company, which operates under a regime that excludes traditional options for obtaining additional revenues through a regulatory process, Verizon is no longer assured of recovering its costs. Given the shift to a competitive market and incentive-based regulation, and the concomitant risks imposed on Verizon, we determine that it is reasonable to approve the Company's proposed accounting and ratemaking treatment and authorize retention of the intrastate gain on the sale for its continuing operations.

Accordingly, Verizon is authorized to retain the gains for the sale of its 140 West Street Property. In carrying out our core responsibility relating to maintenance of safe and adequate service, we expect that Verizon will use the net proceeds from the sale of the Property for improving service quality and upgrading network reliability, including implementation of the plan to improve service quality and network reliability that we recently directed the Company to file in the Service Quality Proceeding.[9]

The Commission Orders:

1. Verizon New York Inc.'s petition for approval of the sale of a portion of its property at 140 West Street, New York, New York is granted.

2. Within 60 days after execution of the approved transfer, Verizon New York Inc. shall inform the Secretary to the Commission in writing that the transfer is complete. If the transfer is not completed within one year after the issuance of the Order, the Commission may rescind its approval.

3. The Secretary may extend the deadline set forth in this Order upon good cause shown, provided the request for such extension is in writing and filed on a timely basis to provide not less than one day's notice.

[9] Case 13-C-0160, Quality of Service – Local Exchange Companies, Letter dated November 19, 2013 from the Director of the Office of Telecommunications to Mr. Richard Bozsik, Director – Regulatory Affairs.

4. This proceeding is closed, after compliance with Ordering Clause 2.

By the Commission,

Kathleen H. Burgess
Digitally Signed by Secretary
New York Public Service Commission

KATHLEEN H. BURGESS
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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DETERMINATION OF NON-SIGNIFICANCE
NEGATIVE DECLARATION

This is a negative declaration for an unlisted action, in compliance with the State Environmental Quality Review Act (SEQRA) (Environmental Conservation Law Article 8). Verizon requests Commission approval of its sale of a portion of an office building located at 140 West Street, New York, New York.

The Commission assumed the role of lead agency for the environmental review of the proposed action and determined that it is an unlisted action, as defined under 6 NYCRR §617.2(a) through (k). The Commission determined that its approval will not result in any significant impact on the environment and no preparation of an Environmental Impact Statement is required. The determination is made because the office building is located on the property; the property is already developed; and no major effects on environmental factors will result from granting the authority.

The address of the Public Service Commission is Three Empire State Plaza, Albany, New York 12223-1350. For further information, please contact Richard H. Powell at the above address, Richard.Powell@dps.ny.gov, or (518) 486-2885.

KATHLEEN H. BURGESS
Secretary