STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of a Study On the State of Telecommunications in New York **Case 14-C-0370**

COMMENTS OF THE PUBLIC UTILITY LAW PROJECT

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I. INTRODUCTION AND SUMMARY

On June 23, 2015, the New York Public Service Commission ("PSC" or "Commission") issued a Public Notice requesting comment on numerous subjects pertinent to the state of telecommunications in New York State.[1] These subjects are of vital interest to New York consumers, especially those with low incomes and seniors. The Public Notice included a Department of Public Service ("DPS") staff study ("Staff Assessment") that had been announced by Chair Zibelman "to help the

[1] This proceeding had its origin in March 28, 2014 and May 13, 2014 letters to the Speaker of the Assembly and the majority coalition leaders of the Senate by Chair Zibelman "commit[ing] to undertake a comprehensive examination and study of the telecommunications industry in New York." Zibelman May 13 letter at 1.

Commission and the State Legislature identify areas where there may be market failures or other regulatory opportunities to advance the public interest."[2]

On May 5, 2015, the Public Utility Law Project of New York, Inc. ("Utility Project") wrote to Chair Zibelman regarding the yet-to-be-filed staff study, stating, "[T]here have been alarming declines in many indicators of service quality and in telephone subscribership penetration, the cornerstones of reliability and affordability have crumbled, and lifeline enrollment has dropped precipitously."[3] And "It is undeniable that in the ten years since the Competition III order, judging by the Commission's own metrics, telephone service quality has suffered, cable television service quality has suffered, household telephone penetration has dropped to an unprecedented low, and lifeline membership has plummeted alarmingly."[4] As discussed below, the filed Staff Assessment supports these assertions.

The May 5,2015 letter set forth four Utility Project requests:

> First, we respectfully request the Commission to reassess whether failure to meet telephone service quality metrics — and any consequences — should return to being based upon service to all customers, rather than solely to "core" (i.e., primarily Lifeline) customers.
>
> Second, given the 62% drop in Verizon's Lifeline customers due to the USAC recertification, we respectfully request the Commission to investigate what caused such an atypical drop, and to work with

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[2] Id.
[3] See http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={70BFEAED-E800-4CB1-BDFD-F8F43FCC30C0}.
[4] Id. (footnotes omitted).

> Verizon to appeal the methodology and results of USAC's recertification, or to otherwise seek to restore without delay all Verizon customers whose decertification was based on poor methodology, failure to communicate in a language understood by the customer, or other factors that do not relate to the USAC's current mandate to eliminate presumably ineligible customers from the Lifeline assistance program.
>
> Third, we believe the Commission should join all telecommunications companies providing residential telephone services to case 14-C-0370, and require them to file a report addressing the decline in overall household subscribership, the decline in Lifeline and the decline in service quality compliance (to the extent such decline applies to all such companies).
>
> Finally, we respectfully request the Commission not only to make the telecom study publicly available without undue delay, we also suggest that any and all reasons for the delay of the study be made public and filed in the Commission's DMM s part of the record of proceeding 14-C-0370.[5]

The Utility Project reiterates those requests, and additionally respectfully requests the Commission to take several measures that might reasonably be expected to further develop the record in this proceeding, including: (1) holding one or more technical conferences; and (2) transforming this into an evidentiary proceeding (or opening another proceeding in which parties might make information requests of Verizon and the other carriers). The Utility Project additionally notes here that it will reserve much of its analysis and comment for its Reply Comments in this proceeding, and/or such additional opportunities that will be provided as this proceeding continues.

[5] Id. at 3. In these comments, in many respects, the Utility Project incorporates its prior comments in this proceeding. Those positions remain valid.

As to the first request, based on the Public Notice here, we expect service quality to be a key part of the Commission's consideration in this proceeding. The second request (on Lifeline) is discussed in Parts II and V below. From the third request, we would hope the telephone company service quality report mentioned would come in company responses to the Public Notice, since it was not part of the Staff Assessment; if this information is not in the company responses, that should be of grave concern to the PSC. And finally, although the Staff Assessment has been made public, it is a matter of grave concern that it has taken from 2006 to now for such a report and update to be filed.

The Utility Project respectfully provides these comments to show areas where there indeed have been – per Chair Zibelman's May 31 letter – market failures (as demonstrated in part by the Staff Assessment) and where there are regulatory opportunities a-plenty to advance the public interest. In 2015, it seems clear that the PSC's determination in 2006 that a "lightened regulatory approach for traditional carriers was warranted…" and the Commission's "rel[iance] on market forces to achieve just and reasonable rates and maintain adequate service quality…"[6] in the 2006 Competition III proceeding[7] were misplaced, or at least are

[6] Public Notice at 2.
[7] Case 05-C-0616, *Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services,* Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings (issued April 11, 2006) (Comp III).

no longer consistent with the 2015 telecom ecosystem.[8] The Utility Project's recommendations are set forth together in Appendix A.

The current precarious state of New York telecom consumers – especially low-income consumers is clearly signaled by the July 27, 2015 letter from Chair Zibelman to Verizon, requesting documentation of Verizon fiber build-out in New York City. The letter (filed in 08-V-0624 and 08-V-0497) shows that the Commission has little information – and has not reviewed – the status of the buildout. Indeed, the July 27 letter is explicitly premised on testimony from the July 15 New York City public statement hearing in this docket, which was hampered by Verizon's apparent unwillingness to meet its contractual obligations to provide data to the City of New York.

The consideration here should not be lessening regulation on any company or service; the key is protecting all customers – which deregulation (per Comp III) has not done. The public interest requires a more protective PSC. The Staff Assessment notes,

> Voice, video and broadband have converged, and each are now available across all technology platforms and offered via copper, fiber, coaxial cable, satellite and mobile networks, as well as by so-called

[8] See the Utility Project Comments in this docket (October 31, 2014), with attached *It's All Interconnected: Oversight and Action is Required to Protect Verizon New York Telephone Customers and Expand Broadband Services*, accessible at http://bit.ly/1Gx28HS. PULP incorporates those comments and the "It's All Interconnected" report here. See also Juan M. Roldan, "Local Telephony Rates: Has Deregulation Lead to Higher Competition and Lower Rates?" (August 15, 2014), accessible at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2431518.

> edge providers, such as Vonage and Netflix, which offer voice and video services through a consumer's broadband connection.[9]

This is a basis for broadening Commission oversight, not abandoning it.

Yet as the Utility Project stated in October 2014,

> The state is lagging in telephone subscribership, prices are high, service quality is low, and only one VOIP cable phone provider makes Lifeline rate reductions for low-income customers and is subject to Commission telephone service quality and other regulation, including the Telephone Fair Practices Act regulations.[10]

Key to what needs to happen to protect and improve the lot of low-income telecom (voice and broadband) consumers is to correct Comp III for a transitioned future. A witness at the Utica public statement hearing described a number of the acknowledged benefits of broadband service.[11]

The "fact-based"[12] Staff Assessment was to include an analysis of the varying telecommunications technologies used today, including fiber-to-the-premises, cable, wireless, and landline technologies. The study will explore emergency response systems, regulatory oversight, quality of service, consumer protections, and affordability.[13]

The Utility Project presents additional facts in these comments, principally through an extended analysis of Lifeline subscribership in the State (Part II). A

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[9] Staff Assessment Introduction, at [i].
[10] Utility Project Comments (October 31, 2014) at 2.
[11] Utica Transcript at 13.
[12] Public Notice at 4.
[13] Zibelman May 13 letter at 1.

witness in Utica correctly described some of the fundamental flaws in the Staff Assessment's approach.[14]

The Staff Assessment includes (as Appendix B) a "matrix depicting the general applicability of the Public Service Law to various providers of voice services, as well as to various providers of video services and broadband services…."[15] This "depiction" should not be looked at as "fact."[16] Appendix B presents that the Commission,

- As to **rates**, is "not exercising" jurisdiction" for rates of cable VoIP, is "preempted" for wireless and broadband, and has "no" jurisdiction over over-the top VoIP or any video[17];

The Commission should exercise its rate jurisdiction over cable VoIP. By "rate regulation," we do not mean necessarily setting rates, but at the very least, the Commission should exercise jurisdiction to ensure that, e.g., cable VoIP rates, are just and reasonable. Further, the wireless preemption for rates is not that clear.[18] The Commission should seek rate jurisdiction over video and broadband. Over-the-top VoIP rates are indeed subject to competition, with minimal switching costs, so rate regulation may not be necessary.

[14] Utica Transcript at 28-36.
[15] Staff Assessment at 3.
[16] See Questions 10 and 11 attached to the Public Notice (hereafter "PNQs").
[17] See PNQ 3.
[18] See 47 U.S.C. §332(c)(3).

The assertion that the Commission exercises jurisdiction over incumbent local exchange carrier ("ILEC") rates,[19] however, is far too general to be useful. The Commission's exercise of jurisdiction over ILEC rates is minimal at best.

- As to **consumer protection**, is "not exercising" jurisdiction" for cable VoIP and wireless, or broadband, and has "no" jurisdiction over satellite video[20];

The Commission should exercise its consumer protection jurisdiction over cable and wireless, and broadband. Again, the Commission should seek jurisdiction over satellite video. The Commission also needs to enforce its existing rules.[21]

- As to **service quality**, is "not exercising" jurisdiction" for cable and wireless VoIP or broadband, and has "no" jurisdiction over satellite video[22];

The Commission should strengthen its jurisdiction over ILEC, CLEC, and wireline video, and should exercise its service quality jurisdiction over cable VoIP and wireless. Jurisdiction over satellite video service quality should be sought.

The CWA witness in Utica described the impact of the current level of service regulation:

> Inside the phone company, the PSC in the past was taken very seriously. The company, at all levels, was very concerned when the P.S.C took action or when a service quality standard was violated. In this area, the managers were -- were respectful of the PSC service quality standards weren't just words; they were enforced. That's no

[19] Staff Assessment, Appendix A.
[20] See PNQ 5.
[21] See Utica Transcript at 22-23 (forced transfer from Verizon wireline to wireless).
[22] See PNQs 2 and 4.

longer the case. We do not hear from our members that the PSC is enforcing any standards. PSC is not respected by the company.[23]

- As to **universal service**, is "not exercising" jurisdiction" for cable and wireless, is "preempted" for broadband, and has "no" jurisdiction over over-the-top VoIP or video[24];

The Commission should redouble its universal service efforts, to ensure that all New Yorkers have affordable access to voice and broadband services. That includes exercising its universal service jurisdiction over cable and wireless services. The Commission should support universal service for broadband at the FCC. And the Commission should seek universal service jurisdiction over over-the-top VoIP and video.

- As to **emergency reporting**, is "not exercising" jurisdiction" for cable VoIP and wireless and broadband, and has "no" jurisdiction over over-the-top VoIP and satellite video;

To protect all New Yorkers, the Commission should require VoIP, wireless and broadband carriers to comply with emergency reporting rules. The Commission should investigate how to bring over-the-top VoIP and satellite video operators under the reporting rules.

- As to **entry and exit**, is "not exercising" jurisdiction" for cable VoIP, "indirectly" has jurisdiction over broadband, is "preempted" for wireless, and has "no" jurisdiction over over-the-top VoIP or satellite video.

[23] Utica Transcript at 41; see generally id. at 39-43.
[24] Staff has a "N/A" for "CLEC universal service" in Appendix A. This anti-competitive view demeans the universal service goal. See PNQs 1 and 8 and Section VI below.

Regulation of entry is less important than regulation of carrier activity while in the market, as described above. Regulation of exit is also important, however, to ensure that consumers are not harmed and have reasonable alternatives.

More generally, in 2014, Chair Zibelman noted, "On the assessment of regulatory approaches, we will identify current telecommunications regulation and the evolution of our regulatory approach, alternative approaches and potential changes in our approach to regulation to ensure core public interest principles are maintained."[25] The need for such an examination could not be clearer.

The Utility Project's main concerns are as follows:

- Service quality;
- Consumer protection;
- Penetration/coverage; and
- Rates.[26]

These concerns extend to voice service (traditional wireline, VoIP, and wireless) and to broadband Internet access service ("broadband"), which the FCC recently found to be a telecommunications service.[27]

First, for service quality, as discussed in Section III. below, the Staff Report shows the service problems since Comp III. These problems have not been solved

[25] Zibelman May 31 letter at 2.

[26] See New York City Public Statement Hearing Transcript ("NYC Transcript") at 58-61 (consumer concerns as enunciated by the Consumers Union witness).

[27] *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, FCC No. 15-24 (rel. Mar 12, 2015) ("OIO"), https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-24A1.pdf, appealed sub nom. *United States Telecom Ass'n v. FCC* (D.C. Cir. Case No. 15-1063) (briefing commenced).

by competition. In order to protect consumers, the Commission should enforce its current service quality standards, broaden them beyond core service, and determine how to expand them to other voice and Lifeline carriers.

Second, for consumer protection, the Utility Project would refer to the issues that arose during the withdrawn Comcast/Time Warner merger proceeding.[28] In this respect, the Commission should adopt a policy that all Commission approvals – including telecom mergers[29] – will be conditioned on compliance with the FCC's Open Internet Rules.

Third, telephone subscribership and Lifeline subscribership both have problems. The Lifeline data discussed below shows that more needs to be done to ensure universal service in NY, including maintaining carrier of last resort ("COLR") responsibilities. And there are far too many areas of the state where access to broadband is limited, or prohibitively expensive. The Commission should adopt a broadband Lifeline program, with state participation and contribution. The program should be inclusive of the program being considered by the FCC.[30]

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[28] See Case 14-M-0183, *Joint Petition of Time Warner Cable Inc. and Comcast Corporation For Approval of a Holding Company Level Transfer of Control*, Utility Project Reply Comments (August 25, 2014).

[29] This especially includes mergers of Lifeline providers that fall under the Commission's jurisdiction.

[30] *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, et al. Second Further Notice of Proposed Rulemaking (rel. June 22, 2015). Comments were originally scheduled shortly before these PSC comments, but have since been extended to August 31, 2015 The Utility Project expects to comment in the FCC proceeding, incorporating these comments by reference.

Fourth, and then there are rates. The Commission's "rel[iance] on market forces to achieve just and reasonable rates …"[31] has produced only rate increases, as the Staff Assessment shows. (See Part VI.) Competition has certainly not **lowered** rates.

And the Utility Project's "It's All Interconnected" report showed that there was and is no economic justification for those increases. So the Commission needs to do a one-time rate reboot for the Transition, to ensure that IP-enabled networks continue on a level playing field, without being saddled by the antique regulatory assumptions and glaring corporate misallocations in the current New York environment.

The Commission seeks comment on

- The Staff Assessment;
- A set of questions attached to the Public Notice;
- Possible other issues; and
- The Petition filed by the Connect New York Coalition in Case 14-C-0306.

The Utility Project comments on each of these, with references above focused on the numerous questions attached to the Public Notice.

Taking the Coalition Petition first, the Utility Project supports the Petition, but believes that the Commission should not limit itself to the issues in the

[31] Public Notice at 2.

Petition.[32] But the Coalition's issues must be considered in this review. Those specific issues are:

> (1) Factual And Operational Realities Of The System And Whether They Are Consistent With Commission Assumptions And Predictions;
>
> (2) The Inadequacy of Commission-defined Required Basic Services;
>
> (3) Changes in Regulatory Practice That Have Diminished Public Awareness and Public Participation and Which Have Led To Deterioration of Service And Increased Cost;
>
> (4) Deterioration of The Quality of Service;
>
> (5) Deterioration of The Physical Infrastructure;
>
> (6) Misallocation of Costs Leading To Excessive Rates; and
>
> 7) Systemic Failure Of The Availability Of Competitive Broadband Services.[33]

These are all areas that need to be investigated, and are incorporated into the Utility Project's comments.

The Utility Project urges the Commission not to cede any further authority over the voice and broadband services that all customers – including low-income customers – have come to, and deserve to, rely on.[34] The Commission should reassert the authority that it gave up in Comp III. And the Commission should seek

[32] As it did not do in the Public Notice.
[33] Petition at 3.
[34] The DPS' recent FCC comments on outage reporting reflect the interests of the state. See http://apps.fcc.gov/ecfs/comment/view?id=60001093792. See also Staff Assessment at 32 (discussing Commission comments in FCC PS Docket No. 14-174, et al.).

additional authority, if needed, from the Legislature to protect voice and Lifeline services as permitted to states.[35]

II. DATA SHOW THAT MANY NEW YORK LOW-INCOME CUSTOMERS LACK AFFORDABLE ACCESS TO VOICE AND BROADBAND SERVICES.[36]

Of New York's 19.5 million people, 15.3%, or 3.0 million, were below the federal poverty level in 2014.[37] Further, about 308,000, or 11.6%, of the 2.65 million New Yorkers 65 years or older were below the poverty level.[38] Lifeline eligibility extends above the poverty line, however. In 2014, more than 5 million New Yorkers were below 150% of FPL, the general income qualifier for the Home Energy Assistance Program ("HEAP").[39]

According to the Universal Service Administrative Company ("USAC"), in 2014 in New York, there were 1.10 million Lifeline subscribers.[40] The FCC's "one

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[35] Under current law, "All charges made or demanded by any telegraph corporation or telephone corporation for **any service rendered or to be rendered in connection therewith** shall be just and reasonable and not more than allowed by law or by order of the commission." PSL ' 91. 1 (*Emphasis added*). Broadband service provided over the same line as telephone service is clearly a "service . . . rendered in connection therewith" even if the FCC had not found Lifeline be a Title II telecommunications service.

[36] The Staff Assessment of Lifeline (Staff Assessment at 29-30) is minimal.

[37] http://quickfacts.census.gov/qfd/states/36000.html. This is an increase from the 14.9% in 2013.

[38] http://nyscommunityaction.org/wp-content/uploads/2015/03/NYS-Profile.pdf. This is also an increase from 2013.

[39] US Census, from http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_3YR_S0201&prodType=table.

[40] See http://www.usac.org/about/tools/fcc/filings/2015/Q1/LI08%20Lifeline%20Subscribers%20by%2

Lifeline service per household"[41] rule means that these subscribing households contained 2.9 million people,[42] or, apparently, 58% of the eligible 5 million. That would be good news for New York, were it not for the **forty-two percent** – 2.1 million people – who are eligible for Lifeline but are not subscribed.

After a slump from 2006-2009, total New York Lifeline subscriptions have grown, as shown in Table 1.

Table 1: Lifeline subscriptions[43]

Year	NY Lifeline subscribers	National Lifeline subscribers (M)
2006	353,000	6.9
2007	326,000	6.9
2008	310,000	6.7
2009	512,000	8.0
2010	815,000	10.3
2011	1,110.000	13.8
2012	1,270,000	17.2
2013	1,190,000	14.5

0State%20or%20Jurisdiction%20-%20January%202014%20through%20September%202014.xlsx.

[41] 47 C.F.R. § 54.409(c).

[42] At 2.63 persons per household in New York. See http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_13_3YR_S0201&prodType=table.

[43] Source Federal-State Joint Board on Universal Service Monitoring Report (December 2014) ("2014 Monitoring Report"), https://www.fcc.gov/encyclopedia/federal-state-joint-board-monitoring-reports. LL subs in https://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/Monitor/2014_MR_Supplementary_Material.zip

(As discussed below, the rise in Lifeline subscribership –both in New York and nationally – is entirely a result of the entry of "free" wireless providers like TracFone, Virgin Mobile and i-Wireless.)

On a national level, in 2014 New York was in the middle of the pack[44]:

TABLE 2: SELECTED STATES 2014 LIFELINE SUBSCRIPTIONS

STATE	2014	**Access lines (M)**	**% of nat'l total**	LL Subs/M access lines	HH < 150% FPL	LL subs/HH < 150% FPL
	TOTAL					
CALIFORNIA	1,294,458	16.4	13.4%	78,930	9,927,000	0.1304
NEW YORK	1,099,501	9.6	7.9%	114,531	5,040,000	0.21815
FLORIDA	945,537	8.6	7.0%	109,946	4,999,000	0.18915
TEXAS	751,371	8.6	7.0%	87,369	7,024,000	0.10697
MICHIGAN	688,387	3.7	3.0%	186,051	1,611,000	0.4273
OHIO	633,983	4	3.5%	147,438	2,733,000	0.23197
ILLINOIS	584,859	5.3	4.3%	110,351	2,747,000	0.21291
PENNSYLVANIA	552,226	7	5.4%	83,671	2,721,000	0.20295
GEORGIA	502,696	4.1	3.4%	122,609	2,697,000	0.18639
ARIZONA	434,128	2.5	2.0%	173,651	2,137,000	0.20315

The USAC Low-income program reports[45] show the disbursements to New York Lifeline ETCs. Crudely estimating the number of Lifeline subscribers for

[44] Sources: Totals: USAC L08; access lines and % of national total: FCC 2014 Local Competition Report, Table 9 (2013 data); households below 150% of FPL: Census Quick Facts, see footnote 42, supra.
[45] http://www.usac.org/about/tools/fcc/filings/2015/q3.aspx.

carriers with disbursements over $100,000 for 2014, divided by the $9.25 per month current support amount, yields results consistent with the above.

According to the PSC, there are 66 Lifeline providers in New York.[46] Seven of those are wireless, with Time Warner Cable being listed as a "broadband" Lifeline provider. The ILECs among the group provide service only in their own exchanges. Thus the only competition for wireline Lifeline in New York is between TWC and ILECs where their territories overlap.[47] And then there are the wireless Lifeline providers.

The data show that TracFone, Virgin Mobile and i-Wireless have 90% of the NY Lifeline market, with a total 816,000 Lifeline customers. All three are among the wireless carriers that offer service for a limited number of minutes typically "free" to the Lifeline customer; the service "lives off" the FCC's $9.25 Lifeline support amount paid to the carriers by the USF.[48] The "free" mobile service has understandably attracted many low-income customers. Indeed, as seen in Table 1, these three carriers' 800,000 Lifeline customers more than explain the increase

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[46] See http://www.askpsc.com/lifeline/PDFs/Lifeline-Providers.pdf.

[47] The Staff Assessment's rosy assertion that "[w]here once there was only a single wireline cable provider operating in a particular franchise area, the competitive landscape has changed markedly over the last decade" (Staff Assessment at 5) overlooks that fact that the "competition" is a duopoly.

[48] The FCC is considering whether to require wireless ETCs to expand the number of minutes in ETC plans, all the way up to unlimited voice calling. See FCC 15-71, note 30 supra, ¶ 40.

since the program's New York low in 2008.[49] But with the FCC's "one per household" rule, this means that the Lifeline household's connection is gone when the phone-holder leaves the house. So wireless Lifeline is not a complete solution to the problem of phonelessness. But many New York low-income consumers would be benefitted by FCC (and New York) policies that assisted Lifeline and broadband for wireless customers.

Verizon New York – the largest ILEC in the state – has only 6.4% of the New York Lifeline market (with 57,000 Lifeline customers).[50] Verizon New York's Lifeline receipts have fallen precipitously from $33.2 million in 2012 to a projected $6.4 million for 2015.[51] Table 3 presents results for selected New York eligible telecommunications carriers ("ETCs") for selected quarters.

TABLE 3
Lifeline receipts ($M)[52] (selected carriers)

	4Q2012	4Q2013	4Q2014	3Q2015
VNY	7.7	3,4	3.1	1.6
TracFone	12.3	11.2	11.8	9.6
Virgin Mobile	26.0	15.0	12.7	9.0
i-Wireless		2.4	4.2	3.8
Windstream[53]	.51	.34	.23	.20
Frontier	.466	.221	.202	?

[49] The data show that 42% of New York's Lifeline subscribers are served by non-facilities based carriers, i.e., wireless resellers. FCC 2014 Universal Service Monitoring Report ("2014 Monitoring Report"), Table 2.9, accessible at https://transition.fcc.gov/wcb/iatd/monitor.html.
[50] The number two ILEC – Frontier/Rochester had all of 4,176 Lifeline subscribers. Id.
[51] Source: USAC, supra footnote 40.
[52] Id.
[53] Windstream Communications LLC, Study Area Code 150109.

(Rochester)				

And then there was the recertification massacre at Verizon of recent months, as described in the Utility Project's May 5, 2015 letter.[54]

As the ILEC continuing to serve many low-income customers in New York, Verizon needs to be encouraged to market Lifeline service (both voice and broadband) to its low-income customers, rather than it being allowed to avoid the responsibility. The PSC has the duty to regulate Verizon in this manner. Further, Time Warner Cable's offering of Lifeline should be continued and expanded to other cable companies,[55] and the PSC should condition an approval of the Time Warner Cable-Charter merger, if one is forthcoming, upon the continuance of such Lifeline service.

Overall, New York had a 98.0% voice penetration rate in 2013,[56] up from 97.4% in 2009, when "voice penetration" is defined as "percentage of occupied housing units with voice service."[57] This can be compared to the national 2013

[54] See http://www.wsj.com/articles/verizon-drops-customers-from-low-income-program-1429806581.
[55] See, *Joint Petition of Time Warner Cable Inc. and Comcast Corporation For Approval of a Holding Company Level Transfer of Control*, Case 14-M-0183, Utility Project Reply Comments (August 25, 2014) at 40, 44-46, 57-63.
[56] See also, Staff Assessment at 8, citing FCC 2014 Monitoring Report, Table 6.6.
[57] 2014 Monitoring Report, Table 6.6.

average of 97.7%.[58] But "household voice penetration" for 2014 shows a 94.9% voice penetration for all households in New York.[59] And only 90% of New York households with incomes below $10,000 were voice subscribers.[60] (This includes wireless.)

Table 4 shows penetration (percentage of households with a telephone – including wireless – in unit) for 2007 (just after Comp III), 2013 and 2014.

TABLE 4
HOUSEHOLD PENETRATION

STATE OR JURISDICTION	2014[61]	2013[62]	2007	CHANGE 2007-2014
CALIFORNIA	95.5%	94.4%	96.5%	-1%
NEW YORK	94.9%	93.8%	93.4%	+1.5%
FLORIDA	94.7%	93.5%	93.6%	+ 1.1%
TEXAS	96.0%	96.0%	93.5%	+ 2.5%
MICHIGAN	97.7%	97.7%	95.0%	+ 2.7%
OHIO	96.6%	96.3%	95.9%	0.3%
ILLINOIS	96.5%	95.8%	94.1%	+ 2.4%
PENNSYLVANIA	97.6%	97.6%	97.0%	

[58] Id.
[59] Id., Table 6.8.
[60] Id.
[61] Id.
[62] Id., Table 6.7.

				+ .6%
GEORGIA	96.7%	95.0%	92.6%	+ 4.1%
LOUISIANA	96.8%	95.9%	94.9%	+ 1.9%
NATIONAL AVERAGE	96.3	97.7%	94.8%	+ 1.5%

The numbers are slightly more favorable for broadband. In 2013 in New York, 80.6% of individuals lived in a household with broadband, compared to the national average of 78.1%.[63] The FCC began reporting on broadband in the 2011 Monitoring Report. The gauge has changed over time, but the data show New York improving relative to other states.

TABLE 5
BROADBAND ADOPTION RATES

STATE OR JURISDICTION	12/14 Table 6.18 Lives in a household with high-speed Internet use 2013	12/13 Table 3.10 Adoption by State July 2011	12/11 Table 3.10 Adoption by State	Change 2011-2013
CALIFORNIA	80.5%	74.5%	81.7%	-1.2%
NEW YORK	80.6%	72.9%	78.6%	2.0%
FLORIDA	78.3%	74.9%	80.6%	-2.3%
TEXAS	74.6%	67.2%	77.2%	-2.6%

[63] Id., Table 6.10.

MICHIGAN	76.3%	72.7%	78.5%	-2.2%
OHIO	77.1%	68.5%	75.0%	2.1%
ILLINOIS	79.3%	72.6%	79.5%	-0.2%
PENNSYLVA NIA	78.9%	69.7%	75.6%	3.3%
GEORGIA	76.3%	70.1%	77.7%	-1.4%
LOUISIANA	70.3%	65.6%	76.0%	-5.7%

Despite the improvement, roughly 20% of New Yorkers do not have access to broadband in their households. That is far too many.

The witness from Oneida County testified that "most residents in the Mohawk Valley, whether they live in an urban area, a suburban area, or in a rural community, do not have reliable, affordable, high-speed Internet service."[64] The Staff Assessment's high-level analysis neglects such problem areas.

The Staff Assessment states, "Both residential and business customers are migrating away from the traditional telephone company providers, and adopting alternative service providers…." [65] This statement is misleading. It is true that many customers are moving to services other than traditional ILEC voice service,

[64] Utica Transcript at 5-6.
[65] Staff Assessment at 12. Staff's acknowledgement that "[i]ncumbent local exchange companies measure market penetration by access lines" (id. at 11) does not make Staff's loss calculations valid. See also id. at 31-32.

but many of those services are provided by the ILECs or their affiliates. When the ILEC or its affiliate provides the VoIP or the broadband over which the customer receives voice, then the ILEC has not "lost" that customer. Or if the ILEC provides broadband and the customer gets wireless voice, again the ILEC has not lost the customer. That is especially true if the ILEC's wireless affiliate is serving the customer.

Staff's use of national statistics to show wireless-only customers[66] is also misleading. The most recent state-by-state Center for Disease Control ("CDC") analysis shows New York on the low end with 27.2% wireless-only.[67] Indeed, the Staff Assessment reveals that a November 2014 study showed only 21% of customers statewide (28% upstate) as wireless-only.[68] So a super-majority of New Yorkers remain wired for voice service.

It may be true, as the Staff Assessment relates, that ILEC voice service, cable service and wireless service are available throughout the state of New York.[69] But whether quality services are available at reasonable rates in all locations is another question entirely. And, as stated by the witness from Oneida County, "customers who, today, rely on traditional landline services are often those who need it the most. And they should not be forced to switch to a new phone service that, in some

[66] Staff Assessment at 13.
[67] See http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless_state_201412.pdf.
[68] Staff Assessment at 13-14.
[69] Id. at 8-10.

cases, may have been proven not to work during long power outages or other emergencies."[70]

The high levels of concentration in New York telecommunications markets, as shown by the Staff Assessment,[71] certainly work against reasonable rates. The lack of competition, particularly for wireline service, has meant higher rates.

We close this data review by mentioning NY's status as a substantial net payer into the federal Universal Service Fund ("USF"), second only to California.[72] Indeed, on a per-access-line basis, New York pays half again as much into the USF as does California.[73]

III. NY CONSUMERS NEED QUALITY VOICE AND BROADBAND SERVICES.

The Staff Assessment correctly states, "Much as telephone was an essential service for consumers in the second half of the 20th Century, so today is broadband."[74] The Staff Assessment further notes, "Broadband service, which relies upon the same network as telephone, mobile, and cable television, facilitates

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[70] Utica Transcript at 8-9.

[71] Staff Assessment at 14-16. The Staff Assessment errs in using its customer counts (id. at 14) and by using federal wireless market shares as a surrogate (id.), but the errors do not disturb the Utility Project's conclusion.

[72] 2014 Monitoring Report, Table 1.9.

[73] With NY net dollar flow of $297M and 9.6M lines and CA net $332M and 16.4M lines.

[74] Staff Assessment at 2. Telephone service is a necessity because it provides voice; broadband without voice is far less valuable.

competition in cable and telephone."[75] This of course means that those who don't have access to broadband (due to physical unavailability in rural or urban areas,[76] or due to social unavailability due to limited income and inability to afford broadband), are additionally disadvantaged by the lack of broadband.

The Staff Assessment supposedly describes the current level of service quality regulation in New York.[77] But Staff presents only the "Out of Service more than 24 hours" standard, and asserts an "improving trend."[78] But the improvement is minimal (nominal might be a better word), with the "linear trend" hiding an unacceptable variability,[79] and does not disguise the fact that Verizon New York has frequently not met the Commission's minimal standard, which applies only to "core service", rather than to all customers. Staff does, however, admit that the Customer Reported Troubles Report ("CTRR") has been "gradually worsening."[80]

But the service quality issue was highlighted in the New York Public Statement hearing. Much of the testimony from multiple witnesses raised service quality concerns.**[81]** One witness indicated essentially that providers and carriers are

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[75] Id. at 2.
[76] See http://www.huffingtonpost.com/bruce-kushnick/new-york-city-fiber-optic_b_7889990.html.
[77] Staff Assessment at 19-20.
[78] Id. at 20.
[79] From 10% to 20%. Id. at 21.
[80] Id. at 22.
[81] New York City Transcript at 4-8, 11-15, 15-18, 20-23, 42, 61-63, 68-69, 103-105.

all bad.[82] And another witness directly attributed the service quality decline to deregulation.[83] A recent New York Times blog reported "Customer Satisfaction With TV, Internet and Phone Service at 7-Year Low, Study Finds."[84]

So what is the solution to this unacceptable level of service? Clearly, it is not further relaxing service quality regulation. Deregulation and whatever level of competition exists have not yielded higher-quality service. The Commission should extend its current rules beyond ILEC core services to cover the voice and broadband telecommunications services on which customers in 2015 rely. And the rules must be enforced.

IV. NEW YORK CONSUMERS NEED PROTECTION FROM CARRIERS.

The Staff Assessment reveals that "[t]he rate of consumer complaints on intrastate telephone services for which the Commission has jurisdiction, as measured by total complaints per 100,000 lines for the five largest telephone companies in New York, has generally increased in recent years."[85] (Staff's

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[82] NYC Transcript at 47-49.
[83] NYC Transcript at 32.
[84] See http://bits.blogs.nytimes.com/2015/06/02/customer-satisfaction-with-tv-internet-and-phone-service-at-7-year-low-study-finds/?emc=edit_ct_20150604&nl=technology&nlid=103297&_r=0.
[85] Staff Assessment at 23 and Figure 7.

reliance on J.D. Power "customer satisfaction" surveys[86] for the contrary proposition – that carriers have improved – is merely an exercise in apologetics.[87])

The Staff Assessment also states, as to unregulated services, "A common theme is that consumers typically complain about the same types of service or billing issues, whether or not those issues are related to telecommunications services that are either regulated or not by the state."[88] That is true for regulated services as well.[89]

This cries for consumer protections that extend to the reaches of the Commission's jurisdiction,[90] not for a shrinking of protection. As the Utility Project noted in 2014:

> Under [the Comp III] regime, service quality standards are often breached with minimal penalties, suggesting economic breach, and measurement standards were lowered so as to count only service to "core" customers believed to lack competitive alternatives. The price cap regime gives maximum latitude to companies to cut costs and allocate resources with little or no scrutiny.[91]

This needs to change, and change now. The Commission should see jurisdiction to apply article 22-A of the General Business Law to all Title II telecom and

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[86] Id. at 24-25.
[87] See NYC Transcript at 35-36; see also *Joint Petition of Time Warner Cable Inc. and Comcast Corporation For Approval of a Holding Company Level Transfer of Control*, Case 14-M-0183, Utility Project Reply Comments (August 25, 2014) at 62-63.
[88] Staff Assessment at 25.
[89] See also id. at 31 (entry/exit).
[90] And, indeed, for the Legislature to broaden the Commission's jurisdiction, as the Utility Project recommends.
[91] Utility Project 10/31/14 Comments at 8.

broadband services.[92] And all New York carriers should be required to comply with the FCC's Open Internet rules.[93]

V. THE COMMISSION NEEDS TO INCREASE VOICE AND BROADBAND SUBSCRIBERSHIP.

As shown in Part II above, voice and broadband subscribership in New York is mediocre at best. That is no role for the second-largest telecom market in the Nation to play. There must be significant effort to increase subscribership.

But current subscribership also needs to be maintained. As Public Knowledge recently explained to the FCC: It is "critical for Lifeline to continue to support standalone voice service. In expanding Lifeline to support broadband, the Commission should not rescind support for voice service. Instead, the Commission should allow Lifeline-eligible consumers to choose the service that best meets their needs."[94]

The concept of a carrier-of-last resort should also not be abandoned. As a witness at the Utica public statement hearing described it,

> It's much as it was when I was a kid growing up in the '50s, the telephone company had to run a line to our house even though we were miles from anything, much more remote than where I live now, because in order to be in the lucrative markets in the cities, it had to

[92] See Utica Transcript at 19 (deceptive marketing).
[93] *Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, FCC No. 15-24 (rel. Mar 12, 2015) ("Open Internet Order"),
[94] See http://apps.fcc.gov/ecfs/comment/view?id=60001096685.

> serve ours. It was a fair tradeoff. That same tradeoff should apply today. Those of us who have no access whatever to any sort of broadband are, as I said, isolated. It seems to me that, at a minimum, ordinary broadband service should be provided to everyone and it should be provided now.[95]

New York State's performance regarding telephone service penetration continued to decline in the years during the Commission's passive oversight if not *laissez faire* faith-based reliance on competition as a substitute for regulation.[96] New York's national ranking in telephone subscribership shows that the lack of competition and regulation has not enabled the state to perform well on this rudimentary measure of universal service.[97]

The FCC's 2014 Universal Service Monitoring Report shows New York again slipped in comparison with other states with respect to the percentage of households with telephone service. The national average household telephone penetration is 96.3%, but in New York State only 94.9% of households have phones.[98] New York State is seventh from the bottom.

[95] Utica Transcript at 53-54.

[96] See e.g., ASLEEP AT THE SWITCHBOARD: NEW YORK TELEPHONE SUBSCRIBERSHIP SAGS, NOW NINTH FROM THE BOTTOM, NYUP | March 7, 2013.

[97] In the interest of brevity, the Utility Project will return to the topic of increasing voice and broadband subscribership in its Reply Comments and/or in other opportunities to comment in this proceeding.

[98] 2014 Monitoring Report, Table 6.6.

New York has 7,231,000 total households,[99] so if 5.1% lack phone service this means 369,000 households do not have phone service. With an average of 2.6 persons per household, that means almost a million – approximately 959,000 – New Yorkers do not have a phone in their household. This is unacceptable, poses a grave threat to public health, safety and welfare, and undermines the ability of a significant number of New Yorkers to interact with their government.

First: Attempts at income-based red-lining – especially by those with state certificates – must be blocked.[100] Universal service should be "universal" service, not limited by carrier discrimination.

From another direction, the Commission should examine company practices that may result in customers losing phone service for nonpayment of bills for bundled services, denials of access to service, and low participation of eligible customers in the state and federal Lifeline rate programs. This is not covered in the Staff Assessment.

Finally, the failure to enroll all eligible customers for Lifeline service means that the federal USF telephone customer surcharges paid in New York are disproportionately going to other states that do a better job of enrolling low-income consumers. This creates a net economic loss to the state from not utilizing the federal Lifeline program, as shown in Part II above. The Commission should find

[99] Census Quick Facts, supra note 39.
[100] See NYC Transcript at 34.

that all VOIP telephone providers are deemed to be telephone corporations subject to PSC regulation of telephone service and be required to offer Lifeline service rates to low-income customers.

VI. THE COMMISSION SHOULD AUDIT THE RATES OF MAJOR VOICE AND BROADBAND CARRIERS.

In the October 31, 2014 Comments, the Utility Project cited the "It's All Interconnected" Report, and argued that this

> misallocation of expenses and revenues may have painted Verizon New York's wireline telephone service as lacking sufficient revenue to meet costs, and may have tainted past Commission decisions allowing rate increases. Those decisions were justified in part to pay for fiber optic line deployment, but the Report raises the question whether rate increases for basic telephone service may have been used not to hook up more customers with fiber optic lines, but to hook up more wireless towers. The report shows that the financial statements showing a deteriorated financial position for Verizon New York's wireline telephone services, upon which prior Commission action to increase rates was based, had not been audited by Commission staff. For example, the claimed loss of telephone access lines may have included migration of basic service customers to bundled local and long distance and DSL service packages, revenues from which may not be fairly attributed to the wireline service.[101]

These 2014 remarks remain true today.

The Staff Assessment asserts that the Comp III rate cap of $23.00 for basic service "at the time was comparable to the various measures of basic phone service

[101] Utility Project October 31, 2014 Comments at 4.

market prices and was aligned with the forward-looking costs for providing the basic service, which ranged from $22 to $26."[102] Regardless of the validity of the Commission's findings in 2006, it is inescapable that those findings **are not valid in 2015** because of the cosmic changes to the telecom market since then.[103]

Full financial audit and exploration and examination of the concerns raised by the Utility Project Report must be part of any "comprehensive examination and study of the telecommunications industry in New York."[104] In that respect, the Staff Assessment is decidedly weak.

Not only are audits of these companies authorized by current state law, but they are consistent with federal law. The federal Telecommunications Act states, at 47 U.S.C. § 254(k), that "A telecommunications carrier may not use services that are not competitive to subsidize services that are subject to competition." Further in § 254(k), the law states, "[t]he Commission, with respect to interstate services, **and the States, with respect to intrastate services, shall** establish any necessary cost allocation rules, accounting safeguards and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services." (Emphasis added.)

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[102] Staff Assessment at 17.
[103] The Staff Assessment dwells on promotional pricing. Id., Appendix B, at Table III. As Staff's data show, promotional pricing is for bundles, not for core services.
[104] See NYC Transcript at 25-29 (Bruce Kushnick).

"It's All Interconnected" raised serious questions whether Verizon – the state's largest voice provider – may be using services that are not competitive to subsidize services that are subject to competition. And the Report showed that Verizon services included in the definition of universal service may be bearing more than a reasonable share of the joint and common costs of facilities used to provide those services.[105]

"It's All Interconnected" mostly contained information about Verizon. But it also contained significant information about Time Warner Cable's VoIP telephone service.[106]

As the Utility Project stated in 2014:

> Staff resources should be concentrated on those with dominant positions in the New York State market, which would begin with Verizon and major providers of cable telephone (VoIP) service. Likewise, an audit of the number two telephone carrier – Time Warner Cable – should be performed.
>
> While Time Warner Cable's VOIP service has come under Commission regulation since its self-recognition as a provider of telephone service under the Public Service Law, the Commission has not examined the rates, terms and conditions of TWC's services. In addition, the Commission should examine other major providers of cable VoIP telephone service who continue to operate outside state regulation, not subject to billing and collection rules, TFPA, or Lifeline requirements, and should examine whether to bring wireless

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[105] In the October 31, 2014 comments (at 5), the Utility Project noted that "[t]he DPS staff is best-situated to perform thorough audits based on the information in the Report indicating possible misallocation of costs and revenues among holding company affiliates of Verizon New York." The Utility Project reiterates that recommendation.

[106] "It's All Interconnected," Part XIV.

> service under regulation for non-rate terms and conditions of service which can be very onerous and cause customers to lose service.[107]

The failure to treat telephone service provided on alternate platforms equally creates unlevel playing fields, harming consumers. It may inhibit universal service when providers of equivalent services on alternative technological platforms are allowed to disregard longstanding statutes and rules designed to promote subscribership, continuous service, service quality, and reasonable rates, terms and conditions for all services provided over telephone lines, *including broadband*. Furthermore, while Time Warner Cable's VOIP service has come under Commission regulation since its self-recognition as a provider of telephone service under the Public Service Law, the Commission has not examined the rates, terms and conditions of TWC's services. In addition, the Commission should examine other major providers of cable VoIP telephone service who continue to operate outside state regulation, not subject to billing and collection rules, TFPA, or Lifeline requirements, and should examine whether to bring wireless service under regulation for non-rate terms and conditions of service which can be very onerous and cause customers to lose service.[108]

In its efforts, the Staff must review the financial information – costs and revenues – and their allocations within holding company structures. Also, there

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[107] Utility Project October 31, 2014 Comments at 6.
[108] Utility Project 1-/31/14 Comments at 6.

should be an inquiry whether sufficient investment in expansion of high speed affordable broadband is being made by providers whose New York affiliates face little competition, lest New York customers and their revenues be harvested for investment by holding companies, for investment in other jurisdictions.

VII. CONCLUSION

The Staff Assessment states, "With the growth of high speed broadband services, wireless smart phones, and VoIP technology providing broadband and video in addition to communication services, competition and the convergence of voice, video and broadband has become more robust."[109] "Competition" and "convergence" are not counterparts; they are countervailing forces. The Utility Project asserts however rather than the positive environment Staff's statements describe, New York's telecommunications environment has sufficiently deteriorated over the last decade of Competition III, that New York City Comptroller Stringer stated at the public statement hearing in the City, Verizon should be required to invest in its wireline voice and broadband service.[110]

Staff also notes that "[t]he challenge of future regulatory oversight will be to accommodate new technologies, support industry investment and expansion of

[109] Staff Assessment at 5.
[110] NYC Transcript at 10.

advanced networks, and incent competition where possible, while maintaining consumer protections as network transitions take place."[111] The Utility Project responds that, based on the information in the Staff Assessment, there is a clear need to **expand** consumer protection as the network transitions. Furthermore, the Utility Project believes that the failure of Staff to act vigorously to protect consumer interests have created a situation where the Commission should examine company practices that may result in customers losing phone service for nonpayment of bills for bundled services, denials of access to service, and low participation of eligible customers in the state and federal Lifeline rate programs.

In 2014, "It's All Interconnected" included specific Utility Project recommendations, focused on Verizon New York (VNY"):

- VNY should not be permitted to withdraw facilities and thereby cease providing current wired telephone service to any location without approval by state and federal regulators.

- VNY should be required to deploy wireline high-speed Internet access to all of its territory. [112] Other providers that similarly receive benefits from the State – in particular the use of public rights-of-way – should have the same obligations.

- Alternatively, VNY should be required to present a binding schedule for completing that task and a showing of the results for broadband availability

[111] Id. at 34.
[112] As asserted by the New York City Comptroller at the public statement hearing in the City, Verizon should be required to invest in its wireline voice and broadband service. NYC Transcript at 10.

of its rate increases for basic service since those increases were authorized by the NY PSC starting in 2006.[113]

- VNY should be required to provide voice telephony and high-speed Internet access of reasonable quality at just and reasonable rates, based on appropriate cost allocation in an IP network.
- Verizon should be required to provide broadband Internet access consistent with the FCC's Open Internet Principles.
- State and federal regulators should retain and regain the ability to address service, billing and other complaints against VNY's service, and should examine financial statements, and investigate affiliate transactions.[114]

Those recommendations remain valid, and should be extended to other carriers.

The Utility Project acknowledges herein that the Commission has embarked on a long overdue reexamination of the telecom industry, and is to be commended for undertaking it. There is a long road yet to travel, and as Consumers Union testified in New York City there are many difficult tasks ahead.[115]

Proposals to further deregulate telecommunications services should not be considered or adopted. There is no evidence that the industry is actually providing affordable telephone and broadband service to all New Yorkers from numerous providers, and there is no basis to reduce statutorily-required scrutiny.

Respectfully submitted,

Public Utility Law Project of New York, Inc.

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[113] See http://www1.nyc.gov/office-of-the-mayor/news/415-15/de-blasio-administration-releases-audit-report-verizon-s-citywide-fios-implementation.
[114] "It's All Interconnected" at 27.
[115] NYC Transcript at 56-57.

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APPENDIX A

SUMMARY OF RECOMENDATIONS

1 First, we respectfully request the Commission to reassess whether failure to meet telephone service quality metrics — and any consequences — should return to being based upon service to all customers, rather than solely to "core" (i.e., primarily Lifeline) customers.

3 Second, given the 62% drop in Verizon's Lifeline customers due to the USAC recertification, we respectfully request the Commission to investigate what caused such an atypical drop, and to work with Verizon to appeal the methodology and results of USAC's recertification, or to otherwise seek to restore without delay all Verizon customers whose decertification was based on poor methodology, failure to communicate in a language understood by the customer, or other factors that do not relate to the USAC's current mandate to eliminate presumably ineligible customers from the Lifeline assistance program.

3 Third, we believe the Commission should join all telecommunications companies providing residential telephone services to case 14-C-0370, and require them to file a report addressing the decline in overall household subscribership, the decline in Lifeline and the decline in service quality compliance (to the extent such decline applies to all such companies).

4 Fourth, the Commission should exercise jurisdiction to ensure that, e.g., cable VoIP rates, are just and reasonable. These concerns extend to voice service (traditional wireline, VoIP, and wireless) and to broadband Internet access service ("broadband"), and the Commission must not cede any further authority over the voice and broadband services that all customers – including low-income customers – have come to and deserve to rely on.[116]

[116] The DPS' recent FCC comments on outage reporting reflect the interests of the state. See http://apps.fcc.gov/ecfs/comment/view?id=60001093792. See also Staff Assessment at 32 (discussing Commission comments in FCC PS Docket No. 14-174, et al.).

5 Finally, we respectfully request the Commission not only to make the telecom study publicly available without undue delay, we also suggest that any and all reasons for the delay of the study be made public and filed in the Commission's DMM system as part of the record of proceeding 14-C-0370.[117]

[117] Id. at 3. In these comments, the Utility Project incorporates its prior comments in this proceeding. Those positions remain valid.

APPENDIX B

STAFF ASSESSMENT OF TELECOMMUNICATIONS

[see attached]

APPENDIX C

It's All Interconnected: Oversight and Action is Required to Protect Verizon New York Telephone Customers and Expand Broadband Services

[see attached]