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**VIA E-MAIL AND HAND DELIVERY**

Kristi Izzo, Secretary  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Trenton, New Jersey 08625-0350

**Re: BPU Docket No. TO12020155 – Comments of Verizon New Jersey Inc.**

Dear Secretary Izzo:

Verizon New Jersey Inc. (“Verizon”) submits these comments in support of the Proposed Stipulation of Settlement (“Stipulation”) that the staff of the Board of Public Utilities (“Board” or “BPU”) and Verizon reached regarding broadband deployment in New Jersey.

**EXECUTIVE SUMMARY**

New Jersey has gone from a state in 1992 where broadband deployment was virtually non-existent to one today in which broadband has been deployed to more than 99 percent of census blocks across the state. As a result, New Jersey is now the most wired state in the nation. The unprecedented and unparalleled commitment by Verizon – *having invested more than \$13 billion in its wireline infrastructure in New Jersey and billions more in its wireless infrastructure* – is the reason why the Garden State is able to make this claim. Among many benefits, Verizon’s investment has fostered the growth of technology companies in New Jersey and will continue to serve as a competitive advantage for New Jersey in an increasingly competitive global economy. And it is this investment, in addition to our employment of more than 15,000 New Jerseyans who are also among the most highly compensated in the industry, which has made Verizon a proud and critical contributor to the economic strength and vitality of the state.

Broadband deployment in New Jersey, however, is not only ubiquitous, it is robust. Indeed, in the June 2013 White House report entitled *Four Years of Broadband Growth*, in which the Obama Administration ranked the states in terms of the provision of broadband in multiple speeds, New Jersey **consistently** ranked among the highest in every category. The report also examined specifically the deployment of broadband in rural communities and noted that it varied considerably by state. In 10 states, 20 percent or fewer of the rural population had access to speeds of 25 Mbps. In 15 states, between 21 and 40 percent had such access and in only 12 states did more than 60 percent of the rural population have access to this speed. New Jersey, however, was noted as one of only five states in the nation where eighty-one to ninety-seven percent of the rural population has access to such speeds.

In addition to our investments in infrastructure, Verizon has also provided more than \$100 million in free equipment and other benefits to almost 2,700 school and public libraries across the state, enabling hundreds of thousands, if not millions, of New Jersey children and adults to connect to the networks our investments have made possible.

What makes Verizon's investments even more extraordinary is that they were made while Verizon was losing billions of dollars in revenue as millions of our customers – in a state that now has one of the most competitive communications markets in the country – “cut the cord” entirely and/or obtained services from VoIP, cable or wireless competitors. Despite these challenges, Verizon pressed ahead, not only unwavering in our commitment to meet the goals of Opportunity New Jersey, but, most important, to keep our commitment to our customers to provide the best products, services and networks for their communications needs of today and tomorrow.

In short, by **any** truly informed and reasonable measure, Opportunity New Jersey has been a success, most significantly because Verizon chose to invest **billions** more in our deployment of broadband than was ever contemplated or required. It is also the reason organizations collectively representing thousands of businesses and hundreds of thousands of residential and education customers have taken the time to submit to the Board thoughtful and informed statements in support of Verizon's efforts.

Nevertheless, Verizon and the staff of the Board of Public Utilities came together to build on the success of Opportunity New Jersey by agreeing to a proposal to allow any community in Verizon's territory where groups of customers with no broadband availability may request and obtain broadband service from Verizon. The proposal, reflected in the Stipulation of Settlement presented by BPU staff to the Board and the public earlier this year, provides that Verizon will make service available to communities in which at least 35 residential or single-line business customers who lack broadband availability agree to subscribe to at least one year of service and pay a minimum deposit of \$100. Public entities, such as public schools and fire stations, can work directly with Verizon to obtain broadband services. While not required by Opportunity New Jersey, Verizon has agreed to participate in the process if the Board approves the Stipulation.

Unfortunately, many of the comments in opposition repeat claims that are simply inaccurate. For example, a number of comments claim that the Board approved Verizon's imposition of a surcharge on customers to fund broadband deployment. *That claim is false.* The Board has never authorized, and Verizon has never charged, a surcharge for the deployment of broadband in New Jersey. In fact, the regulatory plan adopted with Opportunity New Jersey allowed a modest amount of pricing flexibility for certain services while imposing a price cap that resulted in Verizon not increasing the price for basic phone service in New Jersey *for twenty-three years (between 1985 and 2008).*

Another false assertion is that Verizon's broadband obligation could only be met through the deployment of fiber facilities. The fact is, as the Board has recognized for years, DSL deployment satisfies the broadband commitments in Opportunity New Jersey. And, of course, FiOS as a broadband service did not exist in 1992, when Opportunity New Jersey was developed. Furthermore, the Verizon Wireless 4G LTE network provides broadband at average data rates that in many cases exceed those provided by DSL.

The majority of the remaining comments are substantively identical form letters that are not only uninformed and factually inaccurate but also include submissions by individuals who live in municipalities where we have already completed a fiber build-out or have plans to do so under the statewide video franchise law. Incredibly, some are from individuals located outside the State of New Jersey and many were sent from "verizon.net" e-mail addresses, indicating that those individuals commenting likely already have Verizon broadband service.

In conclusion, Verizon respectfully requests that the Board disregard the false and inflammatory rhetoric and vote to approve the proposed Stipulation of Settlement to build on the success of Opportunity New Jersey.

## COMMENTS

### **I. The Stipulation builds on Verizon's widespread deployment of broadband in New Jersey.**

In March 2012, the Board launched an investigation into Verizon's compliance with a 20-year-old broadband deployment plan called Opportunity New Jersey ("ONJ"). As Verizon explained in detailed filings in this proceeding, as a result of Verizon's investment of more than \$13 billion in its wireline network infrastructure since 1993, New Jersey, which had no residential or small business broadband in March 1992 when ONJ was first submitted to the Board, now is the most "wired" state in the nation. In fact, Verizon has deployed broadband to more than 99 percent of the census blocks in New Jersey.

During the last two years, Verizon and Board staff worked together to build on the success of ONJ by agreeing on a proposal to allow any community in Verizon's territory where groups of customers do not have broadband available to them to request and obtain broadband service from Verizon. Under the process negotiated in the Stipulation, Verizon will make broadband service available to communities in which at least 35 residential or single-line business customers who lack broadband availability agree to subscribe to at least one year of service and pay a minimum deposit of \$100. Public entities (*e.g.*, public schools and fire stations) can work directly with Verizon to obtain broadband services.

As noted above, this stipulation builds on the significant success over the last 21 years since ONJ was adopted, including the following:

- Verizon has invested more than \$13 billion in its wireline network infrastructure since 1993. This investment far exceeds the \$5.4 billion contemplated by ONJ.
- As part of its investment in New Jersey, Verizon passed 2.1 million premises with fiber-to-the-home, deployed 3.7 million miles of fiber optic cable, made DSL available in 100 percent of Verizon central offices, equipped more than 750 remote terminals for DSL, converted to 100 percent digital switching, and made high speed switching available statewide via 146 Fast Packet and ATM switches at hub locations around the state.
- Verizon provided more than \$100 million worth of free equipment and service discounts to nearly 2,700 K-12 school and public libraries throughout the State to allow them to connect to the high-speed network made possible under ONJ.
- In addition, Verizon Wireless has spent billions of dollars in New Jersey to bring wireless services – including the most advanced wireless broadband services – to the state. An ever increasing percentage of New Jersey consumers make use of Verizon Wireless's 4G LTE network to access the Internet and this includes New Jerseyans who are not even in Verizon's wireline territory.
- Verizon broadband is available throughout Greenwich and Stow Creek, the two municipalities that were the focus of the initial investigation.

Seismic changes in the telecommunications industry have also entirely changed the communications landscape in New Jersey over the past 22 years:

- ONJ noted that the plan will evolve based on developments in “technology, markets and economic conditions.” The communications industry experienced seismic changes that no one could have predicted when Verizon put its ONJ plan together back in March 1992. Dramatic technological innovations and robust competition in the industry have rapidly spread the availability of broadband services and increased the connection speeds available to consumers and business.
- ONJ predated the *Telecommunications Act of 1996*, as well as the advent of the strong facilities-based competition for broadband from cable companies and wireless competitors.
- ONJ was conceived more than 20 years ago when the telecommunications industry was dramatically different. Verizon was the sole telephone provider in much of its service territory and no other provider was in a position to provide broadband to residential and single-line business customers.
- Today, in addition to Verizon, cable, wireless and satellite providers make cost-efficient broadband services available to their customers. In fact, by December 2006, there were 41 companies providing broadband service in New Jersey. *Every* zip code was served by at least four broadband providers and 97 percent of zip codes were served by five or more broadband providers. Meanwhile, since 1993, Verizon has lost more than 50 percent of its wireline access lines and, as detailed in the answer and supporting affidavit, has operated its wireline business with substantial losses in the state for years.

The Board’s prescient recognition back in 1993 that ONJ would be “an evolving project, subject to changing conditions and market realities” has been borne out, to the benefit of New Jerseyans. The investment, technology choices, speeds and accessibility all far exceed what could have even been envisioned back then, when cell phones were a novelty and the internet was barely discovered.

## **II. Many individuals and businesses in New Jersey support the broadband deployment process in the Stipulation.**

Many individuals and businesses in New Jersey support the Stipulation and have submitted comments underscoring the importance of Verizon’s deployment of broadband in New Jersey:

- Jim Martin, Chairman of The 60 Plus Association, states that: “On behalf of our almost 211,000 New Jersey senior citizen activists, I am writing to express support for the proposed stipulation between Verizon and Board Staff.”
- Maxine Ballen, President & CEO of the New Jersey Technology Council, believes that “aggressive telecom competition and robust private network investment have made New Jersey the most wired broadband state providing tremendous economic gains” and urges

the Board to approve the proposed stipulation to further encourage broadband deployment.

- The Meadowlands Chamber of Commerce states that the stipulation provides confidence that capital investment in the telecommunications infrastructure will continue, benefiting businesses through increased productivity and revenue.
- The Commerce and Industry Association of New Jersey (“CIANJ”) credits Verizon with investing billions of dollars to deploy broadband networks that are vital to the economy of the state. These networks, CIANJ notes, have allowed colleges and universities to create a more educated New Jersey workforce.
- The Greater Paterson Chamber of Commerce supports “the proposed stipulation between Verizon and BPU Staff [and] believe[s] it is in the state and business community's best interest that [the Board] move forward with this proposal.” Similarly, the Greater Elizabeth Chamber of Commerce states that it applauds the stipulation because it will deploy broadband in communities that currently lack access to broadband.
- Cooper’s Ferry Partnership, a Camden association, urges the Board to approve the stipulation to ensure the state remains open to continued investment.

**III. Comments opposing the Stipulation are primarily generated by special interest groups and contain false or misleading claims.**

The vast majority of comments opposing the Stipulation that have been posted by the Board to date were submitted via a standard form letter generated by the New Jersey State AFL-CIO with the subject line “Tell Verizon to Live Up to the Opportunity New Jersey Agreement.” Other comments opposing the Stipulation offer inaccurate claims about what was contemplated by ONJ or what is in the Stipulation.

*AFL-CIO Letters.* These letters opposing the Stipulation appear less convincing when the locations of senders are examined:

- More than 25 *are from people located outside of New Jersey* and some appear to be from municipalities not in Verizon’s service territory.
- More than 140 *are from email addresses indicating the sender already has broadband service*, including more than 70 emails from “Verizon.net” addresses denoting they are likely using Verizon broadband services to send the email.
- Nearly 150 *are from localities in New Jersey in which Verizon has deployed its fiber-to-the-home network*, including many from towns where Verizon is deploying fiber town-wide due to the statewide video franchise law. Indeed, there are more than 40 form letters from towns where Verizon has already fully completed its fiber build-out.

These letters also contain a number of erroneous statements about ONJ. For example, they state that Verizon was permitted to “collect excessive charges from their customers” that are “still being collected today” for a service “that has not been fully delivered.” These echo assorted claims that Verizon was able to impose some sort of a “surcharge” on customers for the deployment of broadband. ***These claims are simply false.*** The Board has never authorized, and Verizon has never charged, a surcharge for the deployment of broadband in New Jersey. To the contrary, in approving the regulatory plan adopted with ONJ, the Board adopted modest price flexibility for certain services and imposed a price cap that resulted in Verizon not increasing the price for basic phone service in New Jersey ***for twenty-three years (between 1985 and 2008).***

Indeed, Verizon New Jersey has been operating in the red for years, reporting annual negative net income of over \$500M in a number of recent years. Thus, if the price caps imposed by the BPU with ONJ were not in place for almost a quarter of a century and traditional rate regulation (based on setting revenues to recover costs) were applied, Verizon would have been entitled to substantial price increases on rate regulated services for much of that time. Yet that is all theoretical because in the competitive market that now exists, price increases formulated under archaic rate-of-return methodologies are not sustainable in any event. The bottom line is this: ***Verizon was required by the regulatory plan to keep its retail rates low for more than twenty years – not even allowing increases to account for inflation – while investing billions of dollars more into broadband than what was envisioned by ONJ.***

*Municipalities.* Verizon provides service to customers in all or part of 525 municipalities in New Jersey. Seven of those townships as well as the New Jersey State League of Municipalities filed comments seeking improved broadband services for their communities. These comments may reflect a misunderstanding of the provisions of the Stipulation because it will create a specific mechanism to ensure that communities with no broadband will have an opportunity to order broadband service from Verizon.<sup>1</sup>

For this reason, we have already begun to reach out to some municipalities that have submitted comments to make sure they understand the process set forth in the Stipulation. For example, Verizon had discussions with the Township of Hopewell to help the Township understand that the 35 customer requirement is the number required to submit a request – not a ceiling on the number who can receive broadband (as suggested by Hopewell’s comments) under the Stipulation. Indeed, once the 35 (or more) customers submit a request, all residences in the same census tract<sup>2</sup> who do not have broadband available and agree to subscribe to at least one year of service and pay a minimum deposit of \$100 will be eligible for broadband from Verizon under the Stipulation.

*Rate Counsel.* Rate Counsel’s comments criticizing the Stipulation rehash the flawed arguments discussed above regarding Verizon’s satisfaction of its ONJ commitments. They also criticize without explanation the reasonable terms agreed to by Verizon and the BPU Staff to

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<sup>1</sup> The Stipulation’s structure of a bona fide retail request process for broadband services is not unique. For example, CenturyLink’s broadband deployment obligations set forth in its alternative regulatory plan approved by the BPU are based on such a request process.

<sup>2</sup> A “census tract” is the geographic unit used to measure broadband deployment in the National Broadband Map and by the Federal Communications Commission.

ensure sincere customer interest in the broadband service to be deployed, *i.e.*, 35 or more customers requesting service and making a minimum \$100 deposit. Given the capital investment that would be required for broadband deployment, this is an appropriate and reasonable requirement of the Stipulation.

Rate Counsel also conditions its support for providing advanced wireless broadband services to New Jersey customers on a proposed cap on the price of the broadband service. The Board, however, has no authority to regulate the rates of broadband and any effort to do so would be barred by federal law. In any event, ONJ was designed to encourage deployment of broadband, not to regulate prices of broadband services over which the BPU has no jurisdiction.

Underpinning Rate Counsel's criticisms, as well as those of a number of commenters, is the mistaken idea that a particular type of broadband is mandated under ONJ. To the contrary, ONJ expressly states that its evolution will be guided by developments in technology, markets and economic conditions. Thus, all that was envisioned for broadband deployment under ONJ was that it contained "switching technologies matched with transmission capabilities to support data rates *up to* 45,000,000 bits per second ('45 megabits') and higher." (Emphasis added.) Through the years, starting in 1998, Verizon has shared information with the Board about deployment of our DSL service, which the Board recognizes satisfies ONJ's technological standard. And the Stipulation is clear that any broadband service to be provided under the request process must be provided at "speeds no less than the minimum speed of Verizon NJ's Digital Subscriber Line Services ("DSL")."

\* \* \*

In conclusion, we believe the facts are clear and that the Board should approve the Stipulation. The process Board Staff and Verizon agreed upon as set forth in the Stipulation will identify any communities lacking broadband availability and facilitate the deployment of broadband services to those communities. It will build on the success of ONJ and the widespread deployment of broadband by Verizon that has made New Jersey the most wired state in the country.

We look forward to implementing the Stipulation once it is approved and to continuing to work with New Jersey communities to deliver the benefits of broadband services to them and to our customers.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Cecilia Lee". The signature is fluid and cursive, written in a professional style.

cc: Anthony Centrella, Director, Division of Telecommunications (via e-mail)