

NEW YORK PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to)
Consider the Adequacy of Verizon New York's)
Retail Service Quality Processes and Programs)

Case 16-C-0122

STATEMENT OF THE PUBLIC UTILITY LAW PROJECT OF NEW YORK
IN SUPPORT OF THE JOINT PROPOSAL

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I. Introduction

This Statement is submitted by the Public Utility Law Project of New York (“PULP”) in support of a Joint Proposal for settlement issued and filed by several of the parties to Case 16-C-0122.¹ The Joint Proposal (“JP”) was filed by its signatories on March 2, 2018 with the Secretary to the Commission in accord with the Public Service Commission’s (“PSC’s” or “Commission’s”) regulations and settlement guidelines,² and the Orders of Administrative Law Judge Sean Mullany.

The parties are normally adversarial with regard to the issues considered in this proceeding. After protracted negotiations however, the parties reached an agreement on a Joint Proposal for settlement, which they then respectfully requested be adopted by the Commission in resolution of the issues in this proceeding, and as in the public interest.

¹ See Case 16-C-0122, “Proceeding to Consider the Adequacy of Verizon New York Inc.’s Retail Service Quality Process and Programs,” Order Initiating Proceeding to Review Verizon New York Inc.’s Service Quality,” issued and effective March 21, 2016 (“Service Quality Order”). The filing parties (“Signatories”) are Verizon, the Communications Workers of America (“CWA”), Department of Public Service Staff (“DPS Staff” or “Staff”) and PULP.

² See, 16 NYCRR 3.9; see also, Case 90-M-0255 and 92-M-0138, “Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines,” Opinion 92-2, issued and effective March 24, 1992 (“Settlement Guidelines”).

II. Procedural Background

The proceeding in question began by Order of the Commission dated March 21, 2016.³ The Commission's initiating Order posed several inquiries including whether "Verizon's service quality processes and programs warrant further investigation ...";⁴ what efforts the Company is making to "keep the copper network viable,"⁵ and "whether Verizon's investment in its network has been sufficient to provide adequate levels of service to customers ..."⁶ The initiating Order also incorporated the record of Case 14-C-0370, which constituted a review by DPS Staff of the State of Telecommunications in New York, and included technical conferences, multiple public statement hearings, and comments from the public and interested parties.⁷ Taken together, the record of these two proceedings constitute a voluminous record for the Commission to consider in reviewing and adopting the JP in Case 16-C-0122.

In response to the requirements of the initiating Order, Verizon submitted testimony and exhibits on August 1, 2016. Testimony was subsequently submitted by Staff and CWA on March 24, 2017.

On June 13, 2017 prior to the commencement of evidentiary hearings in the proceeding, Verizon filed a notice to begin settlement discussions pursuant to 16 NYCRR 3.9.⁸ Settlement discussions thereafter began between Verizon, DPS Staff, CWA, PULP, the City of Syracuse ("Syracuse"), and the Utility Intervention Unit of the Department of State ("UIU"). Those discussions lasted from June 2017 to February of 2018, and a JP was agreed upon and filed with the Commission on March 2, 2018.

III. Standard of Review

The standard of review used by the Commission in reviewing settlement agreements is found in the Settlement Guidelines.⁹ The Settlement Guidelines require that all decisions, must

³ See, generally, Service Quality Order.

⁴ Id. at p. 13.

⁵ Id. at p. 10.

⁶ Id. at pp. 1-2.

⁷ Id.

⁸ See, Notice of Settlement Discussions in Case 16-C-0122, filed June 13, 2017.

⁹ See, Settlement Guidelines, *supra* note 2 above.

be just and reasonable and in the public interest. In determining whether the terms of the Joint Proposal are in the public interest involves substantive consideration of the following:

1. consistency with the law and regulatory, economic, social and environmental State and Commission policies;
2. whether the terms of the Joint Proposal compare favorably with the likely result of a fully litigated case and produces a result within the range of reasonable outcomes;
3. whether the Joint Proposal fairly balances the interests of ratepayers, investors and the long-term soundness of the utility; and,
4. whether the Joint Proposal provides a rational basis for the Commission's decision.¹⁰

The Commission must also give weight to the fact of whether or not a settlement reflects an agreement between normally adversarial parties.¹¹

PULP believes there is sufficient support in the record to warrant the approval of the Joint Proposal submitted by the Signatories. The JP was arrived at through full compliance with the Commission's rules, and all parties had notice of settlement negotiations pursuant to 16 NYCRR 3.9(a). The parties that reached the compromise embodied in the JP constitute diverse interests – CWA (labor), PULP (consumers), DPS Staff and Verizon. While Syracuse (a municipal entity) and UIU (a government consumer protection entity) did not sign the JP, they have represented they will not oppose it.

IV. Summary of the Joint Proposal

In summary, this JP provides for:

- the addition of high-speed broadband services to between 24,000 and 32,000 premises in New York; repairs to the legacy copper system in New York City with persistent service difficulties;
- remediation of copper plant conditions in Upstate New York;

¹⁰ Id., Appendix B, at pp. 8-9.

¹¹ Id. at p. 8.

- CWA/Verizon collaboration through a “plant pride” program to target remediation activities;
- the inspection and remediation and/or replacement of batteries in the backup power system serving first responder/public safety entities such as hospitals, PSAPs and police stations;
- removal and/or remediation of 64,000 “double pole” conditions throughout the Company’s service areas in New York;
- and a reporting program instituted to keep the Commission apprised of the implementation of the elements of the JP.

It is PULP’s belief that these measures should address service quality concerns in the Company’s service areas across the State, in both rural and urban areas. The measures should also give rise to targeted and significant investment(s) by Verizon in its infrastructure. Such measures and investment should address the concerns raised by parties and the public in Case 14-C-0370 and those issues raised in the testimony submitted by DPS Staff and the parties in Case 16-C-0122.

V. Specific Terms of the Joint Proposal

- 1. Additional deployment of Verizon fiber-optic services to between 10,000 and 12,000 customer premises in Verizon’s Long Island and Upstate Region; and to between 14,000 and 20,500 households in census tracts proximate to areas covered by State Broadband Program Office (“BPO”) grants.*

The Joint Proposal will lead to the extension of broadband to up to 32,000 new households, distributed between Long Island and the Hudson Valley, and also in areas for which Verizon received BPO funding. This extension of fiber will bring more high-speed Internet access to areas in need of such connectivity, and through the potentially higher reliability of well-kept fiber-optic and hybrid fiber-copper networks, should lead to increased service quality as compared to older copper networks. As was noted in the record, copper plant can be more susceptible to weather-related outages than well-kept fiber or hybrid networks.

- 2. Identification and targeting certain buildings in New York City with a high incidence of repair visits, wherein copper infrastructure will be replaced by fiber-optic plant.*

The JP requires Verizon to identify 100 buildings with high incidences of repair visits, and to replace the copper facilities with fiber-optic service. Significantly, if Verizon is unable to receive access to one of the targeted buildings, it will replace that building with a newly identified building, thus keeping the goal at 100 remediations.

- 3. The remediation of plant conditions in over fifty (50) Upstate central office entities with high trouble report rates (“CTRR”).*

Under the JP, Verizon will be required to remediate 54 central offices with high CTRR rates. The Company will undertake both capital investment and proactive maintenance, with the goal of meeting the CTRR standards applicable to the Company. Such action is consistent with prior actions agreed upon by the Company and DPS in other wire centers.

- 4. A “plant pride program” that will empower CWA technicians to report plant conditions requiring additional maintenance, and an undertaking by Verizon in such reports.*

The plant pride program set forth in the JP will enfranchise CWA workers to note and submit plant troubles to the Company, with such submissions to be addressed by the Company and 75% of such reports resolved with 90 days of submission. This leveraging of the on-the-ground expertise of CWA’s members is in part based upon an agreement from the Pennsylvania service quality proceeding, and in part a long-standing concern of the union. Workers submitting such reports through the National Operations Quality Inspection system will be advised of final resolutions.

- 5. A new program of inspection and replacement of batteries serving back-up power to Remote Terminals serving “critical/first responder customers” (hospitals, public-safety answering points, police stations)*

The JP also requires the Company to inspect and/or replace batteries at locations serving first responder/disaster recovery entities such as hospitals, PSAPs and police stations. The

remediation of the remote terminals serving such customers should mitigate any outages suffered by such customers, improve service quality, and buttress public safety.

6. *A statewide program for the remediation of “double pole” conditions affecting aerial plant.*

Another commitment set forth in the JP would require Verizon to eliminate 64,000 double pole conditions throughout the State over a four-year period. The issue of double poles is one which the Commission and DPS have addressed from time to time over an extended period of time, as has the Legislature. Generally, such double poles take up additional space in the public right of way, constitute a potential bar to easy access to aerial plant or the commercial/residential structures near to such poles, and potentially undermine the reliability of plant in serious weather conditions. The removal of these conditions should improve service quality and decrease potential safety concerns throughout the State.

7. *Consolidation of COE reporting; reporting to the Commission*

The JP will allow the Company to consolidate the reporting of certain remote central offices comprising less than 500 lines each. It is felt that such a consolidation for reporting purposes will diminish the likelihood that incidents in small COEs might skew CTRR metrics. Verizon will still, nonetheless, retain data for such small COEs in an unconsolidated manner for Staff use.

Finally, the JP also requires the Company to report upon its achievement of the obligations placed upon it. While not specified in the JP, such reporting should track capital investment and O&M investment in furtherance of the goals of the agreement, and the impact upon service quality statewide.

VI. The Joint Proposal Should be Adopted as in the Public Interest

As noted above, PULP respectfully requests Your Honor and the Commission to adopt the Joint Proposal because it is in the public interest. The provisions set forth in the JP and described above balance the interests of the Company and its employees, consumers, and the

policy interests of the State of New York. Numerous concerns were put forward in the record of this proceeding and Case 14-C-0370 relating to investment in Verizon's copper and fiber networks, and persistent service quality concerns. The JP addresses the issue of expanding investment in and upkeep of the copper plant, and it provides for added investment in fiber-optic plant. Other measures in the JP will address added service quality of public safety issues and will add new reporting requirements for the Commission to be able to track Verizon's performance under this JP and the standards applied to it under the Public Service Law and regulations.

Additionally, as noted above, this settlement reflects the agreement of normally adversarial parties, which has come to a compromise that the parties believe will advance the public interest. The measures proposed in the JP are fully supported in the record relating to Verizon's repair, investment and maintenance activities, and that such activities have to this point not been sufficient for the Company to fully provide safe and adequate service throughout its service territory. The measures proposed in the JP will strengthen the service quality however, improve the Company's physical plant, and provide a way to address deteriorated service in a proactive manner that the record indicates was missing in the Company's operation. Finally, the Joint Proposal does not replace or retire the Commission's Verizon Service Quality Improvement ("SQIP") frameworks, but rather supplements them, thus leaving in place a long-time commitment to improved service and monitoring of the actions taken in such frameworks. PULP believes therefore that the Commission should adopt this JP in its entirety.

VII. Conclusion

PULP believes that the JP entered into in this case has complied with all of the Commission's settlement guidelines, represents a measured response to the problems identified in the record, and advances the public interest. PULP therefore respectfully requests that Your Honor find that the terms of the Joint Proposal are in the public interest and recommend to the Commission that it be adopted in its entirety.

Respectfully submitted,

/s/

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Richard Berkley
Executive Director

Dated: April 20, 2018
Albany, NY