IRREGULATORS

BEFORE THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of

The Adequacy of Verizon New York Inc.'s Retail Service Quality Processes and Programs.

Case 16-C-0122

August 8th, 2017

Comment 1: IRREGULATORS & New Networks Institute

We submit Comment 1 as a short overview as well as a bibliography of our research, which is directly tied to this proceeding, as discussed below. It also gives a brief discussion of issues that have been overlooked or are missing and need to be part of the next steps the State should be implementing. Comment 2 is a more detailed view (that has been published in Huffington Post) of the current proceeding and a Verizon settlement. Comment 3 is a full report based on our analysis of the Verizon NY's 2016 Annual Report.

- **COMMENT 1**: Overview and bibliography
- **COMMENT 2: Huffington Post: Verizon NY in Multi-Billion Dollar Settlement Tangle, Underway in NY State,** published August 4th 2017
- http://www.huffingtonpost.com/entry/5984bbbfe4b0bd823202975c
- **COMMENT 3: Full Report: Verizon NY 2016 Annual Report: Follow the Money: Financial Analysis and Implications**
- http://irregulators.org/wp-content/uploads/2017/06/NYrteportjune22FINAL.pdf

Overview

First, we note that much of the data and approach used by CWA pertaining to the misallocations and cross-subsidies was originally published in our previous reports. Below is a library of reports, mostly detailing Verizon New York's financial accounting as well as the cross-subsidies between and among Verizon NY and the other Verizon subsidiaries. (The first report was published in March 2012.)

We support the Communications Workers of America, CWA's position to have the networks in 'good repair' and to investigate the cross-subsidies and cost misallocations in a future proceeding. However, we have a number of caveats, data and issues that appear to have been left off the table.

And while we did not apply to be a party of this proceeding because, to be frank, we've been submitting data and analysis detailing the cross-subsidies for years and it has proven to be a waste of time and resources, after reading through the record, and since the evidentiary hearing was cancelled, and since this proceeding is directly tied to the work we've been doing for the last seven years, we decided that other important issues need to be aired to shape the State's next steps.

Some of the findings that are missing or overlooked.

- Using Verizon's own accounting of cell sites that were part of the Verizon NY wireline construction budgets, we estimate that over $2.8 billion was diverted to be used by Verizon Wireless starting in 2010. Thus, instead of wiring upstate NY or finishing cities, the build out was done for Verizon Wireless (the D/B/A of Cellco Partners), which is a separate subsidiary and not part of Verizon New York. There were no direct payments to Verizon NY for this work that were detailed in any of the financial reports, either as a one-time fee or amoritized over time.
- Moreover, the references that were discussed of payments for "access fees and billing and collections" for AT&T, Sprint and Verizon, bring up a serious question of SEC violations, as that same info appeared in every Verizon SEC state-based report. Moreover, Verizon failed to supply basic data about these payments and gave info that was almost gibberish. (The numbers presented were redacted, but the CWA description and Verizon's response, were not.)
- These payments bring up a much more serious issue--the treatment of all competitors using the wireline networks. It now appears that Verizon has given its own subsidiaries perks that no other competitor would receive.
- Verizon NY local phone customers have been overcharged an estimated $1,500 per line via rate increases that both the State and Verizon claimed were for a 'massive deployment of fiber optics' and 'losses'. These increases were on all customers, including low income families, customers in rural areas, etc, who will most likely never get served.
- The Losses: The State allowed Verizon to game the system by creating 'losses' that were manipulated and not based on actual costs caused by Local Service. In fact, these manipulations were caused by distortions in the FCC's cost accounting rules.
- The 'massive deployment for fiber optics' was also an overcharge. Besides the fact that the deployment of FiOS was halted, starting in 2010, (though there were three rate increases from 2006-2009), and the budgets for fiber moved to build out wireless, a separate subsidiary, the deployment for wireless most likely violates state and federal laws.
- In fact, according to Verizon, the State does not have the jurisdiction to hold Verizon accountable for new FTTP deployments because it is an 'interstate' service.
- However, this also means that the State erred when it charged local phone customers for 'massive deployment of fiber optics' that was first used for FiOS, a cable service.

- The State should have identified the FCC's malformed cost accounting rules and either used a new financial accounting model or took the FCC to task over creating a financial shell game that is designed to make Local Service look unprofitable.
- Local Service is profitable once the actual costs are properly assigned and all of the expenses that have nothing to do with offering Local Service are removed.
- The State never demanded a total accounting of access lines in its own "Assessment" and the decline it showed in the report is only a subset of the total copper and fiber lines in service. The 'interstate' access lines, like special access, that are using the exact same copper wires as phone service, were not included in the access line accounting. And there has been growth in these services, including FIOS or the wires to the hot spots. The State's own assessment adds to the bad analysis by quoting only the mostly copper-based, phone service, POTS, which is a fraction of the access lines, which are actually the physical wires that are still in service.
- This also shows that the State has not realized that Verizon has cross-subsidized these 'interstate' lines and services via the 'intrastate' Local Service networks.
- The analyses by CWA and the State, and Verizon's answers, all failed to examine the "Total Revenues" in the State, the profits from the interstate services (like wireless or special access) vs the rest of the business.
- Example: Verizon Wireless, in New York alone, brought in an estimated $6.5 billion dollars in revenues, in just 2016, none of which was part of the calculations.
- Verizon Revenue of $13.7 billion in New York State? This means that the total revenues for 2016 would be --$6.5 billion for wireless, $5.2 billion for Verizon NY, and an additional estimated $2 billion for the 'Black Hole' revenues we documented, which appear to not pay most expenses but is revenue not on the regulated books, but are part of the Verizon revenues in New York State. This total is probably larger based on revenues generated in NY for Verizon Online, Verizon Business, Verizon Long Distance, etc.
- However, Verizon Wireless only paid $69 million in 'affiliate payments' to Verizon NY in 2016 – and this should be everything, including construction as well as 'access fees' to use the networks. (NOTE: There was a discussion of other payments to Verizon NY in previous years from Verizon Wireless, but it was redacted and was not part of/or detailed in the official Verizon NY Annual Reports.)
- And yet, while the company claims losses of $1 billion annually, somehow, 'special access' classified as 'interstate', had an EBITDA of 50%, while wireless is usually in that range (at least in the Verizon Communications, Inc. financial reports.)
- "Forbearance", "price caps", etc.— Verizon claims 'you can't touch us' due to various legal wanglings that removed much of the regulations and requirements. They also claim that the FCC's accounting rules are no longer valid. However, Forbearance does not get the company out of raising rates for 'massive deployment of fiber', then shifting the budgets to a 'non-regulated' buildout, nor does it remove the 'just and reasonable' statutes of the state laws and the Telecom Act of 1996.

- Had the affiliate companies paid market prices, and the ridiculous dumping of expenses, like Corporate Operations was halted, Local Service would be profitable and there would be funds to build out the state utility's infrastructure.
- Example: Verizon NY was charged over $2.6 billion in Corporate Operations expense in 2015. Local Service was charged over 60%, about $1.6 billion, yet it only had $1.4 billion in revenues, creating a loss. This includes paying for lobbyists, executive pay or lawyers to protect Verizon over the public interest – even though Local Service has been paying outrageous amounts that would never have been allowed under the previous regulatory regimes.
- Having the Local Service classification pay the majority of this expense is based on the FCC's distorted accounting rules!

We are seriously against any settlement that does not specifically have a series of next steps to do a full investigation of Verizon NY and the flows of money between and among the company's affiliates—and a plan to fix this mess.

Finally, this exact same financial shell game is going on in every state and unless it is addressed and fixed, the company can game the regulatory system – which they have done in New York, and have been able to cover up their tracks. And Verizon has been able to play the FCC rules off the State, knowing that the State was not going to do a full audit of the accounting or even a 'rate case'.

With the plan now to 'shut off the copper' and force customers onto wireless, (which has been in motion since 2012, but now has the FCC helping the companies to preempt state laws), it is time to have the State take an aggressive next step to protect the public and deal with the massive financial shell game currently in place.

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- **The Team:** In 2017, the **IRREGULATORS** was formed. It is an independent consortium of retired and semi-retired telecom experts, analysts, policy wonks, forensic auditors, and lawyers who are former senior staffers from the FCC, state advocate and Attorneys General Office experts and lawyers, as well as former telco consultants. Members of the group have been working together, in different configurations, since 1999.

- **IRREGULATORS** http://irregulators.org/who-we-are/

Reports & Documentation Focused on Verizon NY

- http://irregulators.org/fixing-telecom/

Starting in 2010, New Networks Institute's team of experts, auditors and lawyers (now the IRREGULATORS) started on a project after we uncovered major financial cross-subsidies between and among Verizon NY and the affiliate companies, such as Verizon Wireless. And based on FCC and other data published, it was clear that this was happening throughout America. And, in our first report on these financials, published in 2012, we also noted that Verizon Wireless was underpaying fees as compared to AT&T or Sprint, which has been used by CWA in this proceeding.

We also detailed much of this in **"It's All Interconnected",** published by Public Utility Law Project, PULP, in May 2014. (Below is a listing of a full library "Fixing Telecom", which is based mostly on Verizon New York.)

- **2012,** "Verizon's State-Based Financial Issues & Tax Losses: The Destruction of America's Telecommunications Utilities" where we called for an investigation of Verizon's financials and the cross-subsidies of its affiliate companies.
- **2013** Verizon Wireless and the Other Verizon Affiliate Companies Are Harming Verizon New York's (The State-based Utility) Customers & the State.
- **2013** Investigation of Verizon Wireline and Wireless Companies Business Relations by the New York State Commission — COMMENTS filed by Common Cause–NY, Consumer Union, CWA and the Fire Island Association Using Data from the New Networks research reports.
- **2014** "It's All Interconnected" published by Public Utility Law Project, PULP, with David Bergmann, Esq.

Fixing Telecom Series

December, 2015, we released the first two reports in a new series, "Fixing Telecom" a project that started 7 years ago. They are based on mostly public, but un-examined information, the findings impacts all wireline and wireless phone, broadband, Internet and even cable TV/video services in America.

REPORTS:

- Report 1: Executive Summary: Verizon's Manipulated Financial Accounting & the FCC's Big "Freeze"
- Report 2: Full Data Report
- Report 3: SPECIAL REPORT How Municipalities and the States can Fund Fiber Optic Wireline and Wireless Broadband Networks.
- REPORT 4: Data Report Proving Verizon's Wireline Networks Diverted Capex for Wireless Deployments Instead of Wiring Municipalities, and Charged Local Phone Customers for It.
- Report 5: The Hartman Memorandum – Documents the FCC's cost accounting rules and how the 'freeze' has distorted public policies
- Report 6: The History & Rules of Setting Phone Rates in America —The FCC's 'Big Freeze' & Cross Subsidies

Partial List of Filings by New Networks; New York PSC

- Case 13-C-0197 Request To Investigate Claims That Verizon's Wireless Product, Voice Link, Was Not Created For Replacing Damaged Lines But As "Home Phone Connect" to Replace Copper Lines Since 2010, with Alexander Goldman, November 18th, 2013
- Case 14-M-0183 – Comcast /Time Warner Cable Merger, NNI testimony, June 19, 2014.
- Case 14-C-0370
    - In the Matter of a Study on the State of Telecom in NY State.
    - Connect New York Coalition Petition
- Reports Expose Verizon NY's Financial Shell Game and the NYPSC's Role. February 22, 2016
- CASE 14-C-0370 TELECOM STUDY TECHNICAL CONFERENCE PANEL 2 – The Status and Adequacy of Advanced Broadband System. February 24, 2016
- Case 14-C-0370 Comments Related to the NY Public Service Commission's Report "Staff Assessment of Telecommunications Services". October 21, 2015
- Case 14-C-0370 Comments by Public Utility Law Project, PULP: "It's All Interconnected" report by NNI attached.

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