



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

TELECOMMUNICATIONS

IN THE MATTER OF VERIZON'S PETITION FOR A)	ORDER
WAIVER OF THE ENTIRETY N.J.A.C. 14:10-4.2)	
)	DOCKET NO. TO07090689

(SERVICE LIST ATTACHED)

BY THE BOARD:

On September 14, 2007, Verizon filed a Verified Petition of Waiver of the entirety of N.J.A.C. 14:10-4.2. N.J.A.C. 14:10-4.2 requires Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) to file Non-Financial Reporting Requirements documents with the Board within five days after they file their Federal Communications Commission (FCC) Form 477 with the FCC, which is due on March and September 1st of each year. The rule, in its entirety, was published in the New Jersey Register; comments were received from interested parties, including Verizon. The Board, after review of the comments, adopted the rule in September 2007.

In the reports required under the rule, carriers must provide the number of lines served in each zip code and a breakdown as to how those customers are being served, i.e., the type of facilities used to serve customers, such as unbundled network elements or their own facilities, and the class of service, such as residence or single-line business customers. In the event that actual data is unavailable, carriers are permitted to submit detailed statistically valid estimates. This information allows the Board to track and analyze the development of local competition on a geographic basis.

Verizon, in filing its request for a waiver, claims that the data does not exist at the level of disaggregation that the Board requests and compiling and reporting the information in the form requested would be an undue economic and administrative burden. Instead, the Company argued that the existing reports collected by the FCC and provided to the Board in the federal Form 477, is more than adequate for assessing competition in New Jersey. These arguments, however, are simply renewals of its previous objections, all of which have already been rejected by the Board. Verizon fails to raise any new arguments that were not already addressed as part of the comment cycle associated with the initial proposal.

Specifically, in its response published in the New Jersey Register, the Board stated that Subchapter 4 is intended to enable the Board to establish a baseline, and measure and track the development of competitive telecommunications markets throughout the State on a more granular level. While the information provided by carriers to the FCC in their Form 477 does provide sufficient data to the FCC to meet Federal objectives and establish Federal policies, it is insufficient to provide the Board with the information needed to establish and monitor pro-competitive policies on a State level as previously noted in its response to commentors. Without these State-specific data, the Board will be unable to determine whether the benefits of its pro-competitive policies are accruing to ratepayers in the State. The information required in this subchapter is virtually identical to that in the FCC Form 477; the only difference is that the data is requested in a more detailed manner.

The additional data that the Board seeks will provide better information to show the basis for future competitive policies, which may or may not coincide with Federal objectives. Because there is no guarantee that the Federal policy and timetable will be in sync with the Board's, it is imperative that the Board gather the appropriate information until the Board determines that the telecommunications markets in New Jersey are fully competitive. The subchapter, as proposed and adopted, reduces the number of reports required per year to coincide with the FCC's Form 477. The Board's existing Competitive Services Monitoring Reports, which have been eliminated, have always had a quarterly and annual reporting component. The Board also believes that it is crucial to receive Form 477s directly, rather than seeking the data from the FCC. Such an approach would limit the Board's ability to use the data internally because each Board Staff member or commissioner would be required to sign a confidentiality agreement from the FCC. The Board's approach would offer state filers the same protection currently available through existing protective Board Orders.

While Verizon objects to the new rule again, it does not argue that it cannot comply with it, only that it does not (currently) track data in the format requested by the Board and that it would be unduly burdensome. As previously stated the Board's rule specifically contemplates that carriers may not currently track the information on the granular basis required in the rule. For that reason, the Board allows carriers to provide statistically valid estimates. To be sure, the Company possesses data on its total number of customers/lines and additionally knows the number of customer/lines on a wire center basis. While a wire center may cover several zip codes, the Company could allocate the lines based upon a statistical sample of the zip codes, or alternatively, extract the actual data.

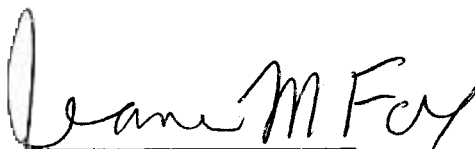
To date, in addition to numerous smaller carriers, both AT&T and Embarq have provided the required reports, even after arguing that it would be burdensome. Both carriers have indicated to Staff that they created new software programs to extract the data; however, they will be able to utilize the same program in the future to extract the data on an ongoing basis with little effort. Warwick Valley Telephone Company is currently in the process of updating its systems to provide the data.

In light of the recent stipulations between Staff, Rate Counsel and Verizon and Embarq, this data is even more crucial. These stipulations include a provision that initiates a Board proceeding in the fall of 2011 to review the competitiveness of retail mass market services. Without a baseline of data as required in the rule, the Board's review may be compromised.

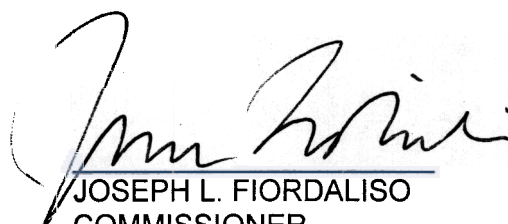
Accordingly, the Board **HEREBY DENIES** Verizon's waiver request. The Board, however, **HEREBY** grants Verizon a one-time exemption from the reporting requirements for the March 2008 (i.e., data for the period ended December 31, 2007) reporting period, but **DIRECTS** the Company to immediately commence putting into place the systems necessary to comply with the Board's regulations and provide the required data for the period ended June 30, 2008, which was due in September 2008. The Company is **DIRECTED** to provide the data within sixty (60) calendar days of this signed Order.


DATED: 10/6/08

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

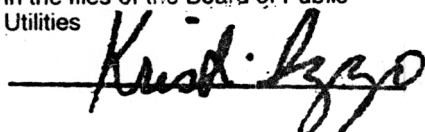

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

ATTEST:


KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public
Utilities



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N.J.A.C. 14:10-4.2 - DOCKET NO. TO07090689

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