STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

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

NOTICE REQUESTING COMMENTS ON
TARIFF MODIFICATIONS AND BUSINESS LINES

(Issued January 18, 2013)

The regulatory landscape covering Verizon New York Inc.’s (Verizon or the Company) retail service quality has undergone dramatic changes over the last several decades. For years, Verizon, as the monopoly telecommunications provider in the State, operated under a cost-of-service regime; the Commission set its rates and allowed the Company to recover its costs and earn a reasonable return. As a result, service quality was adequate. Subsequently, as competition developed in the telecommunications market, the Commission determined that, in order to balance customer service quality with Verizon’s ability to earn a return in a competitive environment, a new incentive-based regulatory regime would be implemented through a structure of rate flexibility and customer credits tied to minimum service requirements state-wide.[1]

As the incentive plans ended, the Company began experiencing poor performance in some of its repair service areas. In an effort to address this service quality degradation, the Commission approved a Service Improvement Plan (SIP) that, among other things, targeted Verizon’s maintenance, repair and investment throughout the State.[2] While Verizon’s service quality in underperforming areas improved under the SIP,

---

[1] See Cases 00-C-1945 and 98-C-1357, Verizon of New York Inc. - Future Regulatory Framework, Order Instituting Verizon Incentive Plan (issued February 27, 2002).

[2] Case 03-C-0971, Verizon New York Inc.’s Retail Service Quality Processes and Programs, Order Adopting Service Improvement Plan (issued March 31, 2008).

beginning in the summer of 2008, the Company began experiencing problems in responding to requests for out-of-service problems and its service quality performance worsened.

The Commission subsequently ordered Verizon to file a plan to address its poor timeliness-to-repair performance to reflect a far more robust competitive environment so that certain customers who were most in need of regulatory protections were actually covered.[3] This robust competitive environment resulted from the emergence of cable and wireless telephone competition. Competition has been a long-standing policy in New York and accelerated around 2000. Since 2006, it has resulted in Verizon's loss of over half of its traditional landline customers and contributed to the Company's significant decline in revenue.[4] In order to manage service quality in the face of Verizon's diminishing operating revenue and increasing costs, the Commission determined that certain fundamental changes to its regulation of Verizon's service quality were warranted.

[3] Case 10-C-0202, Verizon Service Quality Improvement Plan, Order Directing Verizon New York Inc. to file a Revised Service Quality Improvement Plan (issued June 22, 2010).

[4] Pursuant to 16 NYCRR 603.4, only Verizon is required to report certain service standard metrics, including repair, installation and answer time performance. Cable providers do not report under any of these prescribed metrics.

What followed was the adoption[5] of a revised Service Quality Improvement Plan (SQIP or Plan) on December 17, 2010.[6] For the first time, the Commission concluded that, among other things, Verizon should focus its service quality efforts on Core[7] customers. It found that those customers had limited recourse available to them in the face of poor service, other than traditional regulatory protections, and that, if Verizon failed to meet its timeliness-of-repair metrics for Core customers, the Company should be required to Show Cause why a penalty action should not be commenced.[8] The Commission focused on two out-of-service metrics (out-of-service over 24 hours (OOS>24) and service affecting over 48 hours (SA>48)), because these metrics involved the most serious problems and are the most critical when measuring Verizon's performance during a service

[5] Case 10-C-0202, supra, Order Adopting Verizon New York Inc.'s Revised Service Quality Improvement Plan with Modifications (issued December 17, 2010).

[6] On April 25, 2012, the Attorney General of the State of New York (Attorney General) requested modification of Verizon's SQIP because it was ineffective in ensuring adequate service quality for all of Verizon's customers (i.e., Core and non-Core). In a separate order, the Commission finds that the reasons for adopting the SQIP for residential customers are as compelling today as they were when we adopted the Plan.

[7] The SQIP defines Core customers as residential and business customers without competitive choice situated in white spot areas, residential Lifeline customers and residential customers with special needs, such as, medical conditions, or who are elderly, blind or disabled).

[8] Verizon was ordered to Show Cause on February 17, 2012 for October and December 2011 OOS>24 and SA>48 misses. The Company subsequently paid the $400,000 penalty in lieu of further proceedings. Moreover, in January 2012, Verizon incurred an SA>48 miss in one region and again opted to pay the $100,000 penalty. Finally, on November 28, 2012, the Company agreed to make to a payment in lieu of further proceedings for missing an OOS>24 metric for July, 2012.

interruption or outage. Since the adoption of the SQIP, Verizon service quality performance, as it relates to Core customers, has improved and the Company is now meeting those metrics for Core customers most of the time.[9]

For non-Core customers, it appears that Verizon's OOS>24 performance has not improved despite indications that competition has become even more robust.[10] However, expansion of SQIP to non-Core residential customers is not warranted, given that these customers have choice and are, therefore, not without recourse.[11] Requiring Verizon to meet the full panoply of service quality metrics for non-Core residential customers may only serve to dilute resources to Core customers. While competition may not alter Verizon's service quality results for non-Core residential customers in a manner consistent with our service quality metrics, Verizon still has an incentive to maintain some level of service quality for these customers in order to retain, as much as possible, the remaining revenues and margins associated with its copper network. Finally, despite sustaining significant operating losses, Verizon nevertheless continues to respond to competition by making large investments in deploying its fiber and wireless networks in New York.

---

[9] Verizon met the OOS>24 standard for Core customers in each of its five regions 102 out of 115 times and met the SA>48 standard for Core customers 109 out of 115 times. These results include periods in August and September 2011 where 12 of the 19 total metric misses were waived due to the combined impacts of a work-stoppage, Hurricane Irene and Tropical Storm Lee.

[10] Data submitted on a semi-annual basis for non-Core customers and carrier-to-carrier data suggests that non-Core customer service quality remains at pre-SQIP levels.

[11] See, Case 10-C-0202, Order Resolving Petition (issued January 17, 2013).

The Commission previously indicated a concern regarding the availability of sufficient competitive alternatives for certain business customers and the adequacy of Verizon’s timelines-of-repair for Core customers, following the expiration of the initial 24-hour repair metric window.[12] Specifically, in the wake of the Hurricane Irene and Tropical Storm Lee, we directed Staff of the Department of Public Service (Staff) to analyze whether Verizon’s business customers had sufficient competitive alternatives, even in areas where residential competition existed.[13] In addition, for the months leading up to Hurricane Irene and Tropical Storm Lee, the Commission noted a disturbing deterioration in Verizon’s ability to repair out-of-service conditions for Core customers beyond the initial 24-hour repair metric window.[14]

We find that Verizon’s service quality performance needs to be improved going forward, and issue this Notice proposing modifications to the existing regulatory regime and seek comments on the proposals.

Tariff Modifications for Core Customers

While Verizon’s performance under the SQIP has generally met the established targets for Core customers, we noted that there have been instances where the Company has missed the OOS>24 metric and, presently, there is insufficient incentive to restore service as quickly as possible within that month because a failure is already recorded. Data provided by

---

[12] We also note that the Attorney General raises similar concerns over small business customer choice and Verizon’s timelines-of-repair performance as part of his April 25, 2012 petition.

[13] Commission’s November 17, 2011 Session Transcript pp. 52-53.

[14] Case 10-C-0202, supra, Order to Show Cause (issued February 17, 2012) p. 11.

the Company indicated a deteriorating upward trend in the mean-time it takes to repair troubles for Core customers and a rise in associated complaints. We believe additional protections may, therefore, be necessary to ensure that Verizon is providing timely repair service beyond the protections provided by the OOS>24 metric. To address our concern, the Commission proposes certain modifications to Verizon's tariff.

Verizon's tariff requires that, after notice by the subscriber of an interruption of service, a credit allowance will be given if the interruption continues for at least 24 hours and a request for relief is made. This allowance equals a portion of the tariff monthly rate for all services and facilities furnished that are rendered useless or substantially impaired and is calculated as follows:

> (a) if the interruption is caused by storm, fire, flood or other condition out of the Company's control, 1/30th of such monthly rate for each 24 hours (or fraction thereof),
>
> (b) for other interruptions, 1/30th of such rate for the first 24 hours and 2/30th of such rate for each additional 24 hours (or fraction thereof); however, if service is interrupted for over 24 hours, more than once in the same billing period, the 2/30th allowance applies to the first 24 hours of the second and subsequent interruptions.

Under our proposed tariff modifications, if an "other" interruption continues for 48 hours, 1/30 of such monthly rate will be issued for the first 24 hours (or fraction thereof) and 2/30 of the monthly rate for the next two 24 hours periods. If the interruption continues for 72 hours or longer, 3/30 of such monthly rate should be issued for each 24-hour period thereafter (or fraction thereof). Under these revised parameters, the affected Core customer would receive a full month's credit by the 12th day of the interruption provided service has not yet been restored. Consistent, in part, with the OOS metric for

Core customers, the Company may propose to exclude instances where a repair appointment outside of the 24-hour window is requested by a customer. In such cases (i.e., where the customer requests repair appointments beyond the mandated windows), Verizon must offer the customer free forwarding of incoming calls to an alternative number (such as a cell phone number) until the trouble is cleared.

We also propose that the tariff for Core customers be implemented, and if necessary modified, so that the out-of-service rebates are more automatic (i.e., upon reporting a trouble no further customer request for a rebate is necessary).

While the time-to-repair metric provides some measure of protection, once the 24-hour window has elapsed there is insufficient incentive to restore service as soon as practicable. Accordingly, we propose that rebates for Core customers should be increased from the 2/30th after the first 24 hours to 3/30th of the monthly rate on and after 72 hours of a service interruption consistent with the discussion above.

Verizon is directed to file comments within 30 days of the issuance date of this Notice as to why these tariff modifications should not be implemented.

Service Quality Analysis and Remedies for Business Services

When the Commission adopted the SQIP, it concluded that non-Core business customers would be treated much the same way as non-Core residential customers. That decision was partly based on the assumption that non-Core business customers also had choice through alternative providers, because certain indicia (e.g., cable advertisements) of competition were present in the market. Therefore, like non-Core residential customers, options existed for business customers experiencing poor service quality. We committed to reviewing service quality performance for business customers to see if Verizon would respond to market forces by improving its service.

Staff's review of business customer data provided in response to the Commission's concerns indicates that, generally, while the percentage of troubles experienced on these customer lines is better than that of total Core and non-Core customers state-wide, Verizon's performance in repairing troubles within 24 hours is poorer than its repair performance for its Core performance. In fact, OOS>24 performance for these business customers appears to mirror the sub-par performance experienced for non-Core customers since the inception of the SQIP. For certain non-Core business customers, Verizon's service quality remains low. But, it appears, that the number of business customers affected by Verizon's inadequate service is relatively small compared to the total number of business lines served by Verizon in New York.

The Commission continues to examine the competitiveness of the business market state-wide. The Cable companies' market share of the commercial services market nation-wide appears to be small in relation to the total business market and it appears that Verizon's residential customers are choosing alternative providers at a far greater rate than business customers. Staff's analysis of number porting data[15] indicates, generally, that competition for Verizon's residential customers appears to be much stronger than competition for Verizon's business customers. One reason could be that the provisioning of service for an individual business customer at a particular location currently not wired and equipped for competitive service is costly for a cable company, so deployment is likely prioritized based on profit margin, and,

[15] Porting, in this context, refers to the migration of a customer line to another provider.

thus, availability is limited. Thus, there appears to be far less ubiquitous deployment of competitive business services than residential services.

Therefore, we are directing Verizon to perform and file with the Commission a root cause analysis of, and remedy plan for, out-of-service conditions associated with basic business services.[16] This approach is designed to position the Commission to identify and implement a more tailored regulatory response if business customers are indeed experiencing poor service quality because they too should be afforded protections if insufficient competitive alternatives exist.

In addition, the Commission proposes to apply the automatic 3/30ths tariff-based rebate enhancement discussed above to these business services. Consistent, in part, with how the Company reports on Core customers, it would be allowed to exclude instances where a repair appointment outside of the 24-hour window is requested by a customer. Again, in such cases, Verizon must offer the customer free forwarding of incoming calls to an alternative number (such as a cell phone number) until the trouble is cleared.

Finally, the Commission is also directing Staff to conduct an end-user focused dialogue to enhance our understanding of the nature of the business service quality

[16] The Commission previously determined the enterprise market to be reasonably competitive (Case 05-C-0237, Verizon Communication Inc., Order Asserting Jurisdiction and Approving Merger Subject to Conditions (issued November 22, 2005), pp. 30-34). Verizon notes that medium business services, such as those on T1 circuits, are covered under the special services reporting Guidelines in Case 00-C-0251. Thus, we are asking for an analysis and remedy on business services under Case 97-C-0139 Uniform Measurement Guidelines which covers business access lines, business Centrex, Payphone and voice-grade PBX trunks.

problem, as well as a broader dialogue with the industry on the status of competition and barriers thereto.

Verizon is directed to file its root cause analysis of, and remedy plan for, out-of-service conditions associated with business services within 30 days of the issuance date of this Notice.

In addition, any other interested parties wishing to comment may submit them electronically to the Secretary by e-filing through the Department’s Document and Matter Management System (DMM),[17] or by e-mail to the Secretary at secretary@dps.ny.gov, on or before March 25, 2013.[18] Parties unable to file electronically may mail or deliver their comments to Hon. Jeffrey C. Cohen, Acting Secretary of the New York State Public Service Commission, Three Empire State Plaza, Albany, New York, 12223-1350. A copy of the Commission’s Order Resolving Petition, Verizon's SQIP and the Attorney General’s petition may be accessed on the Department’s Web site at: www.dps.ny.gov, by searching Case 10-C-0202. Or, these materials can be obtained from Mr. John France, Office of Telecommunications, via e-mail (John.France@dps.ny.gov) or phone (518) 473-5242.

The Secretary is authorized to extend the deadlines set forth in this Notice. All comments submitted to the Secretary will be posted on the Commission’s Web site and become part of the official case record.

JEFFREY C. COHEN
Acting Secretary

[17] http://www.dps.ny.gov/DMM Registration.html; How to Register with DMM, http://www.dps.ny.gov/e-file/registration.html

[18] This deadline is intended to coincide with the comment deadline in the State Administrative Procedure Act Notice to be published in the New York State Register on February 6, 2013. Comments are due on March 25, 2013.