STATE OF NEW YORK

PUBLIC SERVICE COMMISSION

Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Retail Service Quality Processes and Programs	Case 03-C-0971

COMMENTS OF THE

NEW YORK STATE CONSUMER PROTECTION BOARD

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Albany, New York

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The quality of service provided by Verizon New York Inc. ("Verizon" or "Company") has generally improved in recent years and the Company has met most of the service quality standards established by the New York State Public Service Commission ("PSC" or "Commission"). However, the Company has repeatedly been unable to achieve the primary standard for the timeliness of repairs -- the Percent Out-of-Service Over 24 Hours ("OOS>24") standard -- in seven of its 35 service bureaus. In late 2006, the Commission stated that chronic poor performance in those seven bureaus requires corrective action. It directed the Company to submit a service improvement plan that "will obtain consistent monthly performance meeting our Service Standards" and demonstrate why the Commission should not take further action.[1] Verizon filed its plan on February 2, 2007.[2]

[1] Case 03-C-0971, Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Retail Service Quality Processes and Programs, Order Directing Verizon New York Inc. to Demonstrate that its Service Improvement Plans Are Sufficient, December 19, 2006 ("2006 Order").

[2] Case 03-C-0971, Response of Verizon New York Inc. to the Commission's Order Directing Verizon New York Inc. to Demonstrate that its Service Improvement Plans are Sufficient, February 2, 2007 ("Verizon Plan").

The PSC properly recognized that Verizon had not met service standards for the timeliness of repair on a consistent basis for many years in its East Suffolk, North Nassau, South Nassau, North Queens, South Queens, North Westchester and South Westchester bureaus. That chronic poor performance suggested that the Company's maintenance and investment in its copper network might be insufficient and may lead to similar problems in other areas of the State. Verizon states in its plan that it is now fully aware of the problem and is committed to fixing it. In these comments, the New York State Consumer Protection Board ("CPB") identifies several concerns with the Company's plan and makes the following recommendations to help ensure that Verizon meets applicable service quality standards in a timely fashion and is held accountable for any failure to do so:

- The Commission should assess Verizon's progress in meeting OOS>24 standards at its public meetings at least quarterly.

- The PSC should refrain, as a general matter, from considering further relaxation of rules or regulations governing Verizon until the Company consistently meets OOS>24 standards throughout the State.

- If Verizon does not consistently meet OOS>24 standards within one year of the PSC's 2006 Order, it should provide refunds to affected customers of the magnitude in its recent regulatory plans.

- Verizon's proposal to change the calculation of the OOS>24 metric should be rejected.

- The Commission should affirm that Verizon has the flexibility to modify any of the initiatives identified in its February 2, 2007 plan.

- The PSC should monitor the mean time to restore service in the seven service bureaus, to ensure that a focus on the OOS>24 measure does not have unintended consequences.

- The Commission should review and overhaul current practices for review of Service Inquiry Reports, which identify service deficiencies requiring attention.

I. COMMISSION ACTION IS REQUIRED TO ENSURE THAT VERIZON IS ACCOUNTABLE FOR PROVIDING TIMELY REPAIRS.

The Commission Order explicitly and repeatedly states that Verizon's performance on the OOS>24 metric is not acceptable and improvements are necessary.[3] For example, it states:

> Ideally, we would expect every bureau to meet the threshold in every month absent an unusual event because the metric itself does not require that 100% of out-of service trouble reports be repaired within 24 hours.[4]

However, Verizon explicitly declined to commit to specific service quality improvements and instead focused on additional resources to be devoted to its service problem. In its plan, it avoided any commitment as to when it will achieve OOS>24 standards and stated only that it will work to obtain "meaningful results."[5] In response to a direct request that Verizon identify when it will meet the OOS>24 threshold on a consistent basis barring any unforeseen events, the Company again avoided any commitment and stated that improving service quality is not just complying with the Commission's Service Standards but also

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[3] E.g., Order pp. 2, 4, 6, 8, 9.

[4] Order, p. 6.

[5] Verizon Plan, p. 3.

dealing with the “explosive growth of competitive alternatives.”[6] The same question was asked at the March 26, 2007 Technical Conference and again Verizon declined to provide a date by which it will meet the OOS>24 standard on a consistent basis.

Verizon should be required to meet applicable service standards within a reasonable period of time and must be held accountable should it fail to do so. As explained further in Point III, the Company’s plans to increase investment and maintenance on its copper network, migrate customers to its fiber network, and rebalance its workforce to better address customer needs, are steps in the right direction. Those initiatives, however, do not change the fact that the Commission has found that the rates charged by the Company provide it sufficient resources to deliver quality service to its customers. Customers expect that in exchange for paying PSC-approved charges, they will obtain service that meets applicable standards. The Company must be held accountable should it fail to provide such service in a reasonable time period.

The CPB proposes several recommendations to help ensure such accountability.[7] First, the Commission should discuss and assess Verizon’s progress in satisfying the OOS>24 service standard at its public meetings, at least quarterly, until those standards are achieved on a consistent basis. We also recommend that until those standards are consistently achieved, the

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6 Response to Information Request DPS-1.

7 We explain in Point III, that contrary to Verizon’s assertions, the ability of customers to choose an alternative telephone service provider does not obviate the need for Commission action, particularly on matters that affect public health, safety and welfare.

Commission should refrain, as a general matter, from considering any further relaxation of rules or regulations governing Verizon. For example, absent compelling circumstances, proposals to ease or eliminate service quality regulations and consumer protections that are now under consideration in Case 06-C-0481,[8] as well as proposals to remove or relax other regulations affecting Verizon or provide additional pricing flexibility being considered in Case 05-C-0616,[9] should not be addressed until the Company meets applicable service standards on a consistent basis.

In addition, the CPB recommends that the Commission take further action should Verizon not achieve by December 2007, one year after the PSC's 2006 Order in this proceeding, the OOS>24 standard on a consistent basis absent unusual events that are out of the Company's control. This would provide ample time to obtain improvements, particularly since the Company has been aware for many years that it has not consistently met that standard. Should Verizon fail to achieve the standard by December 2007, the Company should be assessed a penalty of a magnitude commensurate with that in its most recent regulatory plan, to be credited to affected customers.[10] Exiting tariff provisions under which customers are provided a refund of their daily cost of basic telephone service for

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8 Case 06-C-0481, Proceeding on Motion of the Commission Providing for the Examination of Service Quality and Consumer Protection Regulations, Including Parts 602, 603 and 609, Notice Concerning Service Quality and Consumer Protection Regulations, April 21, 2006.

9 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.

10 Under the Verizon Incentive Plan that was operable through March 2005, the Company was subject to a penalty of $15 million if a standard such as OOS>24 was not met in a 12-month period. A similar measure based on OOS>24 performance in the seven relevant bureaus, would be reasonable in these circumstances.

each day they are without service has proven to be an inadequate incentive for the Company to meet OOS>24 standards. If Verizon does not agree to be held accountable by providing meaningful refunds to affected customers, the Commission should take whatever action is necessary to require such refunds, including seeking legislative authority.

II. VERIZON'S PROPOSAL TO CHANGE THE CALCULATION OF THE PERCENT OUT-OF-SERVICE OVER 24 HOURS METRIC SHOULD BE REJECTED.

Verizon requests permission to modify the manner in which OOS>24 is calculated to exclude certain situations which it claims "overstate the significance of the OOS>24 results."[11] The Company asserts that customers with out-of-service conditions are increasingly deferring repair appointments or not keeping established appointments, to the detriment of Verizon's performance on this metric. The Company proposes to exclude those cases from the calculation of its timeliness of repair, or to "start the clock based on the agreed-to-appointment date."[12]

The Commission should reject this proposal for several reasons. The purpose of this proceeding is for the Company to improve its timeliness of repair. Verizon's attempt to change the manner in which this metric is calculated should not be countenanced, since it distracts attention from the need for action to improve chronic poor performance. The Company had ample opportunity to

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[11] Verizon Plan, pp. 22-23.

[12] Id., p. 23.

propose a change in this service metric in Case 06-C-0481 in which proposed revisions to the Commission's rules pertaining to service quality and consumer protections have been actively considered since mid-2006. Interestingly, however, it chose not to do that, and did not even mention this issue in its written comments or in collaborative discussions in that proceeding. Further, Verizon has not demonstrated that the deferred and missed appointments issues have had a meaningful impact on its OOS>24 performance. In response to requests for a quantification of this issue, Verizon stated that it "is unable to measure the number of customer-requested repair deferrals."[13] Regarding the number of missed appointments, the Company provided data that in our view demonstrates that the impact of this issue on its OOS>24 performance is miniscule.[14]

In summary, Verizon must show improvement in the OOS>24 metric as directed by the Commission. There is no evidence that this metric, as currently measured, materially overstates the time the Company takes to restore service. Any request to modify this metric should be addressed in Case 06-C-0481.

III. VERIZON'S PROPOSED INITIATIVES APPEAR PROMISING, ALTHOUGH MORE EFFORT MAY BE REQUIRED.

Verizon identified four initiatives in response to the Commission's directive to improve its service quality. These plans have the potential to lead to service quality improvements, although the CPB has concerns with each of them.

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13 Response to Information Request CPB-7.

14 Response to Information Request AG-16.

Overall, the Commission should monitor these initiatives and emphasize that the Company has the flexibility to modify them as necessary to meet the OOS>24 service quality standard.

A. Moving Customers to Fiber

Verizon is deploying a Fiber-to-the-Premises ("FTTP") network that enables the Company to offer advanced voice, data and video services. The frequency and duration of service quality problems on the fiber network is substantially less than on its legacy copper network. To the extent that customers decide to purchase services provided through the FTTP network, the quality of the Company's voice service would be expected to improve.

In its plan, Verizon proposes to move a "targeted group" of customers served by the copper network to the FTTP network in areas with severe service problems and where fiber has already been deployed, regardless of whether those customers purchase services offered over the FTTP network.[15] This is a positive initiative that would provide customers the benefits of improved service. The Company should be encouraged to proceed with this program.

The CPB is concerned, however, that the program may be applicable to only a relatively small number of customers, and therefore may not have a meaningful impact on Verizon's service quality. In particular, the Company claims that its current plan only calls for 4,640 voice-only FTTP migrations in the seven targeted bureaus.[16] Furthermore, the Company stated at the March 26,

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15 Verizon Plan, p. 11.

16 Response to PULP Information Request No. 6.

2006 Technical Conference that some targeted customers have declined migration to the FTTP network. It appears that the Company should reassess the limitations it has placed on this program, if migrations to FTTP are to have a meaningful impact on its OOS>24 performance.

B. Investment in the Copper Network

Verizon's plan includes a projection of capital investment in its copper network that it characterizes as "prudent," leaving sufficient funds available for its FTTP investments.[17] The data provided by Verizon is not at all comforting to the CPB, either in terms of the proposed 2007 investment levels, or in terms of the relationship between those levels and the actual levels for 2006 and 2005.[18]

Only a small fraction of the Company's customers have migrated to FTTP, and it is generally accepted that the copper network will continue to be relied upon by customers for the foreseeable future. However, the proposed investment in the copper network represents only a tiny fraction of the Company's planned investment in FTTP. Moreover, Verizon consistently describes this investment as "projected expenditures," instead of as a commitment to invest those amounts.[19] With minimal investment in the aging copper network, it is very likely that an increase in trouble reports could occur

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17 Verizon Plan, p. 15.

18 Id., Attachment H.

19 Verizon Plan, pp. 15, 30.

and overwhelm the Company's ability to repair out-of-service conditions in a timely manner, both in the seven relevant bureaus and statewide.

C. Maintenance of the Copper Network

In an effort to reduce the volume of repair dispatches, Verizon is augmenting its preventative maintenance efforts, particularly in the affected service bureaus. The Company plans to implement a new "Find and Fix" program which requires field managers to inspect the condition of outside plant facilities and identify "quick-fix" issues.[20] This proactive program appears promising. It is not apparent, however, why this program was not in place before now and why it should not be adopted for all 35 repair bureaus, particularly if Verizon is correct that it could result in "significant improvements - at relatively low cost."[21]

D. Work Force Management

Verizon also proposes to adjust and rebalance its work force based on customer demand. It would allow 300 employees from Manhattan, Brooklyn and Staten Island, where it has met OOS>24 standards, to accept positions in Westchester, Queens and Long Island, where it typically has not met that

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[20] Verizon Plan, p. 17.

[21] Id.

standard.[22] The Company has hired 40 temporary employees to repair the copper plant and has plans to hire up to 100 temporary employees to fill in for vacationing employees in the seven targeted bureaus.[23]

These work force management proposals appear to be beneficial. However, it is not apparent why they were not implemented before this time, nor that they will be sufficient to achieve OOS>24 standards. They also demonstrate that the Commission should continue to monitor the Company's OOS>24 performance in other service bureaus, since they rely heavily on the temporary reassignment of workers from bureaus where service standards are currently being met.

IV. ADDITIONAL CONCERNS OF THE CPB REGARDING VERIZON'S PROPOSAL.

A. The Contention That Competition Obviates the Need for PSC Action

Verizon asserts that Commission action to order service quality improvements or direct rebates for out-of-service conditions, is neither necessary nor appropriate since competition is sufficient to ensure high quality service.[24] The Company's performance on the OOS>24 metric belies that assertion.

As explained in the PSC's 2006 Order, the Company has chronically failed to achieve the OOS>24 standard in seven service bureaus. Those bureaus are

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22 Verizon Plan, p. 18.

23 Id.

24 Id., p. 25.

in regions with very high population density where competitive alternatives are generally available. If competition were driving Verizon's decisions, it would strive to improve service on its copper network to avoid customer loss. That it has not done so indicates that it may be in Verizon's interest to decrease spending on its copper network in those regions, since its FTTP network is being constructed or will be built and expanded in the near future. That new network is Verizon's response to competition. In the meantime, however, deterioration of the copper network to the extent that service standards cannot be maintained, is not in the public interest, particularly because consumers rely on that network to make telephone calls that affect public health, safety and welfare. The PSC properly recognized that action is required to improve Verizon's OOS>24 performance, regardless of the extent of competition.

B. The Duration of Outages

If efforts are focused on the OOS>24 measure, customers whose service cannot be restored within 24 hours may not be treated as a priority. The Commission should carefully monitor the mean time to restore service in the seven identified service bureaus to ensure that it does not increase. The CPB attempted to obtain data on this measure, but was repeatedly informed by the Company that such information is not available.[25] This makes no sense given that the Company records the times at which trouble tickets are opened and

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[25] E.g., Information Requests CPB 1, 3 and discussions at the March 27, 2006 Technical Conference.

closed. The fact that Verizon would make such an assertion demonstrates the immediate need for Commission oversight of mean time to restore service.

C. Inadequacy of the Service Inquiry Report Review Process

Under current regulations, the Company files a Service Inquiry Report ("SIR") whenever it fails to meet a service standard in the current month and two of the last four months.[26] These reports identify steps the Company will take to improve its performance as well as the date by which service will meet applicable standards. Most of the SIRs filed in the past two years have been in the seven targeted bureaus in this proceeding. It is now obvious that the corrective action or improvement plans Verizon identified in those SIRs have had little effect on performance in these areas.

The CPB recommends that practices for review and monitoring of SIRs by the PSC and/or Staff of the Department of Public Service be thoroughly evaluated and overhauled. Far more diligence in reviewing and following through on these reports is required in the future.

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[26] 16 New York Codes, Rules and Regulations, §603.4.

CONCLUSION

The Consumer Protection Board recommends that the Public Service Commission adopt the recommendations contained herein.

Respectfully submitted,

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Submitted: Albany, New York
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