140 West Street
27th Floor
New York, NY 10007-2109
Tel (212) 321-8126
joseph.a.post@verizon.com

Joseph A. Post
Deputy General Counsel — New York

February 28, 2013

Honorable Jeffrey C. Cohen
Acting Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: Case 10-C-0202

Dear Secretary Cohen:

Enclosed please find the Petition of Verizon New York Inc. for a Waiver of Certain Fourth-Quarter 2012 Results under the Service Quality Improvement Plan.

Respectfully submitted,

Joseph A. Post

cc: Gregg Collar, Esq. (DOS/UIU)
Keith Gordon, AAG
Mr. Pete Sikora (CWA District 1)
Mr. Michael Corso
Mr. Chad Hume
Peter McGowan, Esq.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Service Quality Improvement Plan	**Case 10-C-0202**

PETITION OF VERIZON NEW YORK INC. FOR A WAIVER OF CERTAIN FOURTH-QUARTER 2012 RESULTS UNDER THE SERVICE QUALITY IMPROVEMENT PLAN

JOSEPH A. POST
140 West Street — 27th Floor
New York, NY 10007-2109
(212) 321-8126

Counsel for Verizon New York Inc.

February 28, 2013

TABLE OF CONTENTS

Page

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Service Quality Improvement Plan	**Case 10-C-0202**

PETITION OF VERIZON NEW YORK INC. FOR A WAIVER OF CERTAIN FOURTH-QUARTER 2012 RESULTS UNDER THE SERVICE QUALITY IMPROVEMENT PLAN

I. INTRODUCTION

On October 29, 2012, Hurricane Sandy struck New York and caused devastating damage to people and structures in the State — including the central offices and outside plant facilities of Verizon New York Inc. ("Verizon"). As a direct result of that devastation, Verizon missed the Commission's OOS>24 standard[1] for core customers in three areas of the State — New York City, Long Island, and Midstate — in November, and missed it again in December in New York City and Long Island.[2]

Under the Commission's Service Quality Improvement Plan ("SQIP") for Verizon, "if Verizon fails to meet the monthly 20% OOS>24 . . . threshold in any [area], it should be ordered to show cause why [the Commission] should not institute a penalty action pursuant to PSL

[1] The OOS>24 metric measures the percentage of out-of-service core-customer troubles that are not cleared within 24 hours. The performance standard for this metric is that it be ≤ 20% in each month, in each of the five areas that make up Verizon's service area in New York State — New York City, Long Island, Midstate, Upstate East, and Upstate West. The "Midstate" area includes Westchester, Putnam, Orange, and Rockland counties, and part of Dutchess County.

[2] The relevant OOS>24 levels for November were 28.17% for New York City, 27.15% for Long Island, and 23.92% in Midstate. The levels for December were 30.23% in New York City and 24.50% in Long Island. Given the degree of damage sustained by Verizon's network in these areas, as discussed below, it is noteworthy that the OOS>24 levels were as close to the 20% threshold as they were.

§ 25."[3] However, Commission Rule 603.1(c) states that the Commission's service quality standards "relate to the quality of service under normal operating conditions," and do not establish "a level of performance to be achieved during periods of . . . natural disaster [or] severe storm . . . nor shall they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage . . . or other events beyond a service provider's control." Indeed, the Commission previously granted waivers of the OOS>24 standard under the SQIP in certain areas of the State for the two months following Hurricane Irene and other *force majeure* events in the summer of 2011.[4]

By this Petition, Verizon respectfully seeks a waiver of the five cases in late 2012 in which Verizon failed to meet the OOS>24 standard, on the grounds that those misses were not the result of any "knowing fail[ure] or neglect" of the company's obligations under the Public Service Law, but were simply the inevitable result of the disruption wrought by Hurricane Sandy. In fact, Verizon responded rapidly and effectively to the challenges posed by Sandy, and as a result, it was able to make significant headway against the huge backlog of troubles that resulted from the storm, and to significantly mitigate its impact on the company's customers.

[3] Case 10-C-0202, "Order Adopting Verizon New York Inc.'s Revised Service Quality Improvement Plan with Modifications" (issued and effective December 17, 2010), at 18. Publ. Serv. L. §§ 24 and 25 authorize the Commission in appropriate cases to file an action in court seeking the assessment of a penalty of up to $100,000 per offense against a public utility company that "knowingly fails or neglects to obey or comply with a provision of [the Public Service Law] or an order adopted under authority of [such Law] . . . ."

[4] *See* Case 10-C-0202, "Order to Show Cause" (issued and effective February 17, 2012), at 9-10. *See also id.* at 8 (SQIP "is flexible as to what showing Verizon must make to persuade the Commission that no penalty action is warranted").

II. BASIS FOR THE WAIVER

A. HURRICANE SANDY

Sandy made landfall near Atlantic City on October 29, 2012, with a wind field extending nearly 1,000 miles from the center of the storm. Wind gusts in the Metropolitan Area exceeded 90 MPH in some areas as the storm passed. Aside from the direct damage that it caused, the wind led to the build-up of a massive storm surge which, together with a coordinating high tide and full moon,[5] caused severe and extensive coastal flooding.

Each of the three areas at issue in this Petition was severely affected by Sandy. **New York City** experienced hurricane-strength wind gusts and flooding that inundated parts of each of the five boroughs. A nine-foot storm surge contributed to a tide of 13.88 feet at The Battery in Lower Manhattan on October 29, the highest tide that had been reported for almost two hundred years. **Long Island** recorded the highest winds of any area in Verizon's service territory, along with a sizeable storm surge. On the North Shore, for example, Kings Point, located along Long Island Sound and Manhasset Bay, saw the highest storm surge in the State, 12.5 feet above normal. The **Midstate** area was primarily impacted by tropical-storm-force winds, although some low-lying areas along the Hudson River were exposed to a storm surge. Indeed, the storm surge on the River was high enough to leave three boats stranded on the Metro North train tracks in Tarrytown.

Extracts of accounts from a variety of sources suggest the scope and scale of the damage that Sandy caused:

[5] *See* Wikipedia, *s.v.* "Tide" ("Approximately twice a month, around new moon and full moon, when the Sun, Moon and Earth form a line (a condition known as syzygy) the tidal force due to the sun reinforces that due to the Moon. The tide's range is then at its maximum . . . .") (footnote omitted).

The New York region began the daunting process on Tuesday of rebuilding in the aftermath of Hurricane Sandy, a storm that remade the landscape and rewrote the record books as it left behind a tableau of damage, destruction and grief.

The toll — in lives disrupted or lost and communities washed out — was staggering. A rampaging fire reduced more than 100 houses to ash in Breezy Point, Queens. Explosions and downed power lines left the lower part of Manhattan and 90 percent of Long Island in the dark. The New York City subway system — a lifeline for millions — was paralyzed by flooded tunnels and was expect to remain silent for days.[6]

* * *

Hurricane Sandy came at the New York metropolitan region directly, a frontal assault of wind and waves along hundreds of miles of the coast. More than 900 buildings were destroyed, and at least another 12,000 sustained major damage, according to initial estimates by the Federal Emergency Management Agency.[7]

* * *

More than 300,000 housing units were destroyed or damaged, costing $9.6 billion to replace or repair, with $3.1 billion of that in New York City alone.[8]

* * *

"The devastation caused by Hurricane Sandy is of unprecedented proportions, ranking among the worst natural disasters in our nation's history in terms of loss of life, property damage, and economic impact," Governor Cuomo said.[9]

* * *

[6] http://www.nytimes.com/2012/10/31/us/hurricane-sandy-barrels-region-leaving-battered-path.html?pagewanted=all&_r=0.

[7] http://www.nytimes.com/newsgraphics/2012/1120-sandy/survey-of-the-flooding-in-new-york-after-the-hurricane.html.

[8] http://www.nytimes.com/2012/11/28/opinion/hurricane-sandys-rising-costs.html.

[9] http://www.governor.ny.gov/press/11262012-damageassessment.

It was the storm that made history and misery, left death and unprecedented destruction, crippled mass transit and tested the city's mettle from the Bronx to Breezy Point.

Hurricane Sandy pounded the city into submission Tuesday, with officials reporting at least 32 New Yorkers killed during the storm's lethal two-day attack and estimating damages at a staggering $20 billion.

"I can say unequivocally that the MTA last night faced a disaster as devastating as it has ever faced in its history," declared MTA Chairman Joseph Lhota. "Sandy wreaked havoc on the entire transportation system."

Con Ed reported 827,622 outages across the five boroughs, with Manhattan taking the brunt of the outages with 270,000. All of Lower Manhattan was without electricity after the East and Hudson rivers flooded into the city. More than 115,000 customers lost power in Staten Island and Queens, about 90,000 in Brooklyn and almost 50,000 in the Bronx. "This will be one for the record books," said utility senior vice president John Miksad.[10]

* * *

The chaos comes in bursts. First the water. Then the wind and flying trees. Then more water, drifting cars, flooded subway tunnels. Collapsing building facades. And then, at 8:30 p.m. local time, there's a fiery explosion on the East Side — and half of Manhattan is suddenly plunged into darkness.

Later, the flood walls in Lower Manhattan give way. Soon large parts of the financial district are under water, cars seem to swim across Wall Street. TV reports measure a water level of 14 feet in Battery Park and rising . . . .[11]

* * *

As the storm intensified the night of Monday, October 29th, the storm surge devastated sections of lower Manhattan, Staten Island, Brooklyn and Queens, as well as the North and South shores of Long Island and its barrier island, Fire Island. Extensive flooding occurred within residential areas, roadway and subway tunnels.

At the storm's peak, electric service to 2.1 million New York customers was lost . . .

---

[10] http://www.nydailynews.com/new-york/deadly-hurricane-sandy-takes-20b-toll-city-article-1.1195048.

[11] http://www.spiegel.de/international/world/hurricane-sandy-causing-widespread-flooding-and-damage-in-new-york-a-864194.html.

> The loss of power had a major impact on the provision of healthcare, telecommunications services, subway and rail services, and potable water and sewage treatment. The extended duration of the outages also severely impacted port operations and distribution of gasoline and diesel fuel. Flooded areas also experienced the loss of natural gas services, . . .[12]
>
> * * *
>
> Sandy, the biggest Atlantic storm in history, pounded the most populous U.S. city on October 29 with winds of as much as 100 miles (160 kilometers) an hour. The storm killed more than 40 people in the city's five boroughs, left 10,000 homeless and flooded transit tunnels and underground utilities.
>
> New York Governor Andrew Cuomo estimated the cost of the storm to the state at $33 billion. . . .[13]

B. THE IMPACT OF SANDY ON VERIZON'S ACTIVITIES AND FACILITIES IN NEW YORK CITY, LONG ISLAND, AND MIDSTATE

As a result of the damage caused by Sandy, over 1.7 million Verizon customers in the State were without commercial power as of October 30, hampering the company's service-restoration efforts. Although power outages declined as electric companies began repairing their networks in the following days, almost 500,000 customers were without power on of November 4, and almost 150,000 were still without power one week later.

Of course, Verizon facilities in the path of the storm were also affected. Four central offices went out of service as a result of severe flooding, although all of them had been brought back into operation by November 9. As of October 31, 81 central offices were on generator power.

Reports of major cable failures (*i.e.*, cable failures associated with at least 25 customer trouble reports) began pouring in after the storm, and reached a peak level of 132. At peak, over

[12] http://moreland.ny.gov/sites/default/files/MAC-Interim-Report1-7-2013.pdf.

[13] http://www.bloomberg.com/news/2012-11-26/bloomberg-seeks-9-8-billion-in-aid-for-nyc-s-sandy-storm-losses.html.

9,000 customer trouble reports were associated with those failures. Between 2,000 and 3,000 minor cable failures were also reported, associated with some 10,000 to 12,000 additional trouble reports.

Over 4,800 drops and over 1,000 poles were down as of November 10. Dozens of remote terminals — critical to the exchange of traffic between fiber feeder and copper distribution plant — were on battery power, on generators, or in "critical alarm" status (*i.e.*, dead). On November 1, over 200,000 FiOS Optical Network Terminals were out of service.[14]

This devastation affected each of the three areas covered by this petition, which were the ones hardest hit by Sandy. Although not all of the statistics are readily available at a region-by-region level, some regional data is presented in Appendix 1.[15] Some of the damage in the three areas was caused by widespread destruction of aerial plant by high winds. This was, for example, the primary cause of outages in Midstate, which is largely non-coastal, and it is the reason that Verizon was able to achieve SQIP-compliant levels of service in that region by December. The more serious — and harder to repair — impacts on Verizon's network resulted from coastal flooding and the resulting destruction of facilities (including the erosion of copper cables due to saltwater immersion) in the worst-hit areas of Long Island and lower Manhattan.

C. THE IMPACT OF SANDY ON TROUBLE REPORTS AND MAINTENANCE LOAD

This massive destruction of facilities naturally led to an unprecedented level of service problems for our customers. For core customers, out-of-service (OOS) and service-affecting (SA) troubles spiked significantly in November, compared to the 2012 average leading up to the Hurricane. (*See* Appendix 2)

[14] Day-by-day statistics for various categories of facilities outages are available for Staff review.

[15] The Appendices to this Petition are provided in a separate document.

Of course, Verizon had to address not only core customer troubles, but also the massive influx of troubles from its entire customer base. Appendices 3-5 show the *total* incoming maintenance load each day,[16] and clearly document the tremendous increase in that load caused by Sandy.

D. VERIZON'S RESPONSE TO THE DISASTER

This mass destruction of Verizon's network facilities obviously posed a significant challenge to the company. The magnitude of the challenge was enhanced by a number of factors. Service restoration efforts in specific areas could not begin until electric-company crews had restored power and eliminated dangers from downed electrical lines. In some areas, the damage caused by the storm made it difficult or impossible to obtain access to customers' premises or to terminals. Many buildings remained uninhabitable long after Sandy had passed through the area.[17] Equipment rooms in many apartment or office buildings were damaged or flooded, along with in-building riser and distribution systems. For example, as of December 7, 75 out of the top 100 buildings in lower Manhattan did not have space and power ready for Verizon facilities.

Moreover, construction of new facilities to replace those severely damaged or destroyed by saltwater intrusion or other factors required unusually large quantities of supplies such as multiplexers and cable. Vendors were not always able to meet the unusually large demand for such supplies in a short time frame.

---

[16] "Incoming" load refers to the new trouble reports received each day.

[17] *See* Vivian Yee, "Recovery Remains Spotty Three Months After Hurricane," New York Times (January 22, 2013) ("Seawater crippled utility systems in many basements [in Lower Manhattan], keeping both businesses and residents from returning to buildings that lacked power, water, heat or other basic services several weeks after the hurricane. But most of these buildings were able to reopen by the beginning of January . . . .").

In order to augment the work force available to handle the increased maintenance load, Verizon declared a "state of emergency" under its collective bargaining agreements. Such a declaration gave the company greater flexibility to require associates to work overtime. The declaration for Manhattan, Queens, and Staten Island was issued on October 31, and it was extended to the remainder of the City, Long Island, and the Midstate area on November 3. As a result of the declaration, installation and maintenance and construction technicians worked 12 hours per day, seven days per week.[18]

Reassignment of workers from outside the affected area also enabled Verizon to extend its available work force. Fifty technicians from Massachusetts were temporarily assigned to the Midstate area from November 6 to December 22. An additional force of 197 technicians from Massachusetts and Florida were assigned to Long Island from November 7 to December 22. 403 technicians from Massachusetts, Florida, and Upstate New York were assigned to New York City from November 7 to December 22.[19]

As an interim remedy for customers put out of service by Sandy, Verizon has distributed, without cost, over 2,900 Home Phone Connect devices and over a thousand Verizon Jetpack™ Mobile Hotspots. Home Phone Connect enables a customer to make and receive calls over the Verizon Wireless network.[20] Up to two standard telephone sets can be plugged into the device. The Jetpack provides 4G wireless broadband connectivity, and can be connected to up to ten devices at once. Verizon has also offered free call-forwarding of affected lines to alternative

[18] The hours were cut back to ten hours a day, six days a week on November 27, except for Midstate, which went to an eight hour a day, six days a week schedule based on its lighter trouble load. The state of emergency continued up to the year-end holiday period (December 22).

[19] The use of technicians from other areas continues in New York City.

[20] Out of service customers using Home Phone Connect remain customers of Verizon, not Verizon Wireless.

locations (such as the customer's cell phone or Home Phone Connect device). Over 7,000 consumer and small business lines were forwarded pursuant to this offer.

As has been widely noted, Verizon decided to replace copper facilities in Lower Manhattan that had been severely damaged or destroyed (primarily by saltwater intrusion) with new fiber-optic facilities.[21] This replacement strategy will make Verizon's network more resilient to weather damage and deterioration.

E. VERIZON'S TROUBLE-CLEARANCE PERFORMANCE

As the preceding discussion shows, Verizon moved rapidly and decisively to begin clearing up the mounting network problems resulting from Sandy. Appendices 7-10 show daily post-Sandy completions (close-outs) of maintenance load on a "normalized" basis — *i.e.*, as a percentage of the baseline daily completion level for October prior to Sandy. They demonstrate that through the use of overtime, and by diverting resources from less-impacted areas, Verizon was able to achieve close-out rates of two to six times the normal levels.

Appendices 11-14 combine the daily incoming maintenance load data already presented, with the *completed* maintenance loads (*i.e.*, the number of jobs closed out each day by Verizon), and the daily *opening* load (*i.e.*, the overall result of each day's backlog, plus new incoming load, less completed load). Each of these graphs show that after an initial delay undoubtedly due in large part to access issues and power outages, Verizon's completions ramped up to keep pace

[21] These include FiOS facilities as well as point-to-point fiber for certain business customers and services. Where Verizon replaced copper facilities with fiber optics, it did *not* require consumers to purchase FiOS Internet or Television services. Customers who had no interest in those services could receive regular POTS voice service over fiber at the same tariffed rates as they had previously paid.

with the incoming load, and were eventually successful in restoring the opening load to closer-to-normal levels.[22]

III. SUMMARY AND CONCLUSIONS

As the above discussion shows, Sandy caused tremendous damage to Verizon's facilities, resulting in an unprecedented surge of customer trouble reports. Repairing those troubles was made more difficult by power outages, problems with third-party facilities (*e.g.*, damage to building equipment rooms and in-building distribution facilities), and access issues. Verizon responded to those problems through vastly increased use of overtime and by temporary transfers of technicians from outside of the immediately-affected region. As a result, it was able to work down the backlog of troubles and restore a large proportion of its customers to full service.

It is not surprising that faced with these challenges Verizon's timeliness-of-repair statistics for out-of-service troubles would rise above the Commission's 20% threshold in Midstate, New York City, and Long Island in November, and in New York City and Long Island in December. Indeed, it is a tribute to the speed and vigor of Verizon's response that the levels were not higher than they were. Under these circumstances, a waiver is clearly warranted.

Respectfully submitted,

Joseph A. Post

JOSEPH A. POST
140 West Street — 27th Floor
New York, New York 10007-2109
(212) 321-8126

Counsel for Verizon New York Inc.

February 28, 2013

[22] In each case there is an inevitable bump up in the backlog at the end of December, due to leaves granted to the work force for the holiday season. This bump did not materially contribute to the December results. In New York City, for example, OOS>24 was at 30.56% as of December 21, and 30.23% as of December 31. In Long Island, the levels were 26.64% on December 21, and 27.15% on December 31.