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May 15, 2015

Via Hand Delivery

Irene Asbury, Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. Box 350
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Re: I/M/O the Board's Investigations Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive – Phase II, Docket No. TX11090570.

**Objections to the Stipulation Entered Into Between
The Board of Public Utilities and Verizon New Jersey Inc.**

Dear Ms. Asbury:

The New Jersey Division of Rate Counsel (“Rate Counsel”) hereby annexed submits its objections on the Stipulation of Settlement (“Stipulation”) between Verizon New Jersey, Inc. (“Verizon”) and the New Jersey Board of Public Utilities (“Board”) for consideration pursuant to the Board’s Notice dated May 6, 2015, seeking comments by May 15, 2015 in the above referenced matter. Enclosed with this original please find ten copies, kindly return a date/stamped copy to Rate Counsel.

Rate Counsel is open to continued discussions and consideration of its concerns as well as the concerns voiced by other commentators but at this time, Rate Counsel asks the Board to reject the Stipulation and reopen the record and allow parties to provide the Board with current data on the state of competition in New Jersey on the services reclassified under the Stipulation.

Very truly yours,

NEW JERSEY DIVISION OF RATE COUNSEL

Stefanie A Brand, Director

New Jersey Division of Rate Counsel

w/encls.
cc: Service List

I/M/O the Board's Investigations Regarding the Reclassification of Incumbent Local Exchange
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Docket No. TX11090570
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**IN THE MATTER OF THE BOARD'S INVESTIGATION REGARDING THE
RECLASSIFICATION OF INCUMBENT LOCAL EXCHANGE CARRIER SERVICES
AS COMPETITIVE - PHASE II BPU DOCKET NO. TX11090570**

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**BEFORE THE STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE BOARD'S
INVESTIGATION REGARDING THE
RECLASSIFICATION OF
INCUMBENT LOCAL EXCHANGE
CARRIER (ILEC) SERVICES AS
COMPETITIVE – PHASE II
PROCEEDING**

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**STIPULATION ON
RECLASSIFICATION OF
SERVICES AS COMPETITIVE**

**BPU DOCKET NO.
TX11090570**

**OBJECTIONS OF THE STATE OF NEW JERSEY DIVISION OF RATE COUNSEL
TO THE STIPULATION ENTERED INTO BETWEEN
THE STATE OF NEW JERSEY BOARD OF PUBLIC UTILITIES AND
VERIZON NEW JERSEY, INC.**

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FILED: May 15, 2015

TABLE OF CONTENTS

TABLE OF CONTENTS..... 1

PRELIMINARY STATEMENT 1

STATEMENT OF THE FACTS AND PROCEDURAL HISTORY..... 4

POINT I 6

THE PROCEDURE EMPLOYED IN ARRIVING AT THE STIPULATION VIOLATES THE DUE PROCESS RIGHTS OF RATEPAYERS AND OTHER PARTIES AND CANNOT FORM THE BASIS OF THE BOARD’S DECISION 6

POINT II..... 9

THE STIPULATION DOES NOT SATISFY THE CRITERIA SET FORTH IN N.J.S.A. 48:2-21.19(b) AND IS CONTRARY TO THE PUBLIC INTEREST 9

 A. The Stipulation Is Not Consistent With the Language or the Intent of N.J.S.A. 48:2-21.19 10

 B. The Stipulation Improperly Removes BPU Oversight Over Service Quality..... 15

 C. The Rate Increases Set Forth in the Stipulation Are Not Just and Reasonable and are Not Supported by the Record. 18

 D. The Terms of the Stipulation are Vague and Ambiguous as to Other Obligations Required by Verizon’s PAR and Therefore the Stipulation Must be Rejected or Modified. 20

 Reporting requirements 21

 Obligations as Carrier of Last Resort (COLR) and Access Rates..... 22

CONCLUSION..... 23

PRELIMINARY STATEMENT

Currently before the New Jersey Board of Public Utilities (“BPU” and “Board”) is a purported settlement with significant regulatory implications, arrived at without the participation of the statutory representative of ratepayers and other parties to whom this Board has granted participation due to their interest in this matter. The settlement was entered into nearly three years after this matter was fully litigated and briefed. The settlement resulted from private meetings that apparently occurred between unnamed representatives of Board Staff and Verizon New Jersey, Inc. (“Verizon”). The New Jersey Division of Rate Counsel (“Rate Counsel”) and other party participants were not included in these discussions and are only now being given the opportunity to comment and object.

The result is a resolution that has no support in the record, a record based on stale data now over three years old. This Stipulation would have the Board relinquish its authority to oversee rates for basic residential service, residential installation, basic single-line business service and Directory Assistance. It would immediately relinquish regulatory authority over service quality for previously reclassified services and phase out after three to five years the Board’s oversight of service quality standards for the services being reclassified here. The Stipulation leaves in limbo the other provisions of Verizon’s Plan for Alternative Regulation (PAR) such as Opportunity New Jersey, reporting requirements, access rates and Verizon’s obligation as Carrier of Last Resort. The Stipulation implicates and undermines important laws and policies of this State, and is contrary to the public interest.

The manner in which this Stipulation has been reached is also an offense to the public’s interests and legal rights. The Supreme Court of this state has repeatedly ruled that government

must act fairly and openly when dealing with the public. In University Cottage Club of Princeton New Jersey Corp. v. New Jersey Department of Environmental Protection, 191 N.J. 38, 57 (N.J. 2007), the Court stated:

The due process standards incorporated in the New Jersey Administrative Procedure Act provide a minimum standard for agency conduct, but do not preclude an agency from acting fairly and candidly in respect of those whose interests may be affected by agency action. In other contexts we have noted that “government has an overriding obligation to deal forthrightly and fairly with property owners,” F.M.C. Stores Co. v. Borough of Morris Plains, 100 N.J. 418, 426, 495 A.2d. 1313 (1985), and have insisted that “government must ‘turn square corners’ rather than exploit litigational or bargaining advantages... “W.V. Pangborne & Co. v. New Jersey Dep’t of Transp., 116 N.J. 543, 561, 562 A.2d. 222 (1989) (quoting F.M.C. Stores Co., supra, 100 N.J. at 426, 495 A.2d. 1313).

Here, the corners turned by Board Staff were not “square.” A settlement meeting was not held by Board Staff as is customary in contested and litigated matters to discuss and address the concerns of all of the parties.¹ Rate Counsel and other interested parties were presented with a *fait accompli* when they were provided with an electronic copy of the Stipulation after the close of business on Wednesday May 6, 2015. Adding insult to injury, Rate Counsel and interested parties were only afforded seven business days to respond and provide comments. Due process and fairness demand that interested parties and ratepayers receive more than “lip service” and an opportunity to provide comments at the eleventh hour. Administrative review of comments submitted for consideration must be meaningful. Clearly public participation in the process employed herein by Board Staff appears to have been a hollow afterthought.

¹/ Rate Counsel was recently approached by Verizon with a proposed settlement that closely resembles the provisions of the Stipulation. Rate Counsel responded by indicating that it was willing to discuss some aspects of the proposal but that it disagreed with other aspects. The next thing that happened was service of the signed Stipulation at issue here.

Not only is the procedure followed here unacceptable, the settlement itself is unsupported by the record and contrary to law and public policy. The relief contemplated is unsupported by any current reliable data and raises critical issues that will have serious consequences for New Jersey's plain old telephone service ("POTs") customers. The greatest damage will likely befall seniors, the disabled, families on fixed incomes, and low income residents, but any residential and small business customer who seeks to purchase local telephone service from Verizon at affordable rates will be affected. Moreover, the Board is also relinquishing its oversight of Verizon's service quality for previously reclassified services and after three to five years for the services being reclassified here. The record herein is devoid of any current data or evidence to address the existing state of competition for these services, and is insufficient to support a finding that competition for these services exists in New Jersey. More importantly, the 2011 record below never addressed service quality issues, therefore, a finding to support the Board's decision to relinquish its oversight of service quality is premature and unsupported by any data or evidence.

As this Stipulation violates both sound public policy and basic principles of due process, Rate Counsel respectfully requests that this Board reject the settlement and reopen the matter to permit interested parties to provide current data and evidence on the current state of competition in New Jersey. The Board should also convene public hearings to allow interested parties a meaningful opportunity to be heard.

STATEMENT OF THE FACTS AND PROCEDURAL HISTORY

This matter stems from a request made by Verizon to the Board in a letter dated November 14, 2007, requesting that the Board investigate the current state of competition for mass market retail services provided by ILECs in New Jersey, which led to a proceeding In the Matter of the Board's Investigation Regarding the Reclassification of Incumbent Local Exchange Carriers Services as Competitive BPU Docket No. TX07110873; and I/M/O the Application of United Telephone Company of New Jersey d/b/a/ Embarq for Approval of a Plan for Alternative Regulation, BPU Docket No. TO08060451 ("ILEC Reclass Phase I"). Following extensive discovery, testimony and hearings on May 30, 2008, Verizon, Board Staff and Rate Counsel jointly submitted a Stipulation of Settlement to the Board for approval which reclassified ILEC services with the exception of (1) Residential basic exchange service; (2) Single line business basic exchange service; (3) Non-recurring; charges for residence service connection and installation; and (4) Residential Directory Assistance ("DA") services but allowed the ILEC to adjust rates on the four rate regulated services on an annual basis for three years. The settlement also called for a further proceeding after three years to re-evaluate the competitiveness of the four rate-regulated retail services and other services if Rate Counsel sought reclassification on the ground that they were no longer competitive. A similar Stipulation of Settlement was submitted on June 27, 2008 regarding CenturyLink .Both Stipulations were approved by the Board on August 20, 2008. In October 2011, pursuant to the Stipulations and the Board's August 20, 2008 Order, the Board initiated proceedings In the Matter of the Board's Investigations Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive – Phase II, Docket No. TX11090570, ("ILEC Reclass Phase II") to determine the competitiveness of the four rate-regulated retail services. ILEC Reclass Phase II

Order, October 13, 2011, at 1. Pursuant to N.J.S.A. 48:2-21.19(b) the Board stated its intent “to review the necessary criteria and determine if ILEC services satisfy the elements of ease of market entry, presence of other competitors, and availability of like or substitute services in the relevant geographic area.” The Board stated further, “[i]n order to provide a full record and to allow for an inclusive and transparent process, the Board proposes to conduct this hearing with the input of any and all interested parties.” ILEC Reclass Phase II Order October 13, 2011, at.2. Thereafter on November 30, 2011, the Board issued a Prehearing Order providing for a nine-month schedule allowing for four rounds of discovery, three rounds of testimony, three public hearings , and an evidentiary hearing followed by initial and reply briefs before final Board action. Those proceedings did in fact occur, with an evidentiary hearing held on July 17, 2012 and public hearings held on November 15 and 19, 2012.

After that, the matter remained dormant for two and one-half years. Then, on May 6, 2015, the Board released via electronic format after the close of business a Stipulation of Settlement negotiated by Board Staff and Verizon, reclassifying the remaining four rate-regulated services as competitive, allowing price capped rate increases under a five year schedule, and relinquishing the Board’s authority to review service quality issues immediately for customers subscribing to services previously rate regulated, and at year three or potentially year five for customers subscribing to basic local residential and single-line business service. The Board requested that Rate Counsel and other interested parties submit comments by May 15, 2015. See, May 6, 2015, cover letter issued by Board Secretary annexed to the Stipulation of Agreement. The matter has been listed on the Board’s Agenda for May 19, 2015.

POINT I

THE PROCEDURE EMPLOYED IN ARRIVING AT THE STIPULATION VIOLATES THE DUE PROCESS RIGHTS OF RATEPAYERS AND OTHER PARTIES AND CANNOT FORM THE BASIS OF THE BOARD'S DECISION

This matter was initiated in October 2011 and was fully litigated as a contested case. The parties exchanged discovery, filed testimony, and conducted evidentiary hearings before Commissioner Asselta and the record was closed. After which, the matter remained inactive, until at some point, BPU staff and Verizon apparently commenced settlement discussions. Rate Counsel and other parties were not at the table and were not included in those discussions. Release of the Stipulation was made on May 6, 2015, seeking comments by May 15. The Parties were not permitted to know who was at the negotiating table, or the specific data and evidence relied upon to ensure that the statutory criteria for reclassification under N.J.S.A. 48:2-21.19(b) have been met. In short, the parties who were not at the negotiating table have no basis to understand how settlement terms were arrived at or why they are justified, given the fact that the evidence and data is over three years old and is stale. This procedure is manifestly unfair to the public and violates ratepayers' due process rights.

The Stipulation goes well beyond the scope of the record in this case and the issues that were tried over two years ago. In the public notice issued in this case, the issue was described as the "possible reclassification of certain Verizon New Jersey services as competitive." The Notice went on to state that "[w]hen the Board determines retail services to be competitive, it no longer regulates, fixes or prescribes the rates of those services." See, Notice of Public Hearing attached hereto. The notice states further that "[s]hould the Board, at the close of the proceeding, determine that these are competitive services; the Board would no longer regulate the rates of

these services.” Id. The Notice did not discuss changes to service quality standards, or any changes outside of impacts on the regulation of rates. The evidence entered into the record by the parties related to the statutory criteria set forth in N.J.S.A. 48:2-21.19(b), but changes to service quality standards or any other factors outside of rate regulation were not addressed. Yet the Stipulation, in paragraph 20, only retains service quality regulation for customers subscribing to basic local exchange services. For them, service quality standards will only remain for three or possibly five years. This provision is outside the scope of this proceeding and the public was not given fair notice that it would be addressed herein.

The Stipulation is also procedurally deficient and should not be approved because it fails to provide the public with notice of whether, or how, the criteria for reclassifying telecommunications services under N.J.S.A. 48:2-21.19(b) were met. Those findings must be made in order for the Board to find Verizon’s services competitive. Yet the Stipulation is silent as to how the evidence in the record would support such findings or why evidence to the contrary was rejected. The Stipulation merely states that the signatory parties “agree that certain exhibits moved into evidence during the evidentiary hearing and the transcript responses support this Stipulation.” It then cites essentially the entire record without indicating which portions the Signatory parties believe support the provisions of the Stipulation. This is not sufficient to satisfy due process. Due process requires that litigants be apprised of the reasons for the Board’s decision and a simple cite to the entire record is insufficient.

The procedural irregularities in this case require that the Board reject this stipulation and conduct further proceedings to refresh the record and allow the public fair notice and opportunity to be heard. The Board should not review this Stipulation until it has conducted additional public hearings providing the public with adequate notice and an opportunity to comment on the terms

of the Stipulation. Under N.J.S.A. 48:2-21.19(b), the Board must provide “notice and hearing” before it determines whether a telecommunications service is a competitive service. IMO the Application of Bell Atlantic-New Jersey for Approval of its Plan for Alternative Regulation, 342 N.J. Super. 439 (App. Div. 2001). While public hearings were held in this matter in November 2012, the passage of time and the specific notices issued are insufficient to provide the public with meaningful notice and opportunity to be heard regarding the provisions of this Stipulation.

² While the Notice of those hearings mentioned the potential that Verizon’s rates would be deregulated, it made no mention of potential rate increases, no discussion of service quality, and no mention of the impact the Board’s action in this case would have on other provisions of Verizon’s PAR. Those stale and incomplete notices cannot be deemed sufficient to provide the public with notice of the terms of this Stipulation. Before ending a century of consumer protection in this area, and before abandoning consumers who continue to rely on these services, the Board should at least hold a public hearing to provide an appropriate opportunity for the public to be heard.

The Board should also refresh the record before determining whether to approve the stipulation. The evidentiary hearing was held in this case nearly three years ago. It is self-evident that any reliance on dated evidence and data would be manifestly unfair to the public interest which must always be the paramount consideration when the Board makes a decision that will impact on ratepayers. Rate Counsel submits that the Stipulation in this matter based on stale three year old data and evidence is inappropriate and contrary to the requirements of N.J.S.A. 48:2-21.19(b).

²/ While additional public hearings were not held when the Board approved the settlement with Century Link in this case, that settlement did not deregulate basic services, did not end Century Link’s PAR, even though it did include modest rate increases. However, that settlement occurred approximately two and a half months after the public hearings, not two and a half years.

The telecommunications market in New Jersey has changed dramatically in the last few years, many providers have either merged or simply left the state and no longer provide the services that have been reclassified under this Stipulation. The Board is under a statutory obligation to determine the true state of competition before reclassifying any telecommunications services as effectively competitive. The staleness of the evidence cited in support of the Stipulation of Settlement, which is more than three years old makes it insufficient to provide a legitimate basis to reclassify the four rate-regulated retail services addressed in the Stipulation as competitive.

POINT II

THE STIPULATION DOES NOT SATISFY THE CRITERIA SET FORTH IN N.J.S.A. 48:2-21.19(b) AND IS CONTRARY TO THE PUBLIC INTEREST

Before reclassifying telecommunications services, the Board is statutorily required “to address at a minimum the three prongs of the test prescribed under N.J.S.A. 48:2-21.19(b). Also the Board must determine whether the ILEC services at issue in this matter are sufficiently competitive to permit reclassification, which would remove the Board’s ability to regulate the rates for the relevant services, N.J.S.A. 48:2-21.19(a), while ensuring that the public interest will be served.” ILEC Reclass Phase II Order Adopting Stipulation and Agreement between CenturyLink and Rate Counsel, BPU Docket TX11090570, March 20, 2013, at p. 3. This matter is governed by that statutory requirement, and thus the Board must clearly address at a minimum the three prongs of the statutory test before reclassifying services as competitive. The Stipulation is vague and open ended as to what evidence supports a determination that sufficient competition exists as to the remaining four rate-regulated retail services to justify reclassification of Verizon’s services as competitive. It is also vague and open-ended with

respect to other services that will be impacted by this Stipulation and reaches well beyond the rate relief that was the subject of this case. The Stipulation is contrary to the public interest, the governing statute and the record. It should be rejected.

A. The Stipulation Is Not Consistent With the Language or the Intent of N.J.S.A. 48:2-21.19

The Stipulation entered into by Board Staff and Verizon is contrary to both the language and intent underlying N.J.S.A. 48:2-21.19(b), which was enacted to protect ratepayers. Both the statute and intent are clear and unambiguous. The Legislature declared the State policy to (1) maintain universal telecommunications service at affordable rates; and (2) ensure that customers pay only reasonable charges for local exchange telecommunications services...” and only relieve interexchange telecommunications carriers from traditional utility regulation, when “whether measured by the number of interexchange companies operating in New Jersey, the variety and number of services and/or competitive alternatives, or barriers to entry,” demonstrate that competition for service exists. N.J.S.A. 48:2-21.16.

N.J.S.A. 48:2-21(b) and (c) prohibit the Board from fixing or increasing rates and/or reclassifying existing services absent a plenary hearing and a determination that the rates are just and reasonable; and under N.J.S.A. 48:2-21.19(b) requires that reclassification of a service as competitive be grounded in a finding that at a “minimum shall include evidence of ease of market entry; presence of competitors; and the availability of like or substitute services relevant to the geographic area.”

Verizon has not demonstrated that its application satisfies the statutory criteria. At the very least, the evidence proffered by Rate Counsel at the evidentiary hearings raises material issues of fact regarding each of the three factors that must be considered. Those issues of fact

must be resolved before the Board can make any finding that sufficient competition exists to justify deregulating these services.

Verizon's request for relief was based upon its claim that competition is leading to losses for these services. However, Rate Counsel was able to demonstrate that the alleged competition does not exist and that in fact these services generate positive revenue.³ Rate Counsel was also able to demonstrate that in New Jersey, during 2006 and 2007, after the Board reclassified multiline business services and business Directory Assistance as competitive, Verizon NJ and various competitive local exchange carriers ("CLECs") implemented rate increases and new charges; for example, business rates increased by a range of 31-68%.⁴ In January 2008, Verizon increased those rates further by an additional 9% and increased local per minute message rates by 21%, a rate 8 cents higher than rates charged for long distance.⁵ Rate Counsel submitted as part of its post-hearing brief a Statement of Facts and Conclusions of Law, which is incorporated by reference herein. These proposed findings contain specific cites to the record supporting Rate Counsel's position that Verizon failed to meet its burden of proof, and failed to satisfy the three prongs under N.J.S.A. 48:2-21.19(b) to warrant reclassification of the four rate-regulated retail services that would now be deemed competitive.⁶ More importantly, the proceedings did not include a review of service quality,⁷ so there is no data in the record whatsoever to support the Board relinquishing its authority to continue to monitor and regulate service quality.

³/ Rate Counsel Initial Brief, Reclass Phase II – BPU Docket TX 11090570, dated October 2, 2012, at pp. 39-49.

⁴/ Rate Counsel Initial Brief, Reclass Phase II – BPU Docket TX 11090570, dated October 2, 2012, at p. 3.

⁵/ Id.

⁶/ Rate Counsel will be referencing throughout comments herein specific sections to Attachment G of Rate Counsel's Initial Brief, dated October 2, 2012, titled: Findings of Fact and Conclusions of Law. Rate Counsel has not attached this document because the attachment contains proprietary data. However, all of the parties to this proceeding received both public and redacted versions when Rate Counsel's Initial Brief was filed in October 2012.

⁷/ I/M/O Reclass Phase II – BPU Docket TX11090570, Prehearing Order, dated 11/30/2011 under point 1. Nature of Proceedings and Issues to Be Resolved, at p. 3. See also copy of Board of Public Utilities Public Notice of Hearing alerting the public that three public hearings would be conducted in this matter, providing the dates, time

Ensuring that there is adequate evidence to support a finding of competitiveness is not simply an academic exercise, it has significant and concrete impacts on Verizon's customers. To provide some perspective, Rate Counsel notes that New York deregulated Verizon in 2006, by January 2008, Verizon's rates for caller ID had increased by 300%, and business line rates had increased by 10%. In Ohio, rates for Verizon's call forwarding feature rose by 300% in a period of two years, and Verizon followed this same approach in California once deregulated.⁸

Thus, the history in New Jersey and the experience in other states tell us that as a company deregulates, rates go up, not down. A recent report released on April 30, 2012 found that in 17 of 20 states that had deregulated telephone service, consumers saw rate increases.⁹ In a truly competitive market this would not occur. These actions provide compelling evidence that competition does not exist and that Verizon NJ would likely impose similar increases on residential customers if the Board approves the Stipulation.¹⁰

Although the Stipulation does not specify the basis for Board Staff's agreement to the terms of the Stipulation, Rate Counsel has serious concerns that Board Staff may have accepted Verizon's unsubstantiated argument that wireless and cable are substitutes for wireline service.¹¹ Rate Counsel's data and evidence submitted in 2011 demonstrated that wireless and cable are not true substitutes for plain old telephone service ("POTs") and are not reliable.¹² The FCC has

and location of each public hearing and providing notice of the issues to be covered within the proceeding. Service Quality was not one of the issues listed by the Board in its Notice.

⁸/ Rate Counsel Rebuttal Testimony of Susan M. Baldwin and Sarah M. Bosley at p.3. See also: *Since deregulation, landline costs skyrocket*, reporting that the monthly cost of measured AT&T phone service has soared more than 260% since 2008. <http://articles.latimes.com/2013/dec/05/business/la-fi-lazarus-20131206>

⁹/ Rate Counsel Rebuttal Testimony of Susan M. Baldwin and Sarah M. Bosley at page 45, fn 84.

¹⁰/ Rate Counsel's Initial Brief dated October 2, 2012, Attachment G, at paragraphs 25, 26, 27, 28, 29, 30, 44, 46 and 47.

¹¹/ Id., at paragraphs 19, 20, 21, 22, 23, 24, 51, 52, 53, 54, 55, 56, 57, 58 and 59.

¹²/Id., at paragraphs 28, 29, 30, 31, 32, 33,34, 35 and 36.

acknowledged that some wireless service disruptions may be unavoidable during emergencies noting that Superstorm Sandy disabled approximately 25 percent of cell sites in the affected region, with more than 50 percent of cell sites disabled in the hardest-hit counties.¹³

The FCC further states:

There is no guarantee that your phone will work in an area, even if it is included on a wireless service providers' published coverage map. Just because a wireless service provider generally advertises service to an area, there may be several reasons why the service is not reliably available in all locations. Although wireless service providers attempt to design their networks to eliminate dropped calls, busy signals and dead zones, no network is perfect, so coverage breaks within the general coverage areas are still possible. Specific and/or updated information may not be available on maps provided by the wireless service provider, because coverage is frequently changing."¹⁴

In addressing 911 issues, the FCC similarly warned consumers: "While wireless phones can be an important public safety tool, they also create unique challenges for emergency response personnel and wireless service providers. Since wireless phones are mobile, they are not associated with one fixed location or address. While the location of the cell site closest to the 911 caller may provide a general indication of the caller's location, that information is not always specific enough for rescue personnel to deliver assistance to the caller quickly."¹⁵ Wireless technology may also be incompatible with certain medical and safety apparatuses, such as Life Alert necklaces and equipment used to upload data from pacemakers. These issues are currently being reviewed by the FCC.¹⁶

¹³/FCC Proposes Action To Spur Improvements in Wireless Network Reliability During Disasters, News Release dated September 26, 2013 connected to a Notice of Proposed Rulemaking, (FCC 13-125), PS Docket No. 13-239.

¹⁴/ <https://www.fcc.gov/guides/understanding-wireless-telephone-coverage-areas>. FCC website, updated: October 17, 2014.

¹⁵/ <https://www.fcc.gov/guides/wireless-911-services>. FCC website, updated: December 5, 2014.

¹⁶/ Verizon, AT&T leaving landline phone networks to rot, complaint say, FCC urged to investigate complaints that customers were forced off landlines. By Jon Brodtkin, May 13, 2014: <http://arstechnica.com/tech-policy/2014/05/verizon-att-forcing-customers-off-landline-phones-complaint-says/>; See also: *I/M/O Technology*

Wireless and cable telephony options are simply not as reliable or as safe as landlines, nor do they offer a price constraint on wireline service. On the issue of pricing, wireless and cable telephone services are higher priced. Often in order to realize a savings, wireless and cable telephone service has to be purchased as part of a bundled offering which means customers will have to pay for extra services, bells and whistles that certain consumers may not be able to afford or simply do not want.

Moreover, because wireless and cable do not constrain wireline prices, once reclassified as competitive and deregulated, Verizon will effectively have a monopoly when it comes to landline service and that will cost customers more. Rate Counsel's evidence in 2011 demonstrated that there are insufficient competitors in New Jersey offering the same type of service for residential and small one-line businesses to provide price restraint on Verizon from increasing the price of its basic local service.¹⁷ These material issues of fact remain open and are contested by Rate Counsel. The Stipulation under review does not indicate how these issues have been resolved or why the Board Staff believes the statutory criteria have been satisfied. A mere recitation that the Stipulation is supported by the entire record is not enough. Without findings and a basis in the record, the Stipulation should not be approved. At the very least, the Board should reopen the record and provide the parties with an opportunity to solicit discovery and provide current evidence on the three minimum prongs of the statute to assess the true state of competition in New Jersey before reclassification of the four retail services may occur.

Transitions, Verizon NY Short-Term Network Change (Belle Harbor, NY) Report No. 2351, 2353, Verizon Virginia Short-Term Network Change (Ocean View, Virginia) Report Nos. 2352, 2354, GN Docket 13-5, and AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket 12-353, Motion of NASUCA for Stay Pending Resolution of Other Proceedings, Interim Objections, Comments and Remarks on Verizon Network Change Notifications, May 20, 2014.

¹⁷/ Rate Counsel's Initial Brief dated October 2+, 2012, Attachment G, paragraphs 11, 12, 13, 15, 16, 17, and 60 through 74.

B. The Stipulation Improperly Removes BPU Oversight Over Service Quality

Paragraph 20 of the Stipulation provides:

The Signatory Parties agree that the service quality standards set forth by prior decisions of the Board will continue to apply to residential basic local exchange service and single line business basic exchange service for three years. At the close of year three, the Board will then determine whether these service quality standards should apply for the remaining two years.

While this provision may appear to be maintaining Verizon's service quality obligations and the Board's oversight of Verizon's service quality, it in fact represents a radical change in the Board's regulation of service quality. When approving Verizon's current PAR, PAR-2, in 2003, the Board reclassified various services, including multi-line business service, Call-Forwarding, Call Waiting, and Caller ID. While the rates for those services were deregulated, the Board did not relinquish control or oversight of service quality. Indeed, the PAR-2 includes comprehensive retail service quality standards and procedures for Board monitoring and review.¹⁸ These standards are based on "Carrier to Carrier Guidelines" and apply to all services, not just rate regulated services. (PAR-2 Order at 61, and attachment B). The PAR-2 even includes provisions that set forth the actions that will be taken if Verizon fails to comply with its service quality benchmarks. (PAR-2 Order, Attachment A, attached hereto)..

The Board has had occasion to enforce these service quality standards against Verizon. As recently as 2012, the Board opened up an investigation regarding service quality problems in Cumberland County. IMO the Board's Review of Verizon New Jersey, Inc's Service Quality Issues, Docket No. TO12020156, March 12, 2012. That Order at page 2, states:

The PAR-2 is a comprehensive plan which, among other things, contains a set of 21 performance standards agreed to by the company, which set forth the minimum service

¹⁸/ I/M/O the Application of Verizon New Jersey for Approval (i) of a New Plan for an Alternative Form of Regulation and (ii) to Reclassify Multi-line Rate Regulated Business Services as Competitive, BPU Docket No. TO01020095, Decision and Order, August 17, 2003, ("PAR-2 Order") at 59-82 and Attachment B. Attachment B is attached hereto.

quality standards that the company must meet. Compliance with the service quality standards is an integral part of the success of the alternative regulation plan. The standards measure, among other things, out of service repair data, repair commitments negotiated with customers, installation intervals and customer contact information.

The PAR-2 includes these reporting requirements designed to provide indicia of compliance with the PAR-2. These data, along with input from actual users of Verizon's services, are reviewed by Board Staff. Based up[sic] information provided by the company through its quarterly reports, coupled with the number of complaints received by the Board there is a concern that service quality problems exist in VNJ's service territory.

Statewide, the Board's Division of Customer Assistance data show that the number of Verizon service complaints received in 2010 was 19% higher than the number of Verizon service complaints it received in 2002, despite the fact that the number of monthly accounts reported by Verizon declined in those 9 years. In 2011, Verizon service declined even further. When compared to 2002, service complaints increased 28% while the number of accounts reported by Verizon further declined. The growing number of service complaints has reached levels that require the Board, *sua sponte*, to initiate an investigation into the magnitude and causes of the service related issues which are impacting consumers in New Jersey.

Specifically, this past month the Board was advised of significant service related issues prevalent in Verizon's service territory in Cumberland County. Board Staff has been made aware of serious issues concerning the provision of safe, adequate and proper landline service in at least two communities....

Therefore, the number of complaints and the severity and frequency of service outages and the duration of the service related issues, lead the Board to conclude that there needs to be a review to determine if the complaints reflect systemic problems, and if so, what measures, should be taken by the Company to rectify the situation.

The Board has also been asked to look into Verizon's plan to discontinue service to certain coastal towns after Hurricane Sandy and replace landline service in those areas with a wireless device that does not provide comparable service and cannot be used with certain medical devices and alarm systems.¹⁹ (AARP petition). These cases demonstrate that the Board's continued oversight of service quality is clearly needed.

¹⁹/ Request for Investigation: Verizon New Jersey's Plan to Discontinue Current Wireline Service Offerings, filed by AARP, July 29, 2013. Attached hereto.

Paragraph twenty of this Stipulation, however, contains a significant change in BPU's regulation of Verizon service quality. If the Stipulation is approved, the Board will no longer regulate service quality for customers other than those who subscribe to basic local exchange service. For those customers, service quality standards will certainly be ended after five years and perhaps sooner. This will have a substantial impact on customers. Many customers rely on landlines in connection with pacemakers and other medical equipment as well as alarm systems. If the quality of service on their lines is permitted to deteriorate, they will lose that important lifeline. This change in the Board's oversight of service quality is thus contrary to the public interest and should be rejected.

This provision is also unsupported by the record. The Board's regulation of service quality was not an issue in this case.²⁰ It was not addressed in the evidence submitted by the parties, and was not included in the notice to the public of the issues that would be addressed. That notice simply stated that

- “When the Board determines retail services to be competitive, it no longer regulates, fixes or prescribes the rates of those services.”
- “Should the Board, at the close of the proceeding, determine that these are competitive services; the Board would no longer regulate the rates of these services.”²¹

No mention was made in the public notice that the Board's regulation of service quality would be addressed in this proceeding and no evidence was proffered to support a resolution of this proceeding that would alter the Board's regulation of service quality. The Stipulation should

²⁰/ I/M/O Reclass Phase II – BPU Docket TX11090570, Prehearing Order, dated 11/30/2011 under point 1. Nature of Proceedings and Issues to Be Resolved, at p. 3. See also, copy of Board of Public Utilities Public Notice of Hearing alerting the public that three public hearings would be conducted in this matter, providing the dates, time and location of each public hearing and providing notice of the issues to be covered within the proceeding. Service Quality was not a part of the issues listed by the Board in its Notice and it was a part of the proceeding.

²¹/ The Notice is attached hereto.

therefore be rejected as its provisions are not supported by the record and were not fairly noticed to the public.

For the Board to abandon consumers and leave them at the mercy of Verizon with respect to service quality is an abrogation of its duty under the law to ensure safe adequate and proper service – even from a telephone utility. See, N.J.A.C. 14:10-5.6 (c) (5) (providing that the Board shall monitor the competitiveness of reclassified services, including whether the carrier is providing safe, adequate or proper service.) This Stipulation, as it relates to the regulation of service quality is clearly not in the public interest and therefore it should not be approved. If the Board determines to approve the Stipulation despite these issues, it should at the very least modify the Stipulation to make clear that the service quality standards set forth in PAR-2 remain in effect for all customers.

C. The Rate Increases Set Forth in the Stipulation Are Not Just and Reasonable and are Not Supported by the Record.

The terms of the Stipulation allow for phased rate increases across a five year period resulting in a 36% increase. However the rate increases are not substantiated by the record. Although during the prehearing stage of this matter Rate Counsel argued that costs should be part of this proceeding, “Verizon and CenturyLink (“ILECs”) insisted that cost was not an issue and the cost issue was carved out of the proceeding by Board Staff. Therefore, the ILECs were not required to provide cost data, cost models or cost survey that would generally accompany a proceeding seeking adjustment of rates.²²

The Board is under a duty to make findings of fact, based on the record created at the evidentiary hearings to support its decision. The Board may not simply rely on the Stipulation or on Staff’s recommendations contained therein, nor may the Board rely on representations made

^{22/} Reclass Phase II , BPU Docket No. TX11090570, Transcript of Hearing Before Commissioner Asselta, July 17, 2012, at p. 179, lns. 1-5.

by the Company that objecting parties have not had the opportunity to challenge. I/M/O the Revision of Rates Filed by Redi-Flo Corp., 76 N.J. 21, 24 (1978). The Legislature has expressly reserved to agency heads, in this case the Board itself, the power to decide contested cases. N.J.S.A. 52:14F-7; In re Appeal of Certain Sections of Uniform Administrative Procedure Rules, 90 N.J. 85, 94 (N.J. 1982). The Board must therefore make findings of fact, based on the record created at evidentiary hearings to support its decision. The record below is devoid of any cost analysis or data upon which to justify or confirm that the rate increases contemplated under the Stipulation are reasonable.

The Board's responsibility for regulating the State's public utilities is an important one. As New Jersey Supreme Court stated, "the system of rate regulation and the fixing of rates thereunder are related to constitutional principles which no legislative or judicial body may overlook." In re Industrial Sand Rates, 66 N.J. 12, 23 (1974). The Board is responsible for protecting the property rights of both utilities and their customers:

... if the rate for the service supplied be unreasonably low it is confiscatory of the utility's right of property, and if unjustly and unreasonably high ... it cannot be permitted to inflict extortionate and arbitrary charges upon the public. Id. at 24.

In this regard, the New Jersey Supreme Court has recognized that the rights subject to the Board's protection "inher[e] in the public which pays as well as the entity that receives." Id. Likewise, the Court has noted, "N.J.S.A. 48:2-13 charges the Board with the task of overseeing the operations of all public utilities in accordance with the purposes of the Public Utilities Act, and foremost among these responsibilities is its duty to ensure that rates are not excessive." In re Redi-Flo Corp., 76 N.J. at 39.

The record below is devoid of any cost surveys, cost models or empirical evidence to demonstrate that the increases are warranted or required. As such, the increases in residential

rates agreed to by Board Staff under the Stipulation should not be approved without justification in the record.

D. The Terms of the Stipulation are Vague and Ambiguous as to Other Obligations Required by Verizon's PAR and Therefore the Stipulation Must be Rejected or Modified.

The Stipulation makes clear that Verizon's four remaining regulated services, *i.e.*, residential basic exchange service, single line basic exchange service, residential connection and installation, and directory assistance, are "reclassified as competitive services at this time under N.J.S.A. 48:2-21.19(b)." As a result, "the board shall not regulate, fix, or prescribe the rates, tolls charges, rate structures, terms and conditions of service, rate base, rate or return, and cost of service of competitive services." N.J.S.A. 48:2-21.19(a). The statute also provides that once services are declared competitive, the carrier cannot be required to file tariffs or post its rates, although it must post the "terms and conditions" of these services on its website (or in hard copy on request). Id.

The Stipulation is silent, however, on many other issues that are implicated by the finding that these last four services are competitive. As noted above, Verizon is currently regulated under a Plan for Alternative Regulation that was approved in an August 19, 2003 Order of the Board. PAR-2 Order That Order approved the PAR-2 which stated that it "replaces Verizon New Jersey's ...existing plan and governs those services that remain Rate Regulated under the Telecommunications Act of 1992, N.J.S.A. 48:2-21.16 et seq." PAR-2 Order, Attachment A (attached hereto). With the reclassification of those remaining services as "competitive," and the statutory prohibition against the Board regulating the rates, terms and conditions of service of competitive services, this Stipulation would, by a strict reading of the statute, bring the terms of

PAR-2 to an end. With the expiration of the PAR, the following provisions may also expire:

Opportunity New Jersey

PAR-2 confirmed Verizon's obligation to comply with its commitment to provide universal broadband access under PAR-1. Although that commitment was modified in a recent Order currently on appeal, I/M/O Verizon New Jersey Inc.'s Alleged Failure to Comply with Opportunity New Jersey Commitments, BPU Docket No.TO12020155, April 23, 1014, at. 2-5,²³ the Board did not eliminate the ONJ obligation in its entirety. Since the PAR is the legal document that requires compliance with ONJ, if the PAR no longer exists, that legal requirement may be eliminated.

ONJ is an important program aimed at ensuring that all New Jerseyans have access to 21st century technology. It was an essential part of the Agreement in establishing the initial PAR and is essential to ensure that all residents of New Jersey have access to broadband. The Board should reject the Stipulation because it does not adequately ensure compliance by Verizon with its ONJ obligations and therefore it is not in the public interest. If the Board does approve the Stipulation, any order issued by the BPU in this matter should make clear the Verizon retains the obligation to comply fully with the ONJ requirements.

Reporting requirements

Even after the Board reclassifies telecommunications services as competitive; it retains the obligation to monitor the competitiveness of these services. N.J.S.A. 48:2-21.19, N.J.A.C. 14:10-5.6. In fact, N.J.S.A. 48:2-21.19(c) specifically authorizes the Board to require continued reporting as "necessary to monitor the competitiveness of any telecommunications service."

²³/ Appealed by the Division of Rate Counsel on May 27, 2014, Appellate Docket No.: A-004352-13T3, awaiting oral argument.

Here, however, no provision is made for continued reporting except for an annual report of the number of residential and single line business local exchange customers in service. (Stipulation para. 21). The reporting requirements in the PAR-2 would appear to be removed by this Stipulation. Those provisions require Verizon to submit information on service quality, infrastructure deployment, and reporting that would allow the Board to continue to monitor competitiveness. PAR-2 Order, Attachment A (attached hereto). See also, N.J.A.C. 14:10-5.6. The lack of any reporting by Verizon will prevent the Board from fulfilling its duty to continue to monitor the competitiveness of these services. Thus, the Stipulation is inconsistent with applicable statutes and regulations and should be rejected. If the Board decides to approve this Stipulation notwithstanding the concerns expressed herein, it should require that the reporting requirements of PAR-2 be continued in full by Verizon.

Obligations as Carrier of Last Resort (COLR) and Access Rates

Questions also remain regarding the effect reclassification will have on Verizon's carrier of last resort ("COLR") obligations pursuant to N.J.S.A.48:2-23, and access rates. Reclassification of basic local exchange service should not have any effect on intrastate access rates that Verizon charges the Competitive Local Exchange Carriers ("CLECs") that compete with Verizon.²⁴

Moreover, Verizon's obligation to serve under N.J.S.A.48:2-23 supersedes the provisions of this Stipulation. Carriers also may not discontinue service without seeking and obtaining federal approval to do so. Rate Counsel notes, that although 47 U.S.C. section 214(e) does not use the term carrier of last resort obligation, the fact that carriers must obtain federal approval to

²⁴/ In the Matter of the Board's Investigation and Review of Local Exchange Carrier Intrastate Exchange Access Rates, Docket No. TX08090830.

discontinue service implies that carriers have an ongoing obligation to provide service until they receive federal (and typically state) authority to discontinue such service.

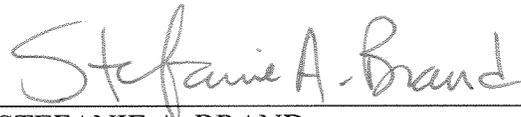
At the very least the Board should unambiguously re-affirm its commitment to universal service by reiterating Verizon's continuing carrier of last resort ("COLR") obligations in this matter.

CONCLUSION

For the reasons set forth in these comments, Rate Counsel urges the Board to reject the Stipulation. Rate Counsel also urges the Board to direct that the record be reopened to afford Rate Counsel and other parties an opportunity to update the record with current data and evidence on the state of competition regarding the four rate-regulated retail services sought to be reclassified as competitive. Rate Counsel asks that the Board reject any effort to remove Board oversight over service quality, and retain Verizon's obligations regarding Opportunity New Jersey, reporting requirements, and its obligations to pay access rates and serve as Carrier of Last Resort. Rate Counsel also asks that before any further decisions are made the public be given an opportunity to be heard at properly noticed hearings.

RESPECTFULLY SUBMITTED,

STATE OF NEW JERSEY
DIVISION OF RATE COUNSEL



STEFANIE A. BRAND,
DIRECTOR
MARIA T. NOVAS-RUIZ,
ASSIST. DEPUTY RATE COUNSEL

w/enc.
cc: Service List

PAR-2 ORDER - ATTACHMENT A

I/M/O the Application of Verizon New Jersey for Approval (i) of a New Plan for an Alternative Form of Regulation and (ii) to Reclassify Multi-line Rate Regulated Business Services as Competitive, BPU Docket No. TO01020095, Decision and Order, August 17, 2003, (“PAR-2 Order”)

PLAN FOR ALTERNATIVE FORM OF REGULATION-2

FOR VERIZON NEW JERSEY INC.

INTRODUCTION

This Plan for an Alternative Form of Regulation-2 ("PAR-2") replaces Verizon New Jersey's ("Verizon NJ's") existing plan and governs those services that remain Rate Regulated¹⁸⁷ under the Telecommunications Act of 1992, N.J.S.A. 48:2-21.16 et seq.

I. TERM AND EFFECT

- A. The PAR-2 will commence on the date the Board approves it. At any time thereafter, Verizon NJ may file for approval of a new plan, or petition the Board to modify any of the provisions of PAR-2 to reflect changed conditions.
- B. The provisions of the PAR-2 supersede all provisions of the Plan for an Alternative Form of Regulation contained in the Board's initial Decision and Order, Docket No. TO92030358, dated May 6, 1993.

II. COMMITMENTS TO INFRASTRUCTURE DEPLOYMENT AND LIFELINE SERVICE

- A. **Infrastructure Deployment** - Verizon NJ will achieve the Opportunity New Jersey ("ONJ") service capability targets and fulfill the requirements of the Access New Jersey ("ANJ") program with the following enhancements to expand and extend the program:
 - 1. The existing commitment to ANJ will be expanded by an additional \$20 million as follows: (a) \$14 million will be added to the CPE fund, and the list of eligible equipment will be expanded to include CODECs for ATM Service; and (b) \$6 million will be added to support the video portal for the development of interactive video content, equipment upgrades for video over Internet Protocol, maintenance and staffing.
 - 2. Discounted ANJ rates will be extended until the end of 2004. Contracts signed in 2004 will continue those ANJ rates for a minimum of three additional years, i.e., through 2007.
- B. **Lifeline Service** - The Lifeline Program will be expanded for low-income citizens and senior citizens and include:
 - 1. Self-certification where the customer of record receives Lifeline service upon verbal notification of eligibility. The customer has 60 days to provide written certification that

¹⁸⁷ For purposes of the Plan, Rate Regulated services (described as "noncompetitive services" in the statute) shall mean all Verizon NJ services other than those (1) designated by the Board as Competitive or (2) not regulated by the Board. Under the Act, but prior to the Plan, Rate Regulated services included all tariffed services designated as Group II under the Rate Stability Plan implemented by the Board in Docket No. TO87050398. Jurisdiction over wholesale services is governed by the Federal Act subject to FCC and state commission oversight.

they are participating in one of the eligible programs or for low-income seniors 65 and over and documentation (e.g., a copy of most recent federal or state income tax return) showing that they meet low-income requirements. If the information is not provided in 60 days, the Lifeline discount will be removed and will not be restored until Verizon receives the verification information. Verizon reserves the right to verify all information provided.

2. Low-income senior customers (65 and over) at or below 150% of Poverty Level¹⁸⁸.
3. An expanded list of eligible programs to include participation in either Supplemental Security Income (SSI) or Medicaid programs.
4. An outreach program that includes direct mail or bill inserts, outreach information presentations, newspaper ads, radio ads, press releases and posting on Verizon's web site.
5. The Link-Up America program will include the same expanded eligibility requirements and self-certification procedure that applies to Lifeline.

Overall, the Lifeline Program provides \$94.20¹⁸⁹ of annual savings per low-income participant.

III. STREAMLINED PROCESS TO INTRODUCE NEW SERVICES AND CHANGE PRICES OF EXISTING SERVICES.

A. **Introduce New Services** - A streamlined process to introduce new services will enable customers to benefit immediately from the capabilities of an advanced telecommunications infrastructure and competition.

1. All new service offerings shall become effective five business days after filing with the Board, without the requirement for prior Board approval. Board approval is required to classify a new service offering as Competitive.
2. The filing shall include a brief description of the service and a copy of the tariff pages with all terms and conditions.
3. For new services proposed as Competitive offerings, the filing for a new Competitive service offering will include sufficient information to show compliance with N.J.S.A 48:2-21.19(b).
4. The Board shall retain its authority to investigate and suspend, if necessary, all aspects of the service if the filing violates a Board rule or is otherwise not in compliance with law.

B. **Revenue Neutral Rate Restructures** – Throughout the term of PAR-2, Verizon NJ may propose revenue neutral rate restructures for its Rate Regulated services. The Board must issue a decision on any proposal within 90 days of the filing, otherwise the proposal shall be deemed approved. Revenue neutrality in such filings will not be limited to within service categories, and will be supported by currently available and prospective data and include:

¹⁸⁸ As published in the Federal Register for the 48 contiguous states. For 2000, 100% of the Poverty Level was \$8,350 for a single person household.

¹⁸⁹ Comprised of monthly discounts of \$3.50 on the basic line and \$4.35 equal to the subscriber line charge multiplied by 12 months.

1. a description of the service(s) affected and an explanation as to why the restructure is proposed;
2. calculations demonstrating the revenue neutral effect of the proposed restructure; and
3. a description of the impact of the proposed restructure on all affected classes of customers, demonstrating that no other class is unduly advantaged over another.

IV. RECLASSIFICATION OF SERVICES AS COMPETITIVE

Verizon NJ may petition the Board to reclassify an existing Rate Regulated service as competitive, in which case it will support its petition with affidavits or other proofs evidencing the competitive nature of the service as required by the Telecommunications Act of 1992. Verizon NJ also will follow the safeguard and notice provisions set forth in Section V.

V. CONSUMER AND COMPETITIVE SAFEGUARDS

In order to provide assurances both to the Board and to Verizon NJ customers and competitors, Verizon NJ will observe a series of specific safeguards described in this Section. The safeguards shall apply to all Verizon NJ Competitive telecommunications services and those that Verizon NJ seeks to classify or reclassify as Competitive.

- A. **Imputation Of Rate Regulated Charges** - Verizon NJ agrees that the rates that it charges for a competitive service shall exceed the rates charged to others for any noncompetitive (*i.e.*, Rate Regulated) service used by Verizon NJ to provide the competitive service.
- B. **Tariffs for Competitive Services** - For services that the Board classifies as Competitive, Verizon NJ will file and maintain tariffs in conformance with the requirements of Docket No. TX92020201, unless the Board does not require tariffs for particular services. The rates for Competitive services may be either in the public filed tariffs or, if the Board determines that the rates are proprietary, on file with the Board. If rates for Competitive services are not in Verizon NJ's public tariffs, Verizon NJ will permit interested parties to review the unpublished rates under the terms of an appropriate protective agreement, such as those currently used in cases before the Board. Changes or additions to tariffs for Competitive services shall be made in accordance with the Competitive service rules adopted in Docket No. TX92020201, or in subsequent proceedings before the Board.
- C. **Unbundling** - For Competitive services (and in connection with any filing to make a service Competitive), Verizon NJ shall identify each Rate Regulated¹⁹⁰ service, if any, which is incorporated in its Competitive services and shall make all such noncompetitive services separately available to any customer under tariff terms and conditions, including price, identical to those used by Verizon NJ in providing its Competitive service.
- D. **Cost Allocation Data** - In order to demonstrate that Rate Regulated services will not subsidize Competitive services, Verizon NJ will provide annual reports to the Board's staff showing that, in the aggregate, the total revenues for Verizon NJ's Competitive services exceed the total direct costs of the services. In connection with any filing to make a service Competitive, Verizon NJ will file with the Board direct cost data. Proprietary information shall

¹⁹⁰ For purposes of Section V, Rate Regulated services shall mean all Verizon NJ services other than those (1) designated by the Board as Competitive or (2) not regulated by the Board.

be treated in accordance with the terms of an appropriate protective agreement, such as those currently used in cases before the Board.

E. Notice -

1. For new proposed Competitive telecommunications services, Verizon NJ will file notice with the Board no less than 14 days in advance of their introduction or as otherwise required by the Board as a result of its pending rulemaking in Docket No. TX92020201. Verizon NJ agrees that it will provide notice to interested parties of the new service at the time such a filing is made with the Board.
2. Verizon NJ agrees that, 30 days prior to proposing the reclassification of an existing Rate Regulated service as Competitive, it shall provide notice to interested parties that Verizon NJ intends to make such a filing with the Board.
3. Notice to the Board and interested parties shall include a brief description of the filing. A copy of the filing will be provided to interested parties upon request, except that proprietary information shall be treated in accordance with the terms of an appropriate protective agreement, such as those currently used in cases before the Board.

F. **Standards for Determining and Monitoring Competitiveness of Services** – The Plan incorporates the standards for determining and monitoring the competitiveness of services set forth in the Board's rulemaking proceeding in Docket No. TX92020201, subject to any additional regulations applicable to local exchange carrier Competitive telecommunications services.

In monitoring the competitiveness of services to determine whether a service previously found to be Competitive should be reclassified, the Board will consider whether:

1. the market concentration for an individual carrier results in a service no longer being sufficiently competitive;
2. significant barriers to market entry exist;
3. there is a lack of significant presence of competitors;
4. there is a lack of like or substitute services in the relevant geographic area;
5. a carrier is providing safe adequate and proper service.

As set forth in Section VI, Verizon NJ will provide the Board quarterly and annual reports for Competitive services.

VI. **REPORTING REQUIREMENTS.**

A. **Service Quality** - Until replaced by a new set of performance standards approved by the Board, Verizon NJ will continue to file the service quality reports it currently provides to demonstrate compliance with the service quality benchmarks established by the Board in Docket No. TO87050398.

Failure to comply with the applicable service quality benchmarks will result in the following:

- 1) for exception levels, a threshold violation shall require Verizon NJ to investigate the sub-standard performance, take appropriate corrective action and inform Board's Staff of the results;
 - 2) for surveillance level threshold violations, in addition to the exception level requirements, a formal report must be filed with the Board, which may take action as it deems appropriate. The Board reserves the right to terminate the Plan, after notice and hearing, in the event that a substantial degradation of service is found to exist.
- B. **Infrastructure Deployment** - Verizon NJ will file an annual report with the Board detailing its progress on ANJ and a biennial infrastructure deployment report detailing its progress on ONJ:
- C. **Monitoring of Competitive Services** - Verizon NJ will comply with the reporting requirements contained in N.J.A.C. 14:10-5.9.

PAR-2 ORDER - ATTACHMENT B

I/M/O the Application of Verizon New Jersey for Approval (i) of a New Plan for an Alternative Form of Regulation and (ii) to Reclassify Multi-line Rate Regulated Business Services as Competitive, BPU Docket No. TO01020095, Decision and Order, August 17, 2003, (“PAR-2 Order”)

Retail Service Quality Standards For Verizon NJ

Retail SQ Standards	
Note: Performance shortfall defined as a missed standard for three consecutive months	New Company Level Standards
(1) customer trouble report rate per 100 access lines	2.3
(2) percent out-of-service troubles cleared within 24 hours	76.5%
(3) percent commitments met as negotiated with customer to clear troubles	83.0%
(4) percent service order provisioning completed within 5 working days	90.0%
(5) percent service order provisioning appointments met	Exception 99% Surveillance 98%
(6) percent calls completed in the toll/access network	99.4%
(7) percent offices above dial tone speed objective (within 3 sec)	98.0%
(8) percent switching offices performing at or above call completion objective	98.0%
(9) percent directory assistance calls answered within 10 seconds	82.0%
(10) percent toll and local assistance calls answered within 10 seconds	92.0%
(11) percent customers reaching the business office within 20 seconds for both residence and business	83.0%
(12) percent customers reaching repair within 20 seconds for both residence and business	75.0%
(13) Installation interval for local service in days Res	2.1
(14) Installation interval for local service in days Bus	4.5
(15) % installation commitments met for local service Res	98.0%
(16) % installation commitments met for local service Bus	98.0%
(17) Repeat out of service trouble reports as a % of initial out of service reports Res	37.6%
(18) Repeat out of service trouble reports as a % of initial out of service reports Bus	26.9%
(19) Average local service repair intervals in hours Res	22.35
(20) Average local service repair intervals in hours Bus	16.07
(21) BPU complaints per 10,000 lines	5.5

NOTE: The geographical areas reported in measures 1-5 and 10 are: Eastern Shore; Hudson/Bergen; Raritan; Southern; and Suburban.

ORIGINAL PUBLIC NOTICE

**IN THE MATTER OF THE BOARD'S
INVESTIGATION REGARDING THE
RECLASSIFICATION OF
INCUMBENT LOCAL EXCHANGE
CARRIER (ILECO SERVICES AS
COMPETITIVE – PHASE II
PROCEEDING**

**BPU DOCKET NO.
TX11090570**

**PUBLIC NOTICE OF HEARING
IN THE MATTER OF THE BOARD'S INVESTIGATION
REGARDING THE RECLASSIFICATION OF
INCUMBENT LOCAL EXCHANGE CARRIER (ILEC)
SERVICES AS COMPETITIVE – PHASE II.**

Docket No. TX11090570

Please Take Notice that the New Jersey Board of Public Utilities (Board) will hold public hearings to gather information from the public concerning the possible reclassification of certain Verizon New Jersey, Inc. (Verizon) retail services as competitive. When the Board determines retail services to be competitive, it no longer regulates, fixes or prescribes the rates of those services. By Order dated October 13, 2011, the Board determined that it is appropriate at this time to conduct a full investigation of and hearing on the question of whether the following Verizon services are competitive services pursuant to N.J.S.A. 48:2-21.19(b): residential basic exchange service; single-line business basic exchange service; non-recurring charges for installation of residential services; and residential Directory Assistance (DA) services. Prior to determining whether a service is competitive, the Board must evaluate at a minimum: (1) *ease of market entry*; (2) *presence of competitors*; and (3) *the availability of like or substitute services in the relevant geographic area*.

On July 17, 2012, the Board held an evidentiary hearing in the matter. The Division of Rate Counsel, Verizon New Jersey, Inc., and CenturyLink, Inc. submitted testimony in the proceeding. The Board will review the testimony consistent with N.J.S.A. 48:2-21.19 and make a finding consistent with the record and applicable law. Should the Board, at the close of the proceeding, determine that these are competitive services; the Board would no longer regulate the rates of these services.

Please take notice that Public hearings have been scheduled as follows:

Thursday, November 15, 2012 at 6:00 p.m. at the Newark Public Library, 5 Washington Street, Newark, NJ 07102.

Monday, November 19, 2012 at 10:00 a.m. in the first floor hearing room at the Board's Offices at 44 South Clinton Avenue, Trenton, New Jersey 08625.

Any interested entity or member of the public who wishes to make a statement or comment with respect to this matter should attend the public hearing. In order to encourage full participation in this opportunity for public comment, please submit any requests for needed accommodations, including an interpreter, listening devices, or mobility assistance, forty-eight (48) hours prior to

the hearings, to the attention of Kristi Izzo, Secretary, Board of Public Utilities, 44 South Clinton Avenue, 9th Floor, PO Box 350, Trenton, NJ 08625-0350.

In addition, members of the public can send written comments to the Secretary of the Board Kristi Izzo at:

44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350.

These written comments must be received by November 21, 2012. Comments should be identified with the heading: "I/M/O The Board's Investigation Regarding The Reclassification Of Incumbent Local Exchange Carrier (ILEC) Services As Competitive -Phase II, Docket No. TX11090570." Interested parties can review a copy of the Board Order initiating this proceeding at the Board's Trenton offices or may view a copy on the Board's web site at www.nj.gov/bpu.

Further, this Notice may be inspected online at www.nj.gov/bpu.

HEARING TRANSCRIPT

**BEFORE THE STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

**IN THE MATTER OF THE BOARD'S
INVESTIGATION REGARDING THE
RECLASSIFICATION OF
INCUMBENT LOCAL EXCHANGE
CARRIER (ILECO SERVICES AS
COMPETITIVE – PHASE II
PROCEEDING**

**BPU DOCKET NO.
TX11090570**

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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

IN THE MATTER OF THE BOARD'S
INVESTIGATION REGARDING THE
RECLASSIFICATION OF INCUMBENT
LOCAL EXCHANGE CARRIER (ILEC)
SERVICES AS COMPETITIVE-
PHASE II

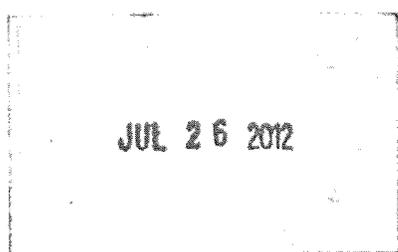
DOCKET NO. :
TX11090570

BEFORE: COMMISSIONER NICHOLAS ASSELTA,
 HEARING EXAMINER

 COMMISSIONER JEANNE M. FOX
 COMMISSIONER MARY-ANNA HOLDEN

 ALEX MOREAU, DEPUTY ATTORNEY GENERAL

 TRANSCRIPT of the stenographic notes of the
proceedings in the above-entitled matter, held at the
office of the Board of Public Utilities,
44 South Clinton Avenue, Trenton, New Jersey 08625 on
July 17, 2012, commencing at 9:55 a.m.



J.H. BUEHRER & ASSOCIATES
2295 BIG ENOUGH WAY
TOMS RIVER, NJ 08755
(732) 557-4755

Direct - Baldwin Page 178

1 broadband that is what you should look at. And I have
 2 various issues with bundles verses standalone and that I
 3 won't go over, but on the demographic issue based on --
 4 on the FCC data we have about 41 percent of elderly
 5 subscribe to broadband verses 80 percent based on the
 6 new FCC local competition report. So income also
 7 directly attracts broadband adoption, the lower the
 8 income, the less likely the broadband adoption. The
 9 lowest income decile is about 35, 36 percent. The
 10 highest income decile is about 79 percent.
 11 So to the extent that one were, and I don't
 12 think you should, look at the incremental cost of adding
 13 VoIP to your triple play, to your broadband, well, if
 14 you don't have broadband, you're looking at the full
 15 cost. So that is relevant demographic information.
 16 Thank you.
 17 HEARING EXAMINER ASSELTA: Any other
 18 questions? Anybody? Okay.
 19 This concludes the evidentiary portion.
 20 I agree with the parties offer of the filing
 21 of the initial briefs on October 2nd and then the reply
 22 briefs by November 1st. I think we are all in agreement
 23 with that.
 24 MR. WHITE: We need to move all the exhibits
 25 into evidence.

Direct - Baldwin Page 179

1 HEARING EXAMINER ASSELTA: And other than
 2 that, I encourage everyone to keep communicating and
 3 let's come to some kind of resolution in the very near
 4 future.
 5 MR. SMITH: Commissioner, we definitely plan
 6 on communicating. But the Board move all the exhibits
 7 in, we still would like to based upon the comment
 8 earlier related to cost object to the admission of
 9 Exhibit 6B which is Verizon Communications, Inc., Form
 10 10-G, and the investor report which both are for an
 11 affiliate which is Verizon Communications, Inc., not a
 12 party to this proceeding.
 13 COMMISSIONER FOX: Mr. Chairman, can I?
 14 I looked at the order, it's not going to do
 15 costs. It says no cost study. It doesn't say no
 16 discussion of costs.
 17 MR. SMITH: Another order said no costs.
 18 COMMISSIONER FOX: We have the order here.
 19 I read it to read no cost studies. It didn't say no
 20 discussion of costs.
 21 MR. SMITH: Basically, this a rejection on
 22 the affiliate aspect. This is Verizon Communications,
 23 Inc., is an affiliate.
 24 HEARING EXAMINER ASSELTA: I think it's in
 25 everybody's best interests that everything --

Direct - Baldwin Page 180

1 MR. SMITH: Be allowed in.
 2 HEARING EXAMINER ASSELTA: -- be allowed in
 3 and we'll move forward from there.
 4 MR. SMITH: Thank you.
 5 HEARING EXAMINER ASSELTA: Thank you,
 6 everybody, for coming.
 7 (Verizon, CenturyLink, and Rate Counsel, all
 8 exhibits moved into evidence.)
 9 (Proceedings concluded at 2:56 p.m.)
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Page 181

1 CERTIFICATE
 2
 3 I, Lorin Thompson, a Notary Public and
 4 Shorthand Reporter of the State of New Jersey, do hereby
 5 certify that prior to the commencement of the
 6 examination PAUL B. VASINGTON, MARK D. HARPER, SUSAN M.
 7 BALDWIN, were duly sworn to testify the truth, the whole
 8 truth and nothing but the truth.
 9 I DO FURTHER CERTIFY that the foregoing is a
 10 true and accurate transcript of the testimony as taken
 11 stenographically by and before me at the time, place and
 12 on the date hereinbefore set forth.
 13 I DO FURTHER CERTIFY that I am neither a
 14 relative nor employee nor attorney nor counsel of any of
 15 the parties to this action, and that I am neither a
 16 relative nor employee of such attorney or counsel, and
 17 that I am not financially interested in the action.
 18
 19
 20
 21
 22 
 23 Notary Public of the State of New Jersey
 My commission expires July 26, 2016
 24
 25 Dated: July 17, 2012

**REQUEST FOR INVESTIGATION OF
VERIZON NEW JERSEY'S PLAN TO DISCONTINUE CURRENT WIRELINE
SERVICE OFFERINGS**

FILED BY AARP, JULY 29, 2013



Via electronic and regular mail

November 4, 2014

The Honorable Richard Mroz
President
New Jersey Board of Public Utilities
44 S. Clinton Avenue, 9th Floor
PO Box 350
Trenton, New Jersey 08625

The Honorable Kristi Izzo
Secretary
New Jersey Board of Public Utilities
44 S. Clinton Avenue, 9th Floor
PO Box 350
Trenton, New Jersey 08625

Re: AARP's July 29, 2013 Request for an Investigation Concerning Verizon New Jersey Inc.'s Plan to Discontinue Landline Service Offerings.

Dear President Mroz and Secretary Izzo:

Fifteen months ago, on July 29, 2013, AARP submitted the attached request to the New Jersey Board of Public Utilities ("BPU" or "Board") to open an investigation into the plans of Verizon New Jersey Inc. ("Verizon") to offer its then new fixed wireless Voice Link service instead of traditional landline service in Mantoloking, NJ and possibly other parts of the state. AARP further requested the BPU evaluate the prudence of Verizon's plans and to afford stakeholders an opportunity to comment on this significant market change that could also create an incentive for Verizon to neglect the maintenance and repair of infrastructure in New Jersey.

Despite 15 months and growing evidenceⁱ that Verizon's efforts to abandon traditional landline service is expanding well beyond shore areas damaged by Superstorm Sandy, AARP has not received a response to our request.

AARP's 1.3 million Garden State members are not alone in their concern. A recent public opinion poll of New Jersey residents age 50+ demonstrates deep and pervasive concerns among all residents when it comes to the critical need for their copper landline telephones, and their insistence that the Board protect them.ⁱⁱ

Among the poll's findings:

- Eighty percent support the state ensuring that carriers of last resort continue to provide affordable, reliable phone service.
- About eight in ten think it is important for companies to continue to provide traditional landline service until comparable alternatives are available.
- Nearly ninety percent agree that the Board of Public Utilities should review new technologies to ensure they are comparable in price and services. Comparable services must include reliable connections to 911, clear connections for phone calls and telephone service during power outages.

By this letter, we are requesting that you use the good services of your office to respond to our request and initiate a Board investigation into Verizon's plans and practices.

If you would like additional information or have any questions please contact Evelyn Liebman at ELiebman@aarp.org.

Sincerely,



Jim Dieterle
State Director



David Mollen
State President

Attachment

Cc: BPU Commissioner Joseph Fiordaliso
BPU Commissioner Mary-Anna Holden
BPU Commissioner Dianne Solomon
BPU Commissioner Joseph Upendra Chivukula
Stefanie Brand, Director, NJ Division of Rate Counsel
Andrew J. McNally, Assistant Counsel, Office of the Governor

AARP is a nonprofit, nonpartisan organization with a membership that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP does not endorse candidates for public office or make contributions to either political campaigns or candidates. We produce AARP The Magazine, the definitive voice for 50+ Americans and the world's largest-circulation magazine with over 35.1 million readers; AARP Bulletin, the go-to news source for AARP's millions of members and Americans 50+; AARP VIVA, the only bilingual U.S. publication dedicated exclusively to the 50+ Hispanic community; and our website, AARP.org. AARP Foundation is an affiliated charity that provides security, protection, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. We have staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

ⁱ https://www.youtube.com/watch?list=UUZHITLxMp4aSaFh3OZXJC_w&v=4hG5VBox3gQ

ⁱⁱ <http://states.aarp.org/aarp-calls-on-new-bpu-president-to-provide-immediate-relief-to-nj-ratepayers-act-to-protect-affordable-utility-rates-address-critical-telecommunications-issues/>



Via electronic and regular mail

July 29, 2013

The Honorable Robert Hanna
President
New Jersey Board of Public Utilities
44 S. Clinton Avenue
Trenton, NJ 08625

The Honorable Kristi Izzo
Secretary
New Jersey Board of Public Utilities
44 S. Clinton Avenue
Trenton, NJ 08625

Re: *Request for an Investigation: Verizon New Jersey Inc's plan to discontinue current wireline service offerings and instead offer a wireless service as its sole service offering in the state of New Jersey*

Dear President Hanna and Secretary Izzo:

I. INTRODUCTION

A. Background

AARP submits this letter to urge the Board of Public Utilities (BPU) to open an investigation into the plans of Verizon New Jersey Inc. ("Verizon") to offer its new wireless Voice Link service *instead of* its traditional landline service in Mantoloking, NJ and possibly other parts of the state. On behalf of approximately 1.3 million members in the state of New Jersey, AARP urges the BPU to evaluate the prudence of Verizon's plans and to afford stakeholders an opportunity to comment on this significant market change that could further the gap between the telecommunications "haves" and "have-nots" and also could create an incentive for Verizon to neglect the maintenance and repair of its outside plant in New Jersey.

In this letter, AARP explains its concerns with Voice Link service and the potential harm to AARP's members and other older adults.¹ Older adults, including AARP's members throughout the state, could be impacted by Verizon's plan. Among other things, the BPU should investigate whether Verizon's plan could lead to abandonment of its copper plant and forced migration of customers to the proposed new service – Voice Link. The BPU should investigate Voice Link to develop a complete evidentiary record and to afford stakeholders an opportunity to explore Voice Link more fully. While AARP welcomes new technology, we do so only if the new technology is a step forward for consumers.

Older adults throughout the state could be affected by Verizon's deployment plan, whether they reside in an urban multi-unit building, a rural community, or elsewhere in the state. Voice Link should be considered an experimental offering to be tested thoroughly in isolated and unique situations, on a temporary basis. The BPU should unambiguously direct Verizon to limit its deployment of Voice Link to Mantoloking pending a complete investigation of the service that affords affected stakeholders the opportunity to develop a complete evidentiary record.

B. Parallel Investigation by the New York Public Service Commission

AARP recently filed comments in a New York Public Service Commission (“NYPSC”) docket regarding Verizon's request to replace wireline facilities with its wireless Voice Link service in that state. In New York, Verizon filed tariff revisions that proposed a generic process for the withdrawal of wireline-based offerings that would have been applicable in any area of the state. The New York Public Service Commission rejected the broad-based proposal in the tariff revision:

¹ These comments were prepared with the assistance of Susan M. Baldwin, a consultant to AARP.

[W]e are suspending Verizon's tariff amendment regarding its use of Voice Link in other parts of the State subject to further review.²

The NYPSC did grant temporary relief to Verizon for the areas of Fire Island that were affected by Superstorm Sandy.³ However, the fact that Verizon is intent on pursuing Voice Link as a broad "solution" is evidenced by Verizon actions identified by the New York Attorney General, who has filed an emergency application based on Verizon's apparent plans to deploy Voice Link service in other areas of New York, in contradiction of the NYPSC's directive on the matter.⁴

C. Parallel Investigation by the Federal Communications Commission

Verizon also requires the approval of the Federal Communications Commission ("FCC" or "Commission") to discontinue its wireline service. On June 7, 2013, Verizon New York and Verizon New Jersey submitted an application to the FCC for authority under Section 214(a) of the Communications Act and 46 C.F.R. § 63.71 to "grandfather and discontinue provision of its interstate wireline telecommunications services, including interstate interexchange and exchange access services in some limited parts of New York and New Jersey where copper wireline facilities were destroyed or rendered inoperable by Superstorm Sandy and where the new deployment of wireline facilities is impractical."⁵

In reference to the "Date of Planned Service Discontinuance (47 C.F.R. §§ 63.71 (a)(2), (b)(2))" Verizon refers to the inoperability of its copper wireline facilities on or after October 29,

² Order Conditionally Approving Tariff Amendments in Part, Revising in Part, and Directing Further Comments, NYPSC Case No. 13-C-0197, May 16, 2013, p. 2.

³ *Id.*, pp. 1-2.

⁴ Emergency Petition of New York Attorney General Eric T. Schneiderman for an Order Preventing Verizon from Illegally Installing Voice Link Service in Violation of its Tariff and the Commission's May 16, 2013 Order. June 26, 2013.

⁵ In the Matter of Section 63.71 Application of Verizon New York Inc. and Verizon New Jersey Inc. For Authority Pursuant to Section 214 of the Communications Act of 1934, As Amended to Discontinue the Provision of Service, filed June 7, 2013 ("Verizon Section 214 Application"), at 1, cite omitted.

2012, the date of Superstorm Sandy.⁶ Verizon indicates in its Section 214 Application, that for its data customers, it will refer customers to a Verizon Wireless specialist for 4G LTE broadband services.”⁷ Verizon’s plan may well achieve the company’s apparent corporate strategy of migrating customers to the more expensive and metered wireless offering, but it does not represent an affordable alternative for digital subscriber line service. Moreover, in its recent filing with the FCC, Verizon is silent about its broader plans and intentions regarding Voice Link deployment. It is critically important for state (and federal) regulators to assert jurisdiction over the way in which Verizon deploys this new service, and, therefore, AARP recommends that the BPU launch an investigation into Verizon’s Voice Link plans.

Also, separately, the FCC’s Technology Transitions Policy Task Force has only recently requested comment on potential trials (in GN Docket No. 13-5).⁸ The FCC’s Technology Transitions Policy Task Force is proposing trials to “gather a factual record to help determine what policies are appropriate to promote investment and innovation while protecting consumers, promoting competition, and ensuring that emerging all-Internet Protocol (“IP”) networks remain resilient.”⁹ The FCC observes also that “at least one provider has proposed serving consumers with wireless service in place of wireline service in certain geographic areas,” and seeks “comment on a trial that would analyze the impact of doing so and, in particular, focus on the consumer experience and ensure that consumers have the ability to move back to a wireline

⁶ Verizon Section 214 Application, at 3.

⁷ Verizon Section 214 Application, at 5.

⁸ FCC Public Notice DA 13-1016, Technology Transitions Policy Task Force Seeks Comment on Potential Trials, GN Docket No. 13-5, released May 10, 2013 (“Public Notice”). The Public Notice was published in the Federal Register on May 24, 2013. Comments are due July 8, 2013 and reply comments are due August 7, 2013. 78 FR 31542.

⁹ Public Notice, at 1.

product during the trial.”¹⁰ On one hand, Verizon seeks authority to forge ahead to deploy Voice Link, yet simultaneously the FCC has a goal of conducting and learning from trials. The FCC’s investigation in GN Docket 13-5 is yet another reason for the PSC to stop the clock on Voice Link beyond possible temporary use. The alternative would be to allow Verizon to pursue a course that would be difficult if not impossible to reverse.

More important, however, *regardless of the FCC’s investigation*, the Voice Link raises public safety and economic development concerns that warrant the BPU’s investigation through a comprehensively litigated regulatory proceeding. Furthermore, the BPU should issue an unambiguous directive to Verizon to cease and desist offering Voice Link except in those limited circumstances where such use has been explicitly approved. While AARP discusses its preliminary concerns about Voice Link in these comments, we welcome the opportunity to address them more fully based on the evidence gathered in an investigatory proceeding.

II. SUMMARY OF AARP’S MAJOR CONCERNS

A. Overall concerns

AARP’s major concerns with Verizon’s Voice Link service include the following:

- Voice Link jeopardizes public safety because it (1) is incompatible with Life Alert systems and security systems, (2) relies on the wireless network, and (3) has embedded geographic information that would not “update” were customers to bring their Voice Link devices with them when they relocate to other residences.
- Voice Link creates a possible incentive for Verizon to allow its copper network to deteriorate and for it to abandon its copper outside plant prematurely. When outside plant is inadequately maintained, consumers’ safety is jeopardized because their dial tones may not function when they need to reach emergency services.
- Voice Link does not support broadband access to the Internet, and so would eliminate a broadband option for consumers, in a market that is already concentrated and lacking competitive options.
- Voice Link does not even support collect calls, “0” access to an operator.

¹⁰ Id., at 2.

B. Public Safety

Older adults depend on a reliable connection to emergency services, yet Voice Link would weaken that link.

Consumers' safety and well-being depend on a reliable link to the public switched telecommunications network. When they encounter medical emergencies, extreme weather, terrorist threats or other emergencies, consumers turn to their telephones to reach help. Older adults with mobility impairment are among those who depend most critically on a reliable phone connection. The ability to reach emergency services reliably can be a matter of life or death. Voice Link threatens that connection.¹¹

Voice Link is incompatible with consumers' medical devices. Voice Link does not support medical alert systems, presumably because it lacks the ability to transmit data.¹² This poses serious concerns for public safety and for older adults who rely on medical alert systems. Alternatives impose new costs and inconvenience for customers, if they are even available. Imagine if Verizon determined that it was "too costly" (i.e., not profitable) for Verizon to replace or maintain copper to a neighborhood where elderly resided. Verizon could potentially force the residents to purchase Voice Link, placing the safety of those residents who rely on medical alert systems at risk.

Security systems do not function with Voice Link. Voice Link does not support home security monitoring systems,¹³ which poses serious concerns for public safety. Older adults and others who rely on home security systems will either lose their security or be forced to purchase a separate service, which raises customers' costs and creates inconvenience.

¹¹ Regarding its plans for Fire Island, NY, "Verizon indicates that it will deploy and repair copper facilities to provide landline service to firehouses, police stations, and other municipal buildings." Order, at 3, footnote 2. Verizon's plans fail to acknowledge that consumers' ability to reach municipal agencies and emergency services would be jeopardized by their reliance on the wireless Voice Link service.

¹² Public Notice, at 2.

¹³ Public Notice, at 2.

Information about a customer's location is not updated when a customer moves and brings the Voice Link equipment along. The FCC describes Voice Link as remaining “stationary at one location in the customer’s premises.”¹⁴ If, however, a consumer brings her Voice Link equipment to a new residence, the device will still be “pegged” to the original residence. In the event of an emergency, the outdated address will appear on an E-9-1-1 call.

Copper-based wireline service works more reliably than does Voice Link during power outages. Voice Link is not as reliable as Verizon’s conventional copper-based telephone service or seemingly even its fiber network. Except in rare instances, Verizon’s copper-based service continues to operate during power outages.¹⁵ Consumers’ ability to reach public safety is always essential and, during black-outs and other extreme weather conditions, arguably even more so. The Commission states that the Voice Link “device is equipped with a battery back-up, in case of commercial power loss,” and that “[a]ccording to Verizon, available devices are equipped with rechargeable battery packs, while newer units are expected to operate on standard AA batteries.”¹⁶ During power outages, the fact that the battery packs are rechargeable does not help consumers. Moreover, expectations about Voice Link’s *future* ability to operate with standard AA batteries should be afforded minimal weight *today* in the assessment of the public safety implications of Verizon’s Voice Link plan.

Voice Link could create an additional economic incentive for Verizon to allow its outside plant to deteriorate, and during that period of infrastructure neglect, public safety is placed in

¹⁴ Public Notice, at 2.

¹⁵ If Verizon fails to maintain its outside plant properly, defective cables may not be able to withstand flooding. However, assuming Verizon proactively maintains its network, its voice service continues to operate during power outages.

¹⁶ Public Notice, at 2. See also Order, at 4, which states: “In case of commercial power failures, the units are equipped with a rechargeable backup battery that provides up to two hours of talk time and 36 hours of standby time.”

jeopardy. Verizon's proposed plan for deployment of Voice Link service in NJ could provide the company with seemingly unfettered latitude to decide to deploy Voice Link rather than to maintain and repair its copper plant. AARP is concerned about the redlining that could occur, creating yet deeper divisions between the telecommunications "haves" and "have nots." Left to its own financial analyses, Verizon can selectively neglect its outside plant. Once the plant has reached "a point of no return" Verizon could then determine that it is "impractical" to repair the plant and then offer Voice Link to the affected customers. During these years of technological transition, the BPU should monitor carefully Verizon's investment in maintaining its copper outside plant so that Verizon, through neglect of its existing infrastructure, does not implicitly force consumers to "choose" Voice Link. AARP does not oppose migrations to new, high-quality technological platforms, but the transition should be managed in such a way as to prevent unnecessary threats to public safety.

C. Voice Link is not an adequate substitute for Verizon's basic local exchange service.

Federal law sets forth an obligation to provide an adequate level of service, at reasonable rates, without unreasonable discrimination.¹⁷ It also expresses Congress's desire to ensure that consumers in all regions of the country have access to quality service at rates that are just, reasonable, and affordable.¹⁸ Verizon, as the state's largest incumbent local exchange carrier ("ILEC") has benefited from numerous significant advantages, including preferential access to public ways and a guaranteed revenue stream with which to build out facilities to serve all customers in its service territory. AARP is concerned that Verizon could implicitly abandon service by offering Voice Link service to some of its customers while offering state-of-the-art

¹⁷ 47 U.S.C. §§ 201,202, 214.

¹⁸ 47 U.S.C. § 254 (b)(1) & 254(i)

FiOS to other customers, creating an unreasonable disparity in the quality of offerings to its customers.

D. Voice Link does not support broadband access to the Internet, and therefore it would diminish older adults' options for an affordable, reliable broadband connection.

Voice Link is incompatible with digital subscriber line (“DSL”) service.¹⁹ Yet consumers' ability to connect with broadband services to the Internet is essential in today's information age.²⁰ AARP is concerned with the potential forced migration to wireless broadband offerings. The wireless industry is highly concentrated, meaning that consumers cannot rely on market forces to yield affordable rates.²¹ Also unlike its wireline counterparts (DSL, FiOS, and cable-based broadband alternatives), the usage for wireless broadband service is metered. When consumers exceed a usage cap, they must pay high rates for the above-cap usage (and this is in addition to monthly rates that are already high).²² If the BPU, contrary to AARP's

¹⁹ Public Notice, at 2.

²⁰ See, e.g., FCC's “Connecting America: the National Broadband Plan” (2010), at xi, 193-194, and 265-276.

²¹ The major nationwide wireless carriers serving consumers in New York include AT&T Wireless, Sprint, T-Mobile and Verizon. The FCC estimates that these four nationwide carriers served over 90 percent of the subscribers in the United States (with AT&T Wireless and Verizon Wireless serving 64 percent of subscribers). *In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, WT Docket No. 11-186 (Terminated), *Sixteenth Report*, rel. March 21, 2013, at para. 8. (On November 16, 2012, SoftBank Corp. (“SoftBank”), its indirect United States subsidiary Starburst II, Inc. (“Starburst II”), and Sprint Nextel Corporation (“Sprint”) submitted their applications to the FCC pursuant to sections 214 and 310(d) of the Communications Act of 1934, as amended and sections 34-49 of the Submarine Cable Landing Act, seeking the Commission's approval of the transfer of control of various licenses, leases, and authority now held by Sprint and its subsidiaries and by Clearwire Corporation (“Clearwire”) to SoftBank and Starburst II. The proposed transaction is under review. Public Notice DA 12-1924, *SoftBank and Sprint Seek FCC Consent to the Transfer of Control of Various Licenses, Leases, and Authorizations from Sprint to SoftBank, and to the Grant of a Declaratory Ruling Under Section 310(B)(4) of the Communications Act*, IB Docket No. 12-343, November 30, 2012.)

²² In Pennsylvania, in response to consumers' request for broadband service, Verizon offered 4G LTE rather than the DSL that consumers had anticipated receiving. In contrast with DSL service, 4G LTE has data caps and therefore is a more expensive way to obtain broadband access to the Internet. *Petition of David K. Ebersole, Jr. and the Office of Consumer Advocate for a Declaratory Order*, Pennsylvania PUC P-2012-2323362, *Final Order*, February 28, 2013; *Petition of David K. Ebersole, Jr. and the Office of Consumer Advocate for a Declaratory Order*, Pennsylvania PUC P-2012-2323362, *Dissenting Statement of Commissioner James H. Cawley*, February 28, 2013.

recommendation, were to allow Verizon to abandon its wireline facilities, consumers would have at best one wireline broadband option – the cable company’s offering.²³

E. Voice Link could be harmful to economic development.

Voice Link does not support credit card machines and other electronic payment processing devices, and therefore would harm the economic development in the communities where AARP members and other older adults reside.²⁴ AARP urges the BPU to seek and to analyze the availability, reliability, ease of use, security, and prices of any alternative devices. In any event, until stakeholders can assess these and other implications of Voice Link, Verizon should only be allowed to offer this service as an *optional* and not as a mandatory service to customers, whether they be residential or business customers. Consumers that are effectively being asked to participate in a technological trial should include only those who, after being fully informed about Voice Link’s limitations, volunteer to participate in the trial.²⁵ AARP is hopeful that the BPU will monitor and seek information about Verizon’s sales practices for Voice Link to ensure that its employees are not marketing the service aggressively, and so that older adults do not feel pressured to purchase the service.

²³ Although a duopoly consisting of Verizon and the incumbent cable company does not provide effective broadband competition, it is of course preferable to the monopoly market that would result if Verizon exits the market. Even if Verizon were to offer a 4G LTE broadband-based option, that offering could not be considered price-competitive.

²⁴ Public Notice, at 2. The Commission states: “The company submits (although not reflected in the tariff amendment) that Voice Link will be available to business customers as well as residential customers. Multi-line service will also be available for businesses, and Verizon Wireless will make available wireless data services and devices to support point-of-sale credit card processing and similar data functionalities required by small businesses.” Order, at 5.

²⁵ The NYPSC directed Verizon to submit a report by November 1, 2013, regarding various aspects of its Voice Link deployment on Fire Island. Order, at 9-10. However, this is a limited trial in a small area, and so the results should be considered accordingly.

III. CONCLUSION

AARP urges the BPU to launch an investigation into Verizon's plan to deploy Voice Link service in Mantoloking and possibly other parts of the state of New Jersey. As part of the investigatory proceeding, AARP urges the BPU to provide an opportunity for stakeholders to assess the provider's plans and the process utilized by Verizon to determine when and where to deploy Voice Link service instead of repairing the existing network. Voice Link should be considered an experimental offering to be tested in isolated, unique situations and on a temporary basis.

It is also critically important for the BPU and interested stakeholders to be able to investigate and assess any cost-benefit analysis that Verizon conducts when it makes infrastructure investment decisions in New Jersey. Verizon's unique responsibility in its footprint in the state of New Jersey as the incumbent local exchange carrier elevates the cost-benefit analysis to encompass broad costs and benefits for society. Verizon's business case analyses of potential investment takes into account the costs and benefits that it incurs. Over a period of more than a century, Verizon (and its predecessor) benefited from a guaranteed return on its investment, which enabled the company to deploy a ubiquitous network throughout its footprint, and which provided an infrastructure not only in those communities that were profitable to serve, but also those that may not have been profitable for Verizon. Verizon benefited uniquely from access to public rights of way. Verizon should not now be allowed to selectively abandon communities or to selectively determine which communities will be provided with a less reliable alternative.

The BPU's cost-benefit analysis should also encompass the public safety and economic development goals of the state. An E-9-1-1 network is only as strong as its weakest link. The

BPU should consider the value of protecting citizen's public safety and encouraging the economic development that results from consumers' having options for affordable broadband Internet access. AARP's members and other older adults expect that Verizon will offer affordable reliable service and furthermore expect that as Verizon and other companies migrate to new technologies, the technological evolution will improve and enhance consumers' telecommunications offerings.

AARP appreciates the BPU's consideration of this matter. Should you have any questions or need any further information, please feel free to contact Evelyn Liebman, Associate State Director – Advocacy, at (609) 452-3906 or ELiebman@aarp.org.

Respectfully Submitted,



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