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**REMARKS ON BEHALF OF
THE NEW JERSEY DIVISION OF RATE COUNSEL**

**I/M/O Verizon New Jersey Inc.'s Discontinuance of
Land Line Telecommunications Maintenance, Facilities and Infrastructure
BPU Docket No. TO15121325**

**PUBLIC HEARING STATEMENT
Before the Board of Public Utilities Public Hearing on**

**Thursday, August 4, 2016, at 3:30 and 6:30 p.m.
Estell Manor Elementary School
128 Cape May Avenue, Estell Manor, New Jersey 08319**

Good afternoon. My name is Stefanie Brand, and I am the Director of the New Jersey Division of Rate Counsel. I appreciate the opportunity to provide comments to the Board and hear from the public on the state of telephone and broadband service in the petitioning municipalities and elsewhere in New Jersey. As you know, the Division of Rate Counsel represents and protects the interests of all utility consumers: residential customers, small business customers, small and large industrial customers, schools, libraries, and other institutions in our communities. Rate Counsel is a party in cases where New Jersey utilities seek changes in their rates or services that impact New Jersey ratepayers.

We greatly appreciate the efforts of Senator Van Drew in facilitating this hearing, and the willingness of the Board to hear the concerns of the public that will be expressed today.

However, I also want to make clear that holding this hearing is not enough. The petition raises important factual issues that are disputed by Verizon and warrant full consideration by the Board in evidentiary hearings. A procedural schedule should follow this hearing to allow the parties to establish a record before the Board. Moreover, as I expect you will hear tonight, the issues faced by these towns and their citizens and the record that will be developed tonight and throughout this proceeding, require intervention and action by the Board.

More than eight months ago, on November 25, 2015, the County of Cumberland and sixteen South Jersey Towns filed a Joint Petition with the Board seeking an investigation regarding the chronic deteriorated state of Verizon New Jersey, Inc.'s ("Verizon") landline telephone and DSL service to the sixteen towns and their residents. The Joint Petition was supported by hundreds of individual complaints that clearly chronicle the extent of the deterioration of Verizon's telecommunications infrastructure and detail the hardship caused to these residents by Verizon's failure to meet its obligation to properly maintain and upgrade its system throughout these towns.

The information gathered and submitted by the Joint Petitioners on behalf of their residents and businesses tell a story of a land that time forgot. These towns are comparatively rural and thus more expensive to serve. They are the same towns that were not wired for Broadband despite the promise of the Board's Opportunity New Jersey (ONJ) program. Except in certain areas in the town centers, they are not served by Verizon's cable competitors, and in many parts of these towns cell service is spotty and unreliable. They are, in short, the areas that policymakers had in mind when retaining the "carrier of last resort" (COLR) obligations that Verizon continues to hold. Yet the people who live in these towns do live in the 21st century. They run businesses that need reliable phone and internet. They send their children to schools

that require them to have access to the internet that students in more populous areas enjoy. They rely on access to the outside world via telephone in the event of an emergency. These citizens require the telecommunications services that are necessary to survive in modern times and they have a right, under the law, to safe, adequate and proper telephone service. The Board and Verizon do not have the discretion to leave them behind.

This story actually begins in 1992, when Verizon sought regulatory flexibility by filing a plan for alternative regulation (“PAR”), and in 1993, when the Board approved Verizon’s plan. The PAR was touted as an engine that would promote economic development throughout the State. Indeed, one of the statutory criteria that had to be met for Board approval of the PAR was that the plan would promote economic development.¹ The Board’s approval required continued service quality and included a commitment by Verizon to deploy broadband service throughout its service territory by 2010. Despite granting regulatory flexibility, the Board retained regulatory oversight to ensure the continued provision of safe, adequate and proper service.² Shortly thereafter, (still in 1993) the Board reclassified all of Verizon’s services and bundles as competitive and removed these services from rate regulation. The Board, however, maintained jurisdiction over the terms and conditions of service, service quality and rate oversight for basic residential telephone and businesses with 5 lines or less. In 2008, Verizon’s remaining services were reclassified except for residential and single line business lines which remained rate regulated. In 2011, Verizon sought complete deregulation of its rates. That relief was granted through a settlement agreement with Board Staff in 2015, which approved a gradual rate deregulation of Verizon’s remaining services over a 3-5 year period.

¹ N.J.S.A. 48:2-21.18(a).

² I/M/O The Application of NJ Bell for Approval of Plan for Alt. Form of Reg., Decision and Order, BPU Docket No. T092030358, (5/6/1993).

Throughout the progression of rate deregulation under Verizon's PAR, the Board continually reaffirmed its regulatory oversight over service quality and Verizon's continuing obligation to serve as the carrier of last resort. In its most recent order, the Board stated, "To be clear, the existing statutes and regulations require that Verizon continue to provide safe, adequate and proper service....," and that "service quality obligations remain unchanged and are in full effect."³ The Board also reaffirmed clearly and repeatedly that Verizon's COLR obligations remain unchanged.⁴ The Board must now give meaning to these words and require Verizon to provide safe, adequate and proper service to all customers in its service territory so that the promise of economic advancement – so crucial to the Board's approval – is not undermined.

As noted, Verizon also committed in its PAR to deploy broadband services throughout its service territory. This provision, called "Opportunity New Jersey" was also touted as a means of providing economic opportunity and growth to the citizens of this state. Verizon satisfied much of this obligation by offering its digital subscriber line ("DSL") broadband service which only operates on Verizon's copper wireline infrastructure. As Verizon allows that copper infrastructure to deteriorate, its commitment and the "opportunity" that commitment was supposed to provide to New Jersey residents also deteriorates.

Verizon did not meet the 2010 deadline to deploy broadband under Opportunity New Jersey. After receiving numerous service quality complaints from many South Jersey Towns and residents, the Board issued an Order to Show Cause to address ONJ and service quality issues. In 2014, however, despite thousands of service complaints from residents in rural New Jersey still living with dial-up or subpar DSL service as a consequence of the network's disrepair, the Board approved a Stipulation of Settlement between Verizon and Board Staff and dismissed the

³ I/M/O the Board's Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive – Phase II, BPU Docket No. TX11090570, dated (June 5, 2015) p. 26.

⁴ *Id.*, pp. 27, 31.

Show Cause Order. The settlement allows Verizon to fulfill its remaining ONJ broadband obligation by providing broadband to rural residents using a wireless 4G service, only where the resident does not have access to cable broadband service or other satellite service and only after nine months from when 35 or more residents in a Verizon service tract request the service for at least a year and each pay a \$100.00 service deposit. The lack of reliable cell service in the area, the fact that 4G wireless internet is not equivalent to fiber-based broadband, and the addition of a deposit and minimum contract period makes this option a poor alternative to ensuring adequate broadband service for this part of the state.

In 2005, Verizon premiered its' fiber optic telecommunications services ("FiOS"). In 2006, the New Jersey Legislature amended the State's Cable Act to allow statewide franchises⁵ and the Board approved Verizon's statewide franchise application. Verizon's obligations under the statute included deployment of Verizon's FiOS video service throughout 70 "must build" towns (all county seats and towns with a population density of more than 7,111 persons per square mile) within six years from the date Verizon first deployed FiOS service in the State. Verizon has stated that it will not deploy FiOS outside the mandatory towns, and even within those towns it has filed numerous petitions, as permitted under the statute, seeking waivers from its statutory obligation to deploy FiOS services in many multi-dwelling unit buildings on the basis that it was technologically unfeasible to deploy the fiber product.

In other areas of the state, Verizon sought to discontinue service for customers in certain coastal towns that lost service after Superstorm Sandy. Instead, it proposed to offer its wireless "Voice Link" product as a substitute service and as an equivalent alternative to its wireline service. Voice Link service is not comparable as it doesn't work with certain equipment including alarm systems, fax machines, life alert buttons and certain medical equipment, and it

⁵ N.J.S.A 48:5A-25.2

only has a 36 hour battery backup. After continued regulatory push back by the New York Public Service Commission, Verizon deployed its' FiOS product in New York's affected areas, but refused to repair the copper infrastructure in New Jersey, or deploy fiber to the affected areas. A request by AARP for the Board to review Verizon's actions with respect to these customers given Verizon's COLR obligations has sat dormant at the BPU for several years.

Meanwhile, at the national level, in 2014, the FCC initiated a national plan by which communications service providers would begin switching their telecommunications network infrastructure from copper wire to optical fiber. The plan is known as the Internet Protocol or the IP-Technology Transition. In September 2014, Verizon initiated its copper to fiber migration of its services in New Jersey. In areas subject to the migration, customers who do not allow Verizon onto their property to perform the transition or whose properties are not technologically feasible to wire, are being disconnected even though their accounts are paid in full and continue to seek telephone service from Verizon. A request filed by Rate Counsel for an investigation of this transition process has sat dormant at the Board since the petition was filed on June 29, 2015.

This history demonstrates a systematic abandonment by Verizon of its service quality and COLR obligations to customers not only in the towns that filed this petition, but elsewhere where customers become inconvenient or costly to serve. However, there can be no doubt under the law and the Board's clear statements in its orders, that Verizon has a continuing obligation and responsibility to provide safe and functioning telephone and advanced telecommunications services throughout its entire service territory in New Jersey, and has a responsibility as the carrier of last resort to provide telephone service to all customers who seek it. This responsibility has no meaning if the Board does not enforce the law and hold Verizon to its legal obligations. The Company has certainly reaped the benefits of being the legacy carrier, for

example through ratepayer contributions toward building its network and the inheritance of utility rights of way. It should not be permitted to walk away from the obligations that accompany those benefits.

From what we have seen and heard, they are attempting to walk away. The testimony you will hear tonight from citizens who merely want adequate service leaves no doubt that the system is being allowed to deteriorate. Public accounts have detailed doctors whose DSL service is so deteriorated that on some days they could not do simple online tasks such as registering deaths or examining patient x-rays, MRIs or CAT scans because those functions take up too much bandwidth which Verizon's DSL network simply cannot process. They also spoke about the potential federal fines they face for non-compliance with the federal government's Medicare program which requires that patient records be available through an online portal. Other accounts have cited towns having to cancel or postpone emergency evacuation drills because it was raining and phone service was not working properly; and a teenager involved in an accident who couldn't reach his parents because the phone was out and the parents didn't know it. We also have heard from countless customers who routinely lose service in bad weather and who have failed after many attempts to get Verizon to resolve their problems.

Verizon's response has generally been to cite a figure for how much money they claim to have invested in their copper wire system in these areas. They deny that they are attempting to avoid their COLR obligations. Their obligations, however, are not defined by investment dollars. They are defined by service quality and the provision of safe, adequate and proper service. The Board has an obligation to enforce the law and ensure that homes and businesses in this area and throughout the state continue to have access to telephone service and broadband

service, even when it's raining. The lack of adequate service poses a public danger. It must be resolved before it leads to further harm.

In closing, I reiterate that the issues raised in the Joint Petition and in the petition filed by Rate Counsel mandate a full investigation by the Board, the establishment of an evidentiary record and definitive action to uphold the standards established by New Jersey law. Rate Counsel remains committed to staying engaged in the process until all service issues have been adequately resolved and all New Jersey customers have access to essential telephone and broadband services. Thank you.