



State of New Jersey
DIVISION OF RATE COUNSEL
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

September 7, 2016

Via Electronic and Regular Mail

The Hon. Richard Mroz, President
Commissioner Joseph L. Fiordaliso
Commissioner Mary-Anna Holden
Commissioner Dianne Solomon
Commissioner Upendra Chivukulo
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Fl., Ste. 314
P.O. Box 350
Trenton, New Jersey 08625-0350

Irene K. Asbury, Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Fl., Ste. 314
P.O. Box 350
Trenton, New Jersey 08625-0350

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

Dear President Mroz, Commr's. and Secretary Asbury:

The Division of Rate Counsel ("Rate Counsel") consistent with the public interest, convenience, and necessity respectfully reiterates and files its continuing request that the New Jersey Board of Public Utilities' ("Board") initiate an investigation and evidentiary proceeding in the above captioned matter. Rate Counsel incorporates by reference the attached comments filed with the Board on August 8, 2016.

Rate Counsel is concerned that in the four weeks that have passed since the Public Hearings in this matter the Board has yet to issue a procedural schedule as requested by the parties to fully investigate and address the testimony provided by Verizon customers at the Board's Public Hearing on August 4, 2016, concerning the chronic lack of service to residents across the 17 South Jersey Towns. It is clear from that testimony that the issues are pervasive and cannot be addressed through piece-meal attempts to repair individual copper service lines on a case by case basis.

Although Verizon claims that it has maintained its service metrics throughout the region, over 200 customers, residential, commercial and municipal appeared at the August 4th Public Hearing to testify regarding the persistent lack of service and of Verizon's consistent disregard towards their service repair calls. This is the state of daily living for these customers, and not an

odd or sporadic post storm occurrence. The testimony demonstrates a disconnect between the information Verizon has provided to the Board and the significant and persistent lack of service provided to Verizon customers throughout the 17 Towns. This factual dispute can only be resolved through an investigation and evidentiary hearing.

Another area that needs further review is Verizon's contention that these customers have area competitors that they can switch to. The testimony provided at the Public Hearing contradicts that assertion. Many residents explained the lack of alternatives or competition to protect them. Rate Counsel respectfully urges President Mroz and the Commissioners to read the transcripts to understand the magnitude of problems faced by these customers on a daily basis because they have no service and no alternatives.

Rate Counsel echoes the concerns voiced by customers, many of whom pleaded that night with the hearing officers to take their testimony back to the President and the Commissioners and demand action. Customers have no one else to turn to for assistance. This is why an investigation and evidentiary proceedings are vitally necessary. The Board must fully evaluate the root cause of the service problems and require Verizon to pursue the best solution. The Board has an overarching statutory obligation towards these customers to ensure continuing proper, safe and reliable service. Right now for these customers those words ring hollow. Rate Counsel stands ready to work with Board Staff, Verizon, the Towns and other interested Parties to create a full record and the restoration of safe and reliable service throughout the entire affected region as quickly as possible.

Rate Counsel respectfully submits the above comments for the Board's consideration and asks that a procedural schedule be issued immediately initiating an investigation and evidentiary proceedings in this matter. Enclosed with this original please find ten (10) copies. Kindly return a date stamped "Received" or "Filed" copy to our office for our records.

Thank you for your attention to this matter.

Respectfully Submitted,



STEFANIE A. BRAND,
DIRECTOR

NEW JERSEY DIVISION OF RATE COUNSEL

SAB/lld

w/encls.

c: Service List



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CHRIS CHRISTIE
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KIM GUADAGNO
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STEFANIE A. BRAND
Director

August 8, 2016

Via Electronic and Regular Mail

Irene K. Asbury, Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Fl., Ste. 314
P.O. Box 350
Trenton, New Jersey 08625-0350
Verizoncomments@bpu.nj.gov

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

Dear Secretary Asbury:

The New Jersey Division of Rate Counsel ("Rate Counsel") submits the within comments and attachments for consideration by the New Jersey Board of Public Utilities ("Board") in the above referenced matter. Rate Counsel hereby attaches and incorporates by reference its' Public Hearing Statement in this matter, dated August 4, 2016 and filings in connection with Rate Counsel's Request for Investigation, to the extent that the comments document and discuss the state of deterioration of Verizon's copper infrastructure in the affected areas of New Jersey.¹

Petitioners' filing is supported by hundreds of customer testimonials that have placed Verizon and the Board on notice of deteriorating infrastructure and widespread service deficiencies and interruptions.² Logic dictates that if competition existed in the affected areas,

¹ I/M/O of Rate Counsel's Request for an Investigation into Verizon New Jersey, Inc.'s Continued Use of its Copper Infrastructure to Provide Telecommunications Services and Verizon New Jersey Inc.'s Transition Plan to Migrate Customers from its Copper-to-Fiber Infrastructure/Network in New Jersey. BPU Docket No. TO15060749, dated June 29, 2015 and October 8, 2015.

² Petition on behalf of Rural New Jersey Communities to Compel Verizon to Maintain Landline Telecommunications captioned I/M/O Verizon New Jersey Discontinuance of Land Line Telecommunications, Maintenance, Facilities, and Infrastructure, dated November 24, 2015, Petition at pp. 4-5.

customers who pay for service would have switched to any other available competing service provider in the area, rather than continue to risk loss of educational and business opportunities and the potential loss of property and life if service failures lead to an inability to reach 911 during emergency situations. These customers are receiving interrupted, intermittent, and sub-par voice and DSL Internet service although paying full premium rates for these services.

The testimony provided by affected Town Administrators and many residents at the August 4, 2016, Public Hearing raised many fact questions which the Board should analyze further in its investigation. For example:

- 1) Verizon testified that it has invested 100 million dollars over the last two years in repairing the copper infrastructure throughout the area. Yet hundreds of customers from each of the affected 17 Towns testified they live with sporadic and interrupted and non-functioning voice or DSL Internet service;
- 2) Verizon testified that it employs over 179 visual technicians that patrol the areas and when disrepair of the wireline is found it is repaired. However, the attorney for the Towns provided photographs of the state of disrepair of the lines. He indicated he would provide the Board with over 130 photographs showing downed lines, trees on wires, open junction boxes throughout the 17 Towns;
- 3) Verizon testified it has not received service complaints from area customers. Customers testified that they call and often cannot get through to Verizon because of nonfunctioning wireline, wireless, and/or DSL Internet service. Many testified that they no longer call because calls in the past never led to improvements, causing them to give up;
- 4) Verizon testified that affected Town residents can apply for wireless 4G Internet service under the BFRR option but they have not received any applications. Affected customers testified that when they have inquired about broadband options, Verizon Customer Representatives have not told them of the availability of the BFRR program, and others testified that the BFRR program was not sufficient because 4G service is also unavailable. Mayor Steven Lee, Mayor of Tabernacle Township testified that 60 to 40 percent of his town have zero service provider options yet have been told by Verizon they do not qualify for the BFRR program because they fall outside the census tract of the neighboring towns they filed with;
- 5) Verizon testified that if there are service quality issues it is related to weather conditions outside of their control. Over ten Town Mayors and Administrators and all customers who testified said that although conditions worsen during rain, service interruptions also exist on sunny days. Each Town has pockets of areas where spotty or no voice or internet connection is a daily occurrence.

Rate Counsel believes that the Joint Petition and the oral testimony provided at the public hearing demonstrates that customers in the petitioning towns and elsewhere in rural south jersey are not getting safe, adequate and proper service. The Board has continually reaffirmed that despite its recent settlements relieving Verizon of its obligations under Opportunity New Jersey and its Plan for Alternative Regulation, it retains full authority to regulate service quality and ensure that both service obligations and carrier of last resort obligations are met. The Board cannot ignore the overwhelming testimony at the public hearing and abandon these citizens, who only seek the benefit of the network they paid for Verizon to build and maintain. A full investigation is required and factual issues exist that require the Board to hold an evidentiary hearing in this matter. Rate Counsel specifically requests that a Procedural Order be issued establishing a timeline for discovery and hearings so that an adequate evidentiary record may be established to determine whether Verizon is providing safe, adequate and proper service and, if not, the steps that must be taken to remedy this legal deficiency.

Verizon must meet its continuing regulatory carrier of last resort ("COLR") obligations particularly in areas of the State where competition is lacking, wireless coverage is at best spotty and where Verizon has yet to begin its migration from copper to fiber under the national IP-Technology Transition.³ As discussed by Rate Counsel in the attached related filings New Jersey law is clear, a telephone utility may terminate Basic Residential Local Telephone Service only for nonpayment of charges. N.J.A.C. 14:3-3A.8(d); and no utility may "withhold or refuse to provide any service which reasonably can be demanded or furnished when ordered by the board." N.J.S.A. 48:3-3. In particular, telephone utilities must "maintain equipment and facilities as necessary to ensure the provision of safe, adequate and proper service at all times." N.J.A.C. 14:10-1A.7. Lastly, the law requires that all public utilities provide safe, adequate and proper service and allows the Board to "require any public utility to continue to furnish service and to maintain its property and equipment in such condition as to enable it to do so." N.J.S.A. 48:2-23. As recently as last year, the Board reiterated Verizon's legal obligation to maintain service quality and fulfill its COLR obligations.⁴ The Board must exercise its statutory authority to ensure that all New Jersey residents regardless of their geographic location continue to have functioning, reliable and safe telephone and advanced communications services. The public interest demands nothing less.

Rate Counsel respectfully requests that the Board open an investigation and establish a schedule for discovery and evidentiary hearings to determine Whether safe, adequate and

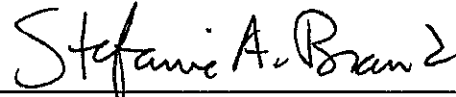
³ *Id.*, and Ex Parte Comments of the New Jersey Division of Rate Counsel dated August 4, 2015, at pp. 5-8, filed *In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications*, PS Docket No. 14-174; *Technology Transitions*, GN Docket No. 13-5; *Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers*, P.M-i 1358; *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25; *AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593, *Notice of Proposed Rulemaking and Declaratory Ruling*, (FCC 14-185, Adopted November 21, 2014, Released November 25, 2014); and *In the Matter of the Wireline Competition Bureau Short Term Network Change Notifications Filed By Verizon New Jersey, Inc.*, WC Docket No. 15-131.

⁴ *IMO the Board Investigation Regarding the Reclassification of incumbent Local Exchange Carrier (ILEC) Services As Competitive*, Order Adopting Stipulation on Reclassification of Services as Competitive, Docket No. TX1090570, June 5, 2015.

proper service is being provided and, if not, the measures required to provide appropriate service to the customers in the relevant municipalities.

Very truly yours,

NEW JERSEY DIVISION OF
RATE COUNSEL

A handwritten signature in black ink, reading "Stefanie A. Brand". The signature is written in a cursive, flowing style. The first name "Stefanie" is written in a larger, more prominent script, followed by "A." and "Brand". The signature is positioned above a horizontal line.

STEFANIE A. BRAND,
DIRECTOR

SB/lld
w/encls.

RATE COUNSEL ATTACHMENTS

Re Comments Filed August 8, 2016

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



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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.

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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.



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CHRIS CHRISTIE
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KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

June 29, 2015

Via Electronic and Hand Delivery

The Honorable Richard Mroz,
President
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. BOX 350
Trenton, New Jersey 08625-0350

The Honorable Irene Kim Asbury
Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. BOX 350
Trenton, New Jersey 08625-0350

RE: In The Matter of Rate Counsel's Request for an Investigation into Verizon New Jersey, Inc.'s Continued Use of its Copper Infrastructure to Provide Telecommunications Services and Verizon New Jersey Inc.'s Transition Plan to Migrate Customers from its Copper-to-Fiber Infrastructure/Network in New Jersey.

BPU Docket No.:

Dear President Mroz and Secretary Asbury:

The Division of Rate Counsel ("Rate Counsel") consistent with the public interest, convenience, and necessity respectfully files the above Request for Relief and Investigation regarding Verizon's continued use and maintenance of its copper infrastructure and its copper-to-fiber network transition of wireline telephone customers in New Jersey, for consideration by the New Jersey Board of Public Utilities ("Board") in the above captioned matter. Enclosed with this original please find ten (10) copies. Kindly return a date stamped "Received" or "Filed" copy to our office for our records.

Thank you for your attention to this matter.

Respectfully Submitted,

STEFANIE A. BRAND,
DIRECTOR,
NEW JERSEY DIVISION OF RATE COUNSEL

Stefanie A. Brand, Esq.
Division of Rate Counsel

SAB/db
w/encl.w/encl.

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

	:	STATE OF NEW JERSEY
	:	DIVISION OF RATE COUNSEL
	:	
In the Matter of Rate Counsel's Request For an	:	REQUEST FOR AN ORDER TO HALT
Investigation into Verizon New Jersey, Inc.'s	:	DISCONNECTIONS RELATED TO
Continued Use of its Copper Infrastructure to	:	VERIZON NEW JERSEY INC.'S
Provide Telecommunications Services and	:	COPPER-TO-FIBER TRANSITION
Verizon New Jersey, Inc.'s Transition Plan to	:	
Migrate Customers from its Copper-to-Fiber	:	AND
Infrastructure/Network in New Jersey.	:	
	:	REQUEST FOR AN INVESTIGATION OF
	:	VERIZON'S COPPER-TO-FIBER
	:	TRANSITION IN NEW JERSEY
	:	
	:	BPU Docket No.

I. INTRODUCTION/BACKGROUND

As a result of a recent consumer complaint filed with the New Jersey Division of Rate Counsel ("Rate Counsel") on June 8, 2015, it has come to Rate Counsel's attention that Verizon New Jersey, Inc. ("Verizon") has initiated a "network upgrade" for certain plain old telephone service ("POTs") wireline customers forcing these customers to transition from its copper network to its fiber network without the customers' consent and potentially over the customer's objection. See, Certification of Maria Novas-Ruiz, ("MNR Cert"), Attachment 1. Customers are being told that if they do not agree to this transition their service will be disconnected. The complaint compels Rate Counsel to respectfully request that the New Jersey Board of Public Utilities ("Board") immediately conduct an investigation of Verizon's copper-to-fiber transition

and issue Verizon an Order to “Cease and Desist” from disconnecting any customer or switching any customer who has not consented to the change from copper to fiber pending the outcome of that investigation. Rate Counsel asserts that Verizon’s actions violate N.J.S.A. 48:3-3, 48:2-23 and the Board’s June 2015 Reclassification Order under BPU Docket No. TX11090570¹ which reaffirmed Verizon’s continuing carrier of last resort (“COLR”) obligations in New Jersey. These statutes, and the Board’s regulations at N.J.A.C. 14:3-3A.8(d) and 14:10-1A.7, require Verizon to maintain service quality on its wireline copper infrastructure, which continues to support plain old telephone service (“POTs”) and remains essential to ensure continued services such as DSL, certain alarm systems and medical equipment that technologically still require a copper infrastructure. Rate Counsel is also concerned that Verizon’s actions may run afoul of Section 214 of the Federal Communications Act of 1934, as amended (“the Act”), which requires Verizon to obtain FCC approval before it discontinues, reduces, or impairs service to a community or part of a community.²

Rate Counsel is also gravely concerned that Verizon’s tactics in effectuating the transition to fiber are coercive and dangerous. Customers are being provided with a very short window of time to contact the company and allow access to their property or risk having their service “suspended,” which means they can only call 911 or Verizon’s customer service number. *See*, (MNR Cert, Attachment 1). If they do not consent to the transition or do not contact the company within two weeks after suspension, they are subject to complete disconnection even if their account has been fully paid. *Id.* While Verizon promises that phone service will be offered at existing rates for the time being, it admits that customers who subscribe to High Speed

¹/ *In the Matter of the Board Investigation Regarding the Reclassification of Incumbent Local Exchange Carrier (ILEC) Services as Competitive – Phase II*, Order Adopting Stipulation on Reclassification of Service as Competitive, (June 2015 Reclass Order”) BPU Docket No. TX11090570, dated June 5, 2015, at p. 31.

²/ 47 U.S.C. § 214(a).

Internet (aka DSL) will lose their internet connection. Id. Of course customers are invited to subscribe to higher priced fiber services. Id. Rate Counsel believes these practices are unconscionable and also violate the statutes, regulations and the Plan for Alternative Regulation (“PAR”) that governs Verizon’s obligations to its wireline customers. For these reasons, Rate Counsel asserts that the requested investigation and Cease and Desist Order should be issued.

The customer who reached out to Rate Counsel resides in Bloomfield, N.J.. She received a letter dated May 15, 2015, which is attached to the Certification accompanying this Petition (with identifying information redacted). *See*, (MNR Cert., Attachment 1). The letter appears to be a Form Notice from Verizon advising that, to avoid disruption of service, the customer must contact Verizon within 30 days for an appointment to switch to Verizon’s fiber service. In response to the question “What happens if I do not schedule an appointment?” the letter states:

Your Verizon service will be suspended on or after 45 days from the date of this letter, if you do not allow Verizon reasonable access to your premises to install, maintain, or replace equipment and facilities that will enable us to move your service to our fiber-optic network. Once your service is suspended you will only be able to call 9-1-1 and our customer service number....Approximately 14 days after being suspended, Verizon service at your address will be disconnected unless you allow us to move your service to our fiber optic network.

The notice states that if anyone living in the home is “seriously ill” Verizon will agree not to shut off service for “up to 30 days during such illness” provided that acceptable medical documentation is submitted within 30 days of the date of the notice. Presumably after that 30 days, or if the medical documentation is late or not sufficient, even those customers will be cut off. The notice explains that while the voice customer will not be charged for the transition or for the installation of necessary equipment to migrate to fiber, customers who subscribe to High Speed Internet service will lose that service. Of course, Verizon reminds them that they are free

to upgrade their services to their FiOS product in order to continue internet service at a price that "may be lower or higher than what you currently pay." Id.

The Frequently Asked Questions (FAQ) included with the letter (also attached hereto) also admit that other services currently enjoyed by these customers will be changed or ended. Although cleverly worded to give the customer the impression that nothing significant will change, the FAQ acknowledges that customers will now lose service during power outages, including the ability to call 9-1-1. The FAQ states that the battery backup will not work with cordless phones and that the customer will have to monitor and replace the batteries to ensure the ability to make emergency and other calls during a power outage. The FAQ suggests that if the battery back-up does not work "you can use an alternative, such as a cell phone, to call 9-1-1." The FAQ does not, however, disclose that cell towers may also not work when there are power outages, a situation that was experienced by many after Superstorm Sandy. The Company asserts that "Any devices that rely on your current voice service, such as facsimile, security alarms connected to a central station, or medical monitoring equipment, will continue to work in the same way as they did over copper." This statement may be misleading, as the term "medical monitoring equipment" is not defined. Certain medical alert systems and medical device monitoring equipment do require copper wires and thus the accuracy of this statement should be investigated.

Rate Counsel is cognizant that a technological transition must occur pursuant to and in lockstep with the Federal Communications Commission's ("FCC" and/or "Commission") planned IP Transition. Similarly, Verizon's planned copper-to-fiber transition must occur at an orderly pace and under sufficient state review and supervision to ensure that transition does not detrimentally affect ratepayers. The "take it or leave it" approach utilized by Verizon is

inconsistent with these policy goals and with the public interest. In New Jersey the need for an orderly transition became clear in the days and weeks after Superstorm Sandy, when many residents were without power and phone service unless they had service over copper wires. The Board has a duty to prepare and provide guidance for consumers and industry alike, rather than allowing carriers to arbitrarily impose deadlines and large-scale plans to change networks and discontinue copper network services. The Board has an overarching statutory responsibility to ensure that technological transitions in New Jersey proceed in a manner that does not compromise the provision of safe, adequate and reliable telecommunications services.

Overall, we know that the change from one provider, one technology, one service to multiple providers, multiple technologies and multiple services forces us to ask some critical questions on how things should be handled in the future. However, one thing is clear, there must be a balance struck between allowing industry to deploy advanced technologies and ensuring that consumers are not detrimentally impacted during the transition. The Board, as arbiter and protector of these two interests, must be fully engaged in the transition process to avoid customer confusion and ensure the adequacy and reliability of continued telecommunications services throughout the State. Only thus will the transition to new technology not trample on a ratepayer's right to receive safe, adequate and reliable services. For these reasons and additional considerations to be discussed below, the Board should initiate an investigation into Verizon's copper-to-fiber network transition and its planned retirement and continued maintenance of its copper infrastructure in New Jersey, and should issue a cease and desist Order halting disconnections or suspensions of service when a customer declines to authorize the copper-to-fiber network transition.

II. DISCUSSION

Rate Counsel submits that Verizon's actions represent a *de facto* discontinuance of service. Verizon's letter clearly states that service will be discontinued if customers do not arrange for Verizon to switch their service within 45 days, even if those customers seek continued wireline service and have paid their bills. This action is contrary to state statutes, the Board's regulations and the recent Order approving the Reclassification Stipulation recently entered into between Board Staff and Verizon. N.J.S.A. 48:3-3 provides that no utility may "withhold or refuse to provide any service which reasonably can be demanded or furnished when ordered by the board." N.J.A.C. 14:3-3A.8(d) states clearly that a telephone utility may terminate Basic Residential Local Telephone Service only for nonpayment of charges. N.J.S.A. 48:2-23 requires public utilities to provide safe, adequate and proper service and allows the Board to "require any public utility to continue to furnish service and to maintain its property and equipment in such condition as to enable it to do so." See also, N.J.A.C. 14:10-1A.7 (requiring telephone utilities to "maintain equipment and facilities as necessary to ensure the provision of safe, adequate and proper service at all times.")

In the recent Stipulation approved by the Board, Verizon specifically agreed to abide by all applicable regulatory provisions, including these. The Board relied on Verizon's agreement to do so, stating that the Order "shall not serve to release Verizon from any obligations that currently exist under any and all applicable Board orders and rules currently in effect and shall not be construed to relieve the company of any obligations that exist today to respond in a timely manner to any customer service complaints received." (Order p. 31). Yet, before the ink was even dry on the Board's Order, Verizon was informing certain customers that it is refusing to

provide service over its copper wire system and will discontinue service for a reason other than nonpayment of charges.

Verizon's actions also violate federal law. Verizon is required under Section 214 of the Communications Act of 1934, as amended ("the Act"), to obtain FCC approval before they discontinue, reduce, or impair service to a community or part of a community. 47 U.S.C. §214(a). Under Section 214, a carrier typically cannot remove interstate or foreign basic voice service from the marketplace without a public review process and affirmative FCC decision that the discontinuance will meet the statutory standards.³ This process allows the Commission to satisfy its obligation under the Act to protect the public interest and to minimize harm to consumers.⁴ Rate Counsel is not aware of any filing Verizon has made with the FCC seeking discontinuance of services in New Jersey outside of certain shore communities.⁵

Although the Board's regulations do not address the transition of customers from one technology to another, the process is akin to a mass migration of customers, except customers are being migrated over to a new technology rather than a new carrier. The Board's Mass Migration rules ensure that a carrier's planned cessation of services and migration of customers from one provider to another occurs in an orderly manner, is not anti-competitive and guarantees the continuation of safe, adequate and reliable services to customers with minimal customer confusion. See, N.J.A.C. 14:10-12.5. New Jersey wireline customers currently targeted by

³/ The final proviso of section 214(a) states that no authorization is required for "any installation, replacement, or other changes in plant, operation, or equipment, other than new construction, which will not impair the adequacy or quality of service provided." 47 U.S.C. § 214(a).

⁴/ See 47 U.S.C. § 201.

⁵/ *In the Matter of Section 63.71 Application of Verizon New Jersey Inc. and Verizon New York Inc. for Authority to Discontinue Domestic Telecommunications Services*, (FCC Order) under WC Docket No. 13-149, Comp. Pol. File No. 1112, (DA-1971; Rel. September 24, 2013). The Order applies only certain New Jersey Barrier Island communities where copper was damaged by Hurricane Sandy.

Verizon for conversion from copper to fiber require the same customer protections ensured under the Board's mass migration rules. Here, Verizon is attempting to migrate without such protections and in a manner that has created customer confusion, and threatens the continuation of safe, adequate and reliable services for current wireline customers. The Board must therefore assert its regulatory jurisdiction to ensure that this process is conducted fairly and consistent with law.

The Board clearly has jurisdiction to investigate Verizon's proposed transition. N.J.S.A. 48:2-19(a) allows the Board to "[i]nvestigatge upon its own initiative or upon complaint in writing any matter concerning any public utility." The Board also has supervisory authority over public utilities and the power to order them to comply with the laws of this state. N.J.S.A. 48:2-16. The Board should exercise these powers here consistent with its authority and obligation to assure that safe, adequate and proper service continues to be provided and is not unreasonably withheld. N.J.S.A. 48:2-23, 48:3-3; N.J.A.C. 14:10-1A.7. By doing so, even if it is determined that a transition to fiber for these customers is appropriate, that transition could be accomplished in an orderly fashion that takes into account the needs of those customers, rather than a letter threatening disconnection.

In this regard, recent rulings by the FCC regarding its IP transition are instructive. In a recent Declaratory Ruling issued by the FCC regarding the transition from networks based on time-division multiplexed (TDM) circuit-switched voice services running on copper loops to all-Internet Protocol (IP) multi-media networks using copper, co-axial cable, wireless, and fiber, the FCC stated that "the success of these technology transitions depends upon the technologically-neutral preservation of principles embodied in the Communications Act that have long defined the relationship between those who build and operate networks and those who use them. These

principles include competition, consumer protection, universal service, and public safety and national security.”⁶ To ensure that the transition to newer service platforms are deployed in a responsible manner and do not detrimentally impact customers, the FCC’s Declaratory Ruling requires that before transition of services may occur the carrier must:

- 1) Ensure reliable back-up power for consumers of IP-based voice and data services across networks that provide residential fixed service that substitutes for and improves upon the kind of traditional telephony used by people to dial 911;⁷
- 2) Protect consumers by ensuring they are informed about their choices and the services provided to them when carriers retire legacy facilities (e.g., copper networks) and seek to discontinue legacy services (e.g., basic voice service); and
- 3) Protect competition where it exists today, so that the mere change of a network facility or discontinuance of a legacy service does not deprive small- and medium-sized business, schools, libraries, and other enterprises of the ability to choose the kinds of innovative services that best suit their needs.

Lastly, the FCC’s Declaratory Ruling, clearly states,

Pursuant to section 214(a) discontinuance process, telecommunications carriers—other than CMRS providers—and interconnected Voice over Internet Protocol (VoIP) providers must obtain Commission authority to discontinue interstate or foreign service to a community or part of a community. The discontinuance rules are designed to ensure that customers are fully informed of any proposed change that will reduce or end service, to ensure appropriate oversight by the

⁶ *In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications Technology Transitions Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers Special Access for Price Cap Local Exchange Carriers AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*. Notice of Proposed Rulemaking and Declaratory Ruling, (“NPRM and Declaratory Ruling”), PS Docket No. 14-174 GN Docket No. 13-5 RM-11358 WC Docket No. 05-25 RM-10593, (Adopted: November 21, 2014 Released: November 25, 2014), (FCC 14-185), summary at pp.2-6, detailed pp. 7-74. See also, *Technology Transitions, et al., GN Docket No. 13-5, et al., Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order, Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative*, 29 FCC Rcd 1433, 1435, paras. 1 (2014) (Technology Transitions Order). Specifically, Technology Transitions Order, 29 FCC Rcd at 1440, paras. 16-18 and at 1435-36, paras. 2-4. See also 47 U.S.C. §§ 151, 160, 201, 225, 251, 254, 255.

⁷ As the FCC noted, in the 20th Century consumers rightly became accustomed to retaining the ability to use their landline phones even when the power went out since copper networks conduct electricity from the local exchange carrier’s central office to the customer premises equipment (CPE) (i.e., copper networks possess “line power”). Because the CPE used for IP-based services generally requires backup power source such as batteries in the event of a power outage, it is important that consumers have a means to ensure continuity of communications throughout a power outage, including, most importantly, continued access to emergency services. See FCC’s NPRM and Declaratory Ruling at pp. 6-14, *supra* at fn 8.

Commission of such changes, and to provide an orderly transition of service, as appropriate. This process allows the Commission to minimize harm to customers and to satisfy its obligation under the Act to protect the public interest. Id. at paragraphs 22-27, pp. 14-17.

Accordingly, the Board has ample authority and jurisdiction to ensure that Verizon meets its obligation to provide safe, adequate and proper service and that Verizon's copper-to-fiber transition is conducted in a manner that does not run afoul of state and federal law. The Board also has the authority and responsibility on behalf of New Jersey customers to verify that Verizon has been approved and authorized to discontinue its copper network services pursuant to a Section 214 Application throughout the New Jersey communities it serves. As the Board stated in its recent Order approving Verizon's Reclassification Stipulation,

This Order shall not be construed to limit in any manner any statutory or regulatory authority granted to the Board as to the regulation of competitive telecommunications services in New Jersey pursuant to State or Federal laws, regulations or rulings of a court of law. Also, Verizon is still obligated to comply with all relevant Board Orders, including but not limited to, PAR obligations. In addition, the 2015 Stipulation does not alter Verizon's COLR obligations.

Based on the facts herein which compel Rate Counsel to alert the Board about Verizon's immediate and apparently unannounced copper-to-fiber transition in certain New Jersey communities, Rate Counsel respectfully urges the Board to:

- 1) initiate an investigation of Verizon's copper-to-fiber transition to determine whether it is consistent with State and Federal law and to evaluate the community and customer impact of the discontinuance of copper service and transition to fiber;

- 2) issue a "Cease and Desist" Order prohibiting Verizon from disconnecting any customer under its copper-to-fiber transition in New Jersey until such time as the Board has completed its investigation; and

3) establish a process for obtaining public input and creating a record, as well as criteria that the Board will use in evaluating applications to discontinue retail services under a carrier's existing infrastructure/network and transition of customers to a different infrastructure/network. As part of this process, the Board should solicit preliminary information from Verizon and other interested parties regarding Verizon's current New Jersey POTs transition plan from copper-to-fiber and the impact if any, on customers and businesses that cannot substitute and/or choose to continue to receive services utilizing Verizon's underlying copper infrastructure.

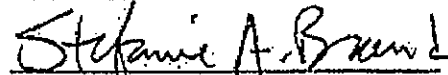
III. CONCLUSION

For the reasons discussed above, Rate Counsel respectfully urges the Board to conduct an investigation of Verizon's copper-to-fiber transition, issue an Order prohibiting the disconnection of any customer in connection with the copper-to-fiber network transition pending the completion of the Board's investigation, and establish a process to obtain public input and create a record regarding the impact of the copper-to-fiber transition.

Respectfully Submitted

STEFANIE A. BRAND,
DIRECTOR

STATE OF NEW JERSEY
DIVISION OF RATE COUNSEL



Stefanie A. Brand,

Director

Maria T. Novas-Ruiz,

Assistant Deputy Rate Counsel

Dated: June 29, 2015.

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

In the Matter of Rate Counsel's Request For an Investigation into Verizon New Jersey, Inc.'s Continued Use of its Copper Infrastructure to Provide Telecommunications Services and Verizon New Jersey, Inc.'s Transition Plan to Migrate Customers from its Copper-to-Fiber Infrastructure/Network in New Jersey.

STATE OF NEW JERSEY
DIVISION OF RATE COUNSEL

REQUEST FOR AN ORDER TO HALT
DISCONNECTIONS RELATED TO
VERIZON NEW JERSEY INC.'S
COPPER-TO-FIBER TRANSITION

AND

REQUEST FOR AN INVESTIGATION OF
VERIZON'S COPPER-TO-FIBER
TRANSITION IN NEW JERSEY

BPU Docket No.

CERTIFICATION OF SERVICE

I Stefanie A. Brand, an attorney in the State of New Jersey and Director of the State of New Jersey Division of Rate Counsel certify that I caused to be mailed *via* electronic and regular mail, in addition to the copies provided to the New Jersey Board of Public Utilities, a copy of the within Request for Relief and Request for an Investigation to the following parties:

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Respectfully Submitted,



Stefanie A. Brand, Director
State of New Jersey - Division of Rate Counsel

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

In the Matter of Rate Counsel's Request For an Investigation into Verizon New Jersey, Inc.'s Continued Use of its Copper Infrastructure to Provide Telecommunications Services and Verizon New Jersey, Inc.'s Transition Plan to Migrate Customers from its Copper-to-Fiber Infrastructure/Network in New Jersey.	: STATE OF NEW JERSEY : DIVISION OF RATE COUNSEL : REQUEST FOR AN ORDER TO HALT : DISCONNECTIONS RELATED TO : VERIZON NEW JERSEY INC.'S : COPPER-TO-FIBER TRANSITION : AND : REQUEST FOR AN INVESTIGATION OF : VERIZON'S COPPER-TO-FIBER : TRANSITION IN NEW JERSEY : BPU Docket No.
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ATTORNEY CERTIFICATION

I Maria T. Novas-Ruiz, an attorney in the State of New Jersey and Assistant Deputy Rate Counsel for the State of New Jersey Division of Rate Counsel, and staff attorney in the Telecommunications and Cable Section, certify as follows,

1) On Friday June 5, at 5:30 p.m. an email was received by the New Jersey Division of Rate Counsel ("Rate Counsel") from a ratepayer, a Verizon New Jersey wireline customer residing in Bloomfield, New Jersey. The email stated that the customer had received by regular and first class mail a Notice from Verizon dated 5/15/15 requiring her to schedule an appointment with a Verizon technician to convert the customer's landline from copper wire to fiber optic cable, and that the conversion would be at no cost to the customer and that the rates would remain the same. The customer remarked that she had read in the paper that rates may

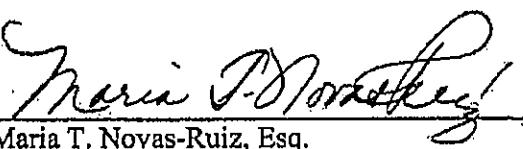
soon be rising quickly and that her copper line has proven more reliable than the FIOS service her mother-in-law has and the fiber optic cable service her neighbors have. The customer noted that the Notice further stated that if the customer did not respond within 30 days of the date of the letter, Verizon would cut off the customer's phone service. The customer attached a copy of the Notice and asked Rate Counsel if this was something Verizon could do and on such short notice to the customer and if it was necessary for her to allow Verizon to come into her home and do this conversion.

2) A true and correct copy of the Notice provided by the customer with her personal information redacted, is attached hereto as Attachment 1.

3) Thereafter, on or about the week of June 8, 2015, I telephoned the customer to discuss her inquiry. I stated that Rate Counsel was not aware of Verizon's copper-to-fiber network transition plan for plain old telephone service throughout the state and discussed her email to Rate Counsel and Verizon's Notice. During the course of the conversation the customer indicated that no one in her household had medical equipment, nor did she have a home alarm system that required service *via* Verizon's copper infrastructure, but that she wished to retain her copper wire service because she believes it is more reliable. I asked the customer if she knew if neighbors had received similar notices, or if she knew of anyone else who had received this Notice from Verizon. The customer said she was not aware if her neighbors had received the same Notice but assumed they had and that her friend, who lives in Millburn, had received a similar Notice from Verizon a few weeks back as well. I advised her that the New Jersey Board of Public Utilities ("Board") has authority and oversight over Verizon's service quality and recommended that she call and/or file a complaint with the Board's Customer Assistance Division.

4) On June 18, 2015 I reached out to the customer in response to a message left on my voicemail on June 15th. The customer indicated that she had electronically filed a complaint with the Board the week prior and had also spoken with a Board employee from the Board's Customer Assistance Division who had advised her that there was nothing that the Board could do concerning the Verizon Notice or Verizon's planned transition of her services from copper to fiber. The customer further said, that since her call to the Board, she has been contacted on three separate occasions by three different Verizon representatives regarding the planned transition of her telephone system: two from Verizon's Supervisory Office of Relations: Ms. Cykes and Ms. Carol Lombardo. The customer indicated that although Ms. Lombardo appeared sympathetic she had advised that the transition was going forward regardless of her wishes or objections, stating that there was nothing the customer could do to stop it. She also spoke with a Verizon Project Manager who confirmed what Ms. Lombardo had advised.

Dated: June 29, 2015.


Maria T. Novas-Ruiz, Esq.
State of New Jersey - Division of Rate Counsel
Assistant Deputy Rate Counsel
Attorney at Law - State of New Jersey



Rate Counsel
Attachment 1

**NOTICE OF VERIZON NETWORK UPGRADE:
IMMEDIATE CUSTOMER ACTION REQUIRED FOR CONTINUED VERIZON SERVICE**

May 15, 2015

BLOOMFIELD, NJ 07003

Dear

Telephone Number:

IMPORTANT NOTICE: This is not a sales letter. Verizon is in the process of upgrading the network in your area to our fiber-optic technology. **TO AVOID ANY DISRUPTION OF YOUR VERIZON SERVICE(S), YOU MUST CALL US AT 1.877.439.7442 WITHIN 30 DAYS OF THIS LETTER TO SCHEDULE AN APPOINTMENT.** Our goal is to make this transition as easy as possible for you.

If you have Verizon voice service, the upgrade will provide access to the same voice service you enjoy today at the same price, but over our all-fiber network. Verizon Wireless services are not affected by this upgrade.

Why do I have to call Verizon?

We are migrating our services in your area from our older copper network to our newer, more reliable fiber-optic technology. After the migration, we will no longer provide service in your area over the copper network. Our fiber-optic network allows us to provide higher quality services using a more reliable technology.

Will I have to change my current service, and will the price increase?

The upgrade to fiber-optic technology, which will be performed at no cost to you, will give you access to the same Verizon voice service you currently have at the same price. Customers with our High Speed Internet service who upgrade to fiber will be offered our FIOS Internet product at a special rate.

How do I arrange to move my service to the Verizon fiber-optic network?

Please contact us within 30 days of the date of this letter at 1.877.439.7442 to move your Verizon service to fiber. We are available Monday-Friday (8:00 a.m. - 8:00 p.m.) and Saturday (9:00 a.m. - 5:00 p.m.).

What happens if I do not schedule an appointment?

Your Verizon services will be suspended on or after 45 days from the date of this letter, if you do not allow Verizon reasonable access to your premises to install, maintain, or replace equipment and facilities that will enable us to move your service to our fiber-optic network. Once your service is suspended, you will only be able to call 9-1-1 and our customer service number, which is 1.800.VERIZON (1.800.837.4966). Approximately 14 days after being suspended, Verizon service at your address will be disconnected unless you allow us to move your service to our fiber-optic network.

What if I have additional questions?

Please review the attached Frequently Asked Questions for additional information about the fiber upgrade, including information about replacing your High Speed Internet service (if you subscribe).

Thank you for continuing to be a loyal Verizon customer. We appreciate your business. If you have already placed an order to migrate or disconnect your service, thank you and please disregard this notice.

Sincerely,

Walter Jones
VP-Business Transformation
Verizon
One Verizon Way
Basking Ridge, NJ 07920



**AVISO DE VERIZON RED DE ACTUALIZACIÓN:
ACCIÓN INMEDIATA AL CLIENTE REQUERIDA PARA SERVICIO DE VERIZON CONTINÚA**

May 15, 2015

BLOOMFIELD, NJ 07003

Querido

Telephone Number:

AVISO IMPORTANTE: Esta no es una carta de ventas. Verizon está en el proceso de mejora de la red en su área para nuestra tecnología de fibra óptica. **PARA EVITAR CUALQUIER INTERRUPCIÓN DE SU SERVICIO DE VERIZON (S), DEBE LLAMARNOS AL 1.877.439.7442 DENTRO DE 30 DÍAS DE ESTA CARTA PARA PROGRAMAR UNA CITA.** Nuestro objetivo es hacer esta transición lo más fácil posible para usted.

Si tiene el servicio de voz de Verizon, la actualización permitirá el acceso al mismo servicio de voz que disfrutan hoy por el mismo precio, pero con el paso de nuestra red totalmente de fibra óptica. Servicios de Verizon Wireless no se ven afectados por esta actualización.

¿Por qué tengo que llamar a Verizon?

Estamos migrando nuestros servicios en su área de nuestra red de más edad del cobre a nuestra tecnología de fibra óptica más nuevo, más fiable. Después de la migración, ya no podremos ofrecer un servicio en su área sobre la red de cobre. Nuestra red de fibra óptica nos permite ofrecer servicios de mayor calidad utilizando una tecnología más fiable.

¿Tendré que cambiar mi servicio actual y aumentará el precio?

La actualización a la tecnología de fibra óptica, que se lleva a cabo sin costo alguno para usted, le dará acceso al mismo servicio de voz de Verizon que tiene actualmente por el mismo precio. Los clientes con nuestro servicio de Internet de alta velocidad que actualicen a la fibra se ofrecerán nuestro producto FIOS Internet a un precio especial.

¿Cómo organizo para mover mi servicio a la red de fibra óptica de Verizon?

Póngase en contacto con nosotros dentro de los 30 días siguientes a la fecha de esta carta al 1.877.439.7442 para mover el servicio de Verizon a la fibra. Estamos disponibles de lunes a viernes (8:00 a.m. - 8:00 p.m.) y sábado (9:00 a.m. - 5:00 p.m.).

¿Qué sucede si no me programo una cita?

Sus servicios de Verizon se suspenderán a partir del 45 días desde la fecha de esta carta, si usted no le permite a Verizon acceso razonable a sus instalaciones para instalar, mantener o reemplazar los equipos e instalaciones que nos permitirá mover su servicio a nuestra fibra red -óptica. Una vez que su servicio se suspende, sólo podrá llamar al 9-1-1 y nuestro número de atención al cliente, que es 1.800.VERIZON (1.800.837.4966). Aproximadamente 14 días después de ser suspendido, el servicio de Verizon en su dirección se desconectará a menos que usted permite que nos movamos su servicio a nuestra red de fibra óptica.

¿Qué pasa si tengo más preguntas?

Por favor revise las Preguntas Frecuentes adjuntos para más información sobre la actualización de la fibra, incluyendo la información sobre la sustitución de su servicio de Internet de alta velocidad (si se suscribe).

Gracias por seguir siendo un cliente fiel de Verizon. Apreciamos su negocio. Si ya ha realizado un pedido a migrar o desconectar su servicio, gracias y por favor, no tener en cuenta este aviso.

Atentamente,

Walter Jones
VP-Business Transformation
Verizon
One Verizon Way
Basking Ridge, NJ 07920

VERIZON NETWORK UPGRADE: FREQUENTLY ASKED QUESTIONS

1. **Will I be charged for the fiber installation or the new equipment?** There is no charge for the fiber extension to your home, nor is there a charge for any necessary equipment to migrate your Verizon telephone service to fiber. If you are migrating High Speed Internet to FiOS Internet or if you purchase additional services such as FiOS TV, you may be charged for the equipment for these services depending on which you select.
2. **What is the installation process?** You will need to schedule an installation appointment at a time when someone 18 years or older will be home. To do that, please call us at 1.877.439.7442 (Mon-Fri, 8:00 am-8:00 pm; and Sat, 9:00-5:00 pm). You will also need to provide access to a grounded or a three-prong electrical outlet, which we need to power the equipment. We will work with you to identify a convenient installation date. On the day of installation, our technician will install the equipment and ensure that your voice service is working properly with your equipment. If you choose to subscribe to new services available on fiber such as FiOS Internet or FiOS TV, the technician will provide professional installation of those services as well. The technician will address any questions at the time of installation.
3. **What equipment is needed in order for me to upgrade to the fiber network?** We will extend our fiber optic network to your home, and our technician will install an Optical Network Terminal (ONT) and backup power unit (described below) for voice service at your home. The placement of this equipment will vary depending on the type of home you live in. We should be able to use the existing wiring in your home, and you will be able to use your existing telephones.
4. **What is the battery backup?** The battery power unit is designed to provide you with backup power for your voice service in the event of a commercial power outage. Without the backup power unit, you will not have voice service, and, if you have an alarm system, it may not be able to dial out to a central monitoring station. The backup power unit will allow you to make telephone calls on a corded telephone handset, but it will not power telephones with cordless handsets, alarm system equipment, or other devices or equipment that require power. To power those devices during a commercial power outage, you will need an alternative power source such as a generator.
5. **What about 911 for emergencies?** There will be no changes to the 911 emergency service as a result of upgrading to our fiber network. In the event of an extended power outage that fully depletes battery power in the backup power unit, please put in a set of new batteries in order to place telephone calls, including 911 calls, from a corded telephone handset. Or you can use an alternative, such as a cell phone, to dial 911.
6. **I'm not sure I want FiOS. What are my alternatives?** This is not FiOS voice service. It is your existing voice service, only provided over fiber instead of copper, at the same price, terms, and conditions. Any devices that rely on your current voice service, such as facsimile, security alarms connected to a central station, or medical monitoring equipment, will continue to work in the same way as they did over copper. For High Speed Internet customers, the product you currently have is not available on fiber, but Verizon can provide you with a FiOS Internet product that is significantly faster at a special rate. In some cases, this price may be lower or higher than what you currently pay. If you would like to speak with a representative about any of our FiOS products, please call us at 1.877.439.7442.
7. **What if there is a medical emergency in my home?** If you or anyone presently and normally living in your home is seriously ill, we will not cut off your telephone service for up to 30 days during such illness provided you: (a) have a physician certify by phone or in writing that such an illness exists and that the person will be endangered if your telephone service is stopped; and (b) contact us at 1.877.439.7442 to place an order to transfer your voice service to fiber no later than thirty (30) days from the date of the attached Notice.

VERIZON RED DE ACTUALIZACIÓN: PREGUNTAS FRECUENTES

1. ¿Se me cobrará por la instalación de la fibra o el nuevo equipo? No hay ningún cargo para la extensión de la fibra a su casa, ni hay una carga para cualquier equipo necesario para migrar su servicio telefónico de Verizon a la fibra. Si está migrando a Internet de alta velocidad de FiOS Internet o si usted compra servicios adicionales, tales como FiOS TV, se le puede cobrar por el equipo para estos servicios en función de que haya seleccionado.

2. ¿Cuál es el proceso de instalación? Tendrá que programar una cita de instalación en un momento en que alguien 18 años o más será el hogar. Para hacer eso, por favor llámenos al 1.877.439.7442 (de lunes a viernes, de 8:00 am-8:00 pm, y sábado, 9:00-5:00 horas). También tendrá que proporcionar acceso a una toma de tierra o un tomacorriente de tres patas, que necesitamos para alimentar el equipo. Vamos a trabajar con usted para identificar una fecha de instalación conveniente. En el día de la instalación, nuestro técnico instalará el equipo y asegurarse de que su servicio de voz funciona correctamente con su equipo. Si decide suscribirse a los nuevos servicios disponibles en fibra tales como FiOS Internet o FiOS TV, el técnico le proporcionará la instalación profesional de esos servicios. El técnico contestará cualquier pregunta en el momento de la instalación.

Se necesita 3. ¿Qué equipo para que me actualizo a la red de fibra? Vamos a ampliar nuestra red de fibra óptica en tu casa, y nuestro técnico a instalar un terminal de red óptica (ONT) y la unidad de energía de reserva (que se describe más adelante) para el servicio de voz en su casa. La colocación de este equipo puede variar dependiendo del tipo de casa donde vive. Debemos ser capaces de utilizar el cableado existente en su casa, y usted será capaz de utilizar sus teléfonos existentes.

4. ¿Cuál es la copia de seguridad de la batería? La unidad de energía de la batería está diseñada para proporcionarle energía de reserva para su servicio de voz en caso de un corte de energía comercial. Sin la unidad de energía de reserva, usted no tiene el servicio de voz, y, si usted tiene un sistema de alarma, puede no ser capaz de marcar a una estación central de monitoreo. La unidad de energía de reserva le permite hacer llamadas de teléfono en un teléfono con cable, pero no lo hará teléfonos eléctricos con auriculares inalámbricos, equipos de sistema de alarma, u otros dispositivos o equipos que requieren energía. Para alimentar estos dispositivos durante un corte de energía comercial, tendrá una fuente de energía alternativa como un generador.

5. ¿Qué pasa con el 911 para emergencias? No habrá cambios en el servicio de emergencia 911, como resultado de la actualización a nuestra red de fibra. En caso de un apagón prolongado que agota totalmente la batería en la unidad de energía de reserva, por favor, poner en un conjunto de pilas nuevas con el fin de realizar llamadas telefónicas, incluidas las llamadas al 911, desde un teléfono con cable. O puede utilizar una alternativa, como un teléfono celular, para marcar 911.

6. Yo no estoy seguro de querer FiOS. ¿Cuáles son mis alternativas? Esto no es un servicio de voz de FiOS. Es su servicio de voz existente, sólo provisto a través de fibra en lugar de cobre, al mismo precio, términos y condiciones. Los dispositivos que se basan en el servicio de voz actual, como fax, alarmas de seguridad conectados a una estación central, o equipos de monitoreo médico, continuarán trabajando de la misma manera como lo hicieron a través de cobre. Para De alta velocidad de clientes de Internet, el producto que usted tiene actualmente no está disponible en fibra, pero Verizon puede proporcionarle un producto FiOS Internet que es significativamente más rápido a un precio especial. En algunos casos, este precio puede ser menor o mayor que lo que se paga actualmente. Si usted desea hablar con un representante acerca de cualquiera de nuestros productos de FiOS, por favor llámenos al 1.877.439.7442.

7. ¿Qué pasa si hay una emergencia médica en mi casa? Si usted o alguien en la actualidad y que normalmente viven en su hogar está gravemente enfermo, no nos cortamos su servicio telefónico por hasta 30 días durante dicha enfermedad siempre y cuando: (a) tiene un médico certifica por teléfono o por escrito que dicha enfermedad existe y que la persona estará en peligro si se detiene el servicio telefónico; y (b) contacte con nosotros en 1.877.439.7442 para realizar un pedido para transferir su servicio de voz a la fibra no más tarde de treinta (30) días a partir de la fecha de la Notificación adjunta.

mnovas-ruiz

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State of New Jersey

DIVISION OF RATE COUNSEL

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TRENTON, NEW JERSEY 08625

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Governor

KIM GUADAGNO
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STEFANIE A. BRAND
Director

August 27, 2015

The Honorable Richard Mroz
President
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. BOX 350
Trenton, New Jersey 08625-0350

The Honorable Irene Kim Asbury
Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. BOX 350
Trenton, New Jersey 08625-0350

Re: In The Matter of Rate Counsel's Request for an Investigation into Verizon New Jersey, Inc.'s Continued Use of its Copper Infrastructure to Provide Telecommunications Services and Verizon New Jersey Inc.'s Transition Plan to Migrate Customers from its Copper-to-Fiber Infrastructure/Network in New Jersey. BPU Docket.No.TO15060749

Dear President Mroz and Secretary Asbury:

The Division of Rate Counsel ("Rate Counsel") filed a petition on June 29, 2015, asking the Board of Public Utilities ("BPU" or "Board") to open an investigation of Verizon's copper to fiber migration in New Jersey to review compliance with New Jersey statutes and regulations and the Federal Communications Commission's ("FCC" and/or "Commission") ongoing proceedings regarding Technology Transitions.¹ Rate Counsel also asked the Board to issue an

¹/ *In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications*, PS Docket No. 14-174; *Technology Transitions*, GN Docket No. 13-5; *Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers*, RM-11358; *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25; *AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593, *Notice of Proposed Rulemaking and Declaratory Ruling*, (FCC 14-185, Adopted November 21, 2014, Released November 25, 2014); and *In the Matter of the Wireline Competition Bureau Short Term Network Change Notifications Filed By Verizon New Jersey, Inc.*, WC Docket No. 15-131. Adopted August 6, 2015 and Released August 7, 2015, ("*Tech Transition Order et al., Order and FNPRM*"), herein referred by Rate Counsel as the ("*Tech Transition Order*").

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Order prohibiting Verizon from disconnecting customers as part of its copper to fiber migration pending the outcome of the Board's review. Although no opposition to Rate Counsel's petition has been filed, the Board has not acted on the Petition in any way other than to docket it.

Since Rate Counsel's petition was filed, Verizon has continued its migration and has in fact disconnected customers who have not met the Company's deadlines, in violation of State requirements. In addition, the FCC issued an *Order and Final Notice of Proposed Rulemaking (FNPRM)* on August 7, 2015, (herein "*Tech Transition Order*") which further supports Rate Counsel's claim that Verizon's practices are inconsistent with the FCC's requirements for technology transition. As discussed below, the Board has the authority and the obligation to take action, oversee Verizon's copper to fiber migration in New Jersey and ensure its consistency with law and fairness to consumers. Accordingly, Rate Counsel writes once again to ask the Board to act on its June 29, 2015 petition.

Rate Counsel has continued to receive numerous calls as more customers receive Verizon's migration notice. In the few weeks between Rate Counsel's June 29 Request for Investigation and this submission, Rate Counsel has logged inquiries from concerned customers, and state and local elected officials on behalf of their constituents located in the following ten counties: Atlantic, Bergen, Cape May County, Essex, Hudson, Middlesex, Monmouth, Ocean, Passaic and Warren. In spite of the FCC's Tech Transition Order, Verizon has not provided customers with any more information. Verizon service representatives continue to tell customers that there are no other voice service providers they can migrate to and continue to threaten customers with complete discontinuance of service if they fail to acquiesce to migrate their service from copper to fiber. Rate Counsel has also been informed by callers that Verizon service representatives tell customers that competing service providers will only be able to

provide fiber services as Verizon will cease to allow competing carriers to utilize Verizon's copper platform. In addition we have been told that Verizon has frozen transfer requests to competing carriers and has told customers they must first allow Verizon to migrate them to fiber before they may re-request a transfer to another telecommunications carrier. In the most egregious cases brought to Rate Counsel's attention, a customer who, within the period allotted under Verizon's Notice, repeatedly requested that her services be transferred to another provider, had her service completely disconnected and her account terminated. One customer allowed the migration because she feared being disconnected altogether, but filed a complaint with the FCC. She later learned that Verizon contacted the FCC and requested that her complaint be closed because the issues had been "resolved." The customer was forced to contact the FCC to ask that the complaint not be dismissed because she is still very upset at how the process has been handled by Verizon. *See Rate Counsel Attorney Certification and Attachment.*

Rate Counsel notes that the majority of customers calling want more information about the migration process, and want to know if Verizon has the legal right to cut-off their telephone service. They ask who is overseeing the process in New Jersey, what Rate Counsel has done to protect their interests and why the public has not received any information regarding this transition from state and local government.

The FCC's August 7 *Tech Transition Order* underscores the Board's ability – and obligation – to protect customers and ensure that any transition is accomplished in an orderly and safe manner. The *Tech Transition Order* affirms the Board's authority to investigate, review and provide oversight regarding Verizon's copper to fiber migrations in New Jersey. The FCC clearly states that "local authorities have an important and unique role to play . . . regarding ongoing maintenance obligations." *Id.*, at paragraph 96, p. 54. The Commission thus reaffirms

that they "... are not preempting the ability of any state commission to evaluate an incumbent LEC's retirement of its copper loops to ensure such retirement complies with any applicable state legal or regulatory requirements." *Id.*²

Far from preempting State Commission involvement, the FCC Order specifically finds that "key public agencies" are important players in the process, as guardians of the public interest. The Order strongly encourages cooperation between carriers and state commissions, and other state and local entities to ensure consumers understand and are prepared for the transition. *Id.*, at Para. 64, at p. 38, and Para. 78, at p. 47. The FCC finds that "[I]n light of the accelerated pace of copper retirements and the allegations in the record of this and other proceedings, ... that the states should be fully informed of copper retirements occurring within their respective borders so that they can plan for necessary consumer outreach and education". *Id.*, at Para. 70, at pp. 40-41.

The Board's primary mission and mandate is to ensure that public utilities provide safe, adequate and proper service. N.J.S.A. 48:2-23. The Board's regulations provide that it may "require any public utility to continue to furnish service and to maintain its property and equipment in such condition as to enable it to do so." N.J.A.C. 14:10-1A.7. This authority has not been removed, curtailed or preempted by federal regulation. N.J.S.A. 48:3-3 provides that no utility may "withhold or refuse to provide any service which reasonably can be demanded or furnished when ordered by the board." *See also*, N.J.A.C. 14:3-3.1 and 14:10-1A.11. N.J.A.C. 14:3-3A.8(d) states that a telephone utility may terminate Basic Residential Local Telephone Service only for nonpayment of charges. These provisions also remain fully intact. Thus, the Board continues to have the regulatory authority to review Verizon's copper to fiber plans in

²/ *Tech Transitions Order* at footnote 347 p. 54, citing to 29 FCC Rcd at 14994, para. 54; *Triennial Review Order*, 18 FCC Rcd at 17148, para. 284.

New Jersey to ensure that impermissible service interruptions are not occurring and that copper retirement, whether planned or *de facto*, comply with FCC mandates.

The Board also has the continuing obligation under N.J.S.A. 48:2-23 to ensure that copper to fiber migration occurs in an orderly fashion and that utility property and equipment continues to operate.³ The Board has an overarching responsibility to ensure that service upgrades do not jeopardize the provision of safe and adequate services and that Verizon's migration plans do not result in discriminatory and anti-competitive behavior against interconnecting carrier customers and ultimately the more vulnerable class of customers, the retail end-user ratepayers.

The *Tech Transition Order* requires that copper retirement notices provide 90-days notice to residential customers include the information set forth under 47 C.F.R. section 51.332(c).⁴ The FCC defines copper retirement as "the removal or disabling of" covered copper facilities, *i.e.*, "copper loops, subloops, or the feeder portion of such loops or subloops," and further defines removal as physical removal or disabling that renders the copper facilities inoperable (through acts of commission or omission, such as "*De Facto*" Retirement). *Id.* at Paras. 84 - 92, at pp. 49-52. The *Tech Transition Order* prohibits copper retirement without a minimum of 180-days notice for interconnecting carriers for the protection and benefit of not only the carrier customer but ultimately for the safety and the interest of the ultimate customer end-users. Para. 29, at p.19; Para. 39, at p. 24; and *Id.* at Para. 44, at p. 28. 180-days notice is also required for non-residential retail customers, and 90-days notice is required for residential retail customers. *Id.* at Para. 62, at p. 36. The *Short Term Notices* released by Verizon in New Jersey pursuant to 47 C.F.R. 327(a) violated the noticed 90-day migration date printed on the *Notices* themselves,

³/N.J.A.C. 14:10-1A.7.

⁴/*Tech Transition Order*, Para. 27, at p. 17 and *fn* 94 referring to Appendix A of the Order.

as customers are being migrated or having their service suspended and/or completely disconnected anywhere between a 45 to 60 day time period, in violation of not only FCC regulations but also State statutes and Board regulations discussed by Rate Counsel above.

The content of the *Notices* is also inconsistent with FCC guidance. To ensure that customers receive sufficient information to make informed decisions, the FCC Order provides that certain information regarding copper retirement must appear in the *Notice* and be presented in a "clear and conspicuous manner". Paras. 45-52, pp. 29-32. The FCC's Order, at Para. 50, "requires that the notice must be free from any statement attempting to encourage a customer to purchase a service other than the service to which the customer currently subscribes." *Id.* However, the *Notices* that have been mailed by Verizon clearly state that the customer's internet service will not work after the transition, and markets Verizon's FiOS product as an upgrade, in violation of the FCC's directive. *Id.* Such marketing must be done in separate communications not connected to the copper retirement notices. *Id.*, at Para. 51, p. 31. The FCC Order also requires that the *Notice* contain a "URL for a related web page with relevant information," as well as contact information for the Commission (including a link to the Commission's consumer complaint portal) and the relevant state PUC. *Id.*, at Para. 50, at p. 31. The Notice mailed to Verizon customers in New Jersey does not contain the required information.

Finally, the *Tech Transition Order*, confirms Rate Counsel's position that Verizon's copper to fiber transition is a discontinuance of service to retail customers that requires prior approval by the FCC under 47 U.S.C. section 214. The Commission has consistently held that under section 214(a), prior Commission approval is required when a carrier seeks to discontinue service to retail customers or to another carrier that uses the service to provide service to a community or any part of a community if discontinuing, reducing, or impairing that service will

impact the carrier-customer's retail customers. *Id.*, at Para. 108, at p. 60. The Commission found that "for Section 214(a) purposes, we must distinguish those situations in which a change in a carrier's service offerings to another carrier will result in an actual discontinuance, reduction or impairment to the latter carrier's customers as opposed to a discontinuance, reduction or impairment of service to only the carrier itself." *Id.*, Para. 109, at pp. 60-61.⁵

The Commission has noted that the section 214(a) notice and approval requirements "are directed at preventing a loss or impairment of a service offering to a community or part of a community without adequate public interest safeguards."⁶ Moreover, "[D]iscontinuance, reduction, or impairment of wholesale service is subject to section 214(a), and prior authorization is required when the actions will discontinue, reduce, or impair service to retail customers, including carrier-customers' retail end users. *Id.*, Para. 113, at p. 62, and is necessary to determine if the impairment of service to the carrier-customer's end users will adversely affect the present and future public convenience or necessity. *Id.*"⁷

Here, Verizon's transition clearly constitutes a "discontinuance, impairment or reduction" in service. While Verizon is offering basic telephone service over fiber, its notice acknowledges that the new service offering will not be the same as existing service. The notice makes clear that High Speed internet will be inoperable, that battery backup will be required and will not work with cordless phones, and, if the transition is not accomplished within Verizon's deadline, all service will be discontinued, impaired and reduced. As noted above, in the weeks following Rate Counsel's initial request for a Board investigation, Rate Counsel has continued to receive

⁵/ *Tech Transition Order*, quoting Commission action in the *Western Union Telegraph Company Petition for Order to Require Bell System to Continue to provide Group/Super group Facilities*, Memorandum Opinion and Order, 74 FCC 2d 293, 296, at para. 7 (1979) ("*Western Union*").

⁶/ *Id.*, at Para.109, quoting Commission action in *Western Union*, at paras. 6 and 7.

⁷/ *Tech Transition Order* citing to *Western Union*, at para 7., also citing to 47 C.F.R. § 63.62(b) requiring an application for the ("severance of physical connection or the termination or suspension of the interchange of traffic with another carrier.").

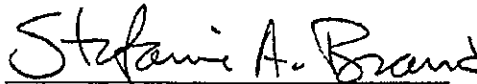
complaints from affected residential customers. At least one has been disconnected. Others requested to be switched to a competing provider but their request was denied. Customers have been advised by Verizon's customer service representatives that Verizon's copper lines will no longer be operational. *See Rate Counsel Certification*. These actions clearly constitute a "discontinuance, impairment or reduction" in service. The *Tech Transition Order* is clear that before Verizon can take such action, it is required to obtain Commission approval under section 214(a). In addition, as an interim measure pending Commission action regarding access rates, Verizon must continue to provide "*last mile*" connectivity to competing service providers so that customers seeking to switch may do so.

Accordingly, Rate Counsel urges the Board to act on its June 29 request and open an investigation to assess whether Verizon's copper to fiber migration in New Jersey is consistent with BPU statutes and regulations, the FCC's *Tech Transition Order*, and the requirement of a section 214 application with the FCC. Rate Counsel asks that the BPU also issue an Order prohibiting any disconnection pending the outcome of this investigation and review.

Thank you for your attention and consideration in this matter.

Respectfully Submitted,

STEFANIE A. BRAND, DIRECTOR,
NEW JERSEY DIVISION OF RATE COUNSEL

A handwritten signature in dark ink, reading "Stefanie A. Brand". The signature is written in a cursive style with a horizontal line underneath the name.

Stefanie A. Brand,
Director

Maria T. Novas-Ruiz,
Assistant Deputy Rate Counsel

SAB/db
cc: Service List
Via Electronic & Regular Mail

<p style="text-align: center;">SERVICE LIST</p> <p style="text-align: center;">I/M/O Rate Counsel's Request for an Investigation into Verizon New Jersey, Inc.'s Continued Use of its Copper Infrastructure to Provide Telecommunications Services and Verizon New Jersey Inc.'s Transition Plan to Migrate Customers from its Copper-to-Fiber Infrastructure/Network in New Jersey. BPU Docket No.:</p>

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SERVICE LIST

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Verizon New Jersey, Inc.'s Continued Use of its Copper
Infrastructure to Provide Telecommunications Services and
Verizon New Jersey Inc.'s Transition Plan to Migrate
Customers from its Copper-to-Fiber Infrastructure/Network in
New Jersey. BPU Docket No.:

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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

	:	STATE OF NEW JERSEY
	:	DIVISION OF RATE COUNSEL
	:	
In the Matter of Rate Counsel's Request For an	:	REQUEST FOR AN ORDER TO HALT
Investigation into Verizon New Jersey, Inc.'s	:	DISCONNECTIONS RELATED TO
Continued Use of its Copper Infrastructure to	:	VERIZON NEW JERSEY INC.'S
Provide Telecommunications Services and	:	COPPER-TO-FIBER TRANSITION
Verizon New Jersey, Inc.'s Transition Plan to	:	
Migrate Customers from its Copper-to-Fiber	:	AND
Infrastructure/Network in New Jersey.	:	
	:	SECOND REQUEST FOR AN
	:	INVESTIGATION OF VERIZON'S
	:	COPPER-TO FIBER TRANSITION
	:	IN NEW JERSEY
	:	BPU Docket No.TO15060749

ATTORNEY CERTIFICATION

I Maria T. Novas-Ruiz, an attorney in the State of New Jersey and Assistant Deputy Rate Counsel for the State of New Jersey Division of Rate Counsel, and staff attorney in the Telecommunications and Cable Section, certify as follows,

- 1) In the few weeks between Rate Counsel's June 29 Request for Investigation and Rate Counsel's annexed Second Request for Investigation, Rate Counsel has logged inquiries from concerned customers, and state and local elected officials on behalf of their constituents located in the following ten counties: Atlantic, Bergen, Cape May County, Essex, Hudson, Middlesex, Monmouth, Ocean, Passaic and Warren.
- 2) In spite of the FCC's August 7, 2015, *Tech Transition Order*, Verizon has not provided customers with any more information regarding the migration of services.

Rate Counsel has been informed by more than one customer that Verizon service representatives tell customers variations of the following: 1) that there are no other voice service providers in the area that they can migrate to; 2) that competing service providers will only be able to provide fiber service just like the services Verizon will offer them, as Verizon will cease to provide competing carriers Verizon's copper infrastructure; and 3) that complete discontinuance of service will result if they fail to acquiesce to migrate their service from copper to fiber within the 30 to 45-day period.

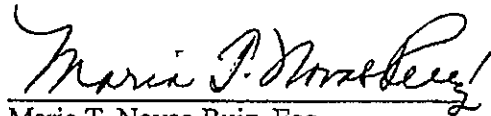
3) In addition, complaints have been reported that Verizon has frozen transfer requests made by customers to transfer to other providers, and that when the customer has inquired as to why they have not been transferred to the new service provider, Verizon has stated that the customer must first allow Verizon to migrate them to their fiber product and then re-request a transfer to another telecommunications service provider.

4) In the most egregious case to date brought to Rate Counsel's attention is the plight of one customer who stated that in spite of the customer's repeated request to transfer to another carrier within the period of time allotted under Verizon's Notice, her voice service was completely discontinued and her account was terminated without putting through her request to transfer to another carrier.

5) Lastly, one senior customer who said she acquiesced to the migration of services because she feared being disconnected altogether, filed a complaint with the FCC. The customer thereafter was copied on a letter from Verizon to the FCC requesting that the customer's complaint be dismissed as her concerns had been resolved. The customer immediately contacted both Verizon and the FCC and asked that the complaint not be dismissed because the customer was still very upset at how the process has been handled by

Verizon. A true and correct copy of that correspondence provided to Rate Counsel from the consumer is attached.

Dated: August 27, 2015.

A handwritten signature in cursive script, reading "Maria T. Novas-Ruiz".

Maria T. Novas-Ruiz, Esq.
State of New Jersey - Division of Rate Counsel
Assistant Deputy Rate Counsel
Attorney at Law – State of New Jersey

P.O. Box
Wallington, New Jersey 07057

August 17, 2015

The Federal Communications Commission (FCC)
Attention: Rebuttal Team
445 12th Street, SW
Washington, D.C. 20554

To Whom It May Concern:

I am writing to you in response to a letter I received from Verizon dated August 7, 2015. It is my understanding that you also have a copy of this correspondence. This letter implies that because I have made an appointment for this conversion, my complaint should be closed. I would like it clearly understood that even though this transition will probably occur, I feel I have been bullied and coerced into having this done.

The above information is related to a complaint (Ticket #439543) I filed on July 31, 2015 with your agency against Verizon. My reason for originally filing this complaint was twofold. First of all, I did not want to convert my phone service from copper wiring to fiber-optics, because I was concerned about what could be involved in the process. Secondly, I was extremely offended by the manner in which Verizon chose to inform me of this change. I had received an intimidating and threatening letter dated July 23, 2015 on July 29, 2015, my birthday. It stated that I had 30 days from the date of the letter to make an appointment for the conversion, or 2 weeks after that, my service would be suspended. So, in essence, I was given only 3 weeks notice to complete this transition. I recently learned I should have received 3 months notice.

I have to wonder why Verizon chose to bypass my New Jersey Board of Public Utilities and go to the FCC instead for authorization to do this. Perhaps Verizon anticipated that after carefully scrutinizing their plans for conversion, the BPU would not approve their course of action.

Unfortunately, I am not the only one experiencing Verizon's overreach of power. Consumers rely on agencies like the FCC and the BPU to protect them. I would hope now that this information has been presented to you that this matter will be thoroughly investigated.

Very truly yours,



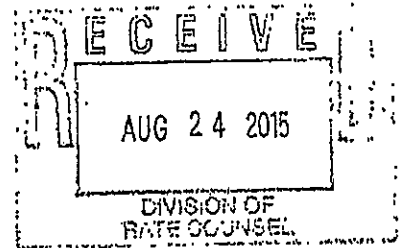
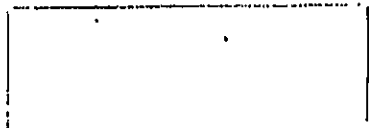
Verizon Executive Relations Team
290 West Mount Pleasant Avenue
Dispatch Floor 2, DRC
Livingston, NJ 07039

August 07, 2015

Complaint

Sharon Bowers
Division Chief
Consumer Inquiries and Complaints Division
Consumer & Governmental Affairs Bureau
Federal Communications Commission
1270 Fairfield Road
Gettysburg, Pennsylvania 17325-7245

RE:



Received: August 03, 2015

Thank you for referring the complaint of Mary Lou Sommer to our office for review. We appreciate this matter being brought to our attention. Mary Lou Sommer expressed concern about migrating service to fiber.

According to our records, this concern was received from the New Jersey Board of Public Utilities on July 29, 2015. Ms. Sommer lives in an area where Verizon is upgrading its network from copper to fiber facilities in order to improve the reliability of the services delivered to its customers. We are communicating to customers served by copper facilities in these areas in phases. The letter sent to these customers states that they must contact Verizon within 30 days of receipt of the letter to schedule an appointment to migrate their services to fiber. If no action is taken within 30 days, then service could be disrupted after 45 days. As part of our communication to these customers, we also follow-up with an automated message, outbound calls, and a postcard, each clearly asking for a call back so that we can explain the situation and schedule an appointment. For customers that do not respond to our last resort is to suspend their service. While suspended, customers still have the ability to call E911 and Verizon.

Following receipt of this complaint, Verizon representatives spoke with Ms. Sommer several times, explaining the benefits of fiber facilities and that there would be no change in her rates or terms of service and no charge for the migration. Ms. Sommer has advised she has an appointment set for August 19, 2015 to migrate her service to fiber facilities.

We trust that this information will assist you in closing this complaint. We apologize for any inconvenience that Mary Lou Sommer has experienced as a result of the above matter. Should the Federal Communications Commission have any questions, please contact S. Kashif using the contact information you have on file.

Sincerely,

Angela Shackelford
Verizon Executive Relations Team
(804) 772-7820



State of New Jersey
DIVISION OF RATE COUNSEL
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CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

STEFANIE A. BRAND
Director

October 8, 2015

Ms. Irene Kim Asbury,
Board Secretary
New Jersey Board of Public Utilities
44 South Clinton Avenue, 9th Floor
P.O. BOX 350
Trenton, New Jersey 08625-0350

Re: I/M/O of Rate Counsel's Request for an Investigation into Verizon New Jersey, Inc.'s Continued Use of its Copper Infrastructure to Provide Telecommunications Services and Verizon New Jersey Inc.'s Transition Plan to Migrate Customers from its Copper-to-Fiber Infrastructure/Network in New Jersey.
BPU Docket No.TO15060749

Rate Counsel's Reply to Verizon's Response to Rate Counsel's Request for Investigation

Dear Secretary Asbury:

The Division of Rate Counsel ("Rate Counsel") herewith respectfully files its reply with the Board of Public Utilities ("BPU" or "Board") to Verizon's response dated September 17, 2015, ("Response") in the above referenced matter for the Board's consideration.

If you have any questions please do not hesitate to contact me.

Sincerely,

STEFANIE A. BRAND,
DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL

Maria T. Novas-Ruiz,
Assistant Deputy Rate Counsel

MNR/rk
w/encls.
cc: Service List
(via Regular and Electronic Mail)

SERVICE LIST

I/M/O Rate Counsel's Request for an Investigation into
Verizon New Jersey, Inc.'s Continued Use of its Copper
Infrastructure to Provide Telecommunications Services and
Verizon New Jersey Inc.'s Transition Plan to Migrate
Customers from its Copper-to-Fiber Infrastructure/Network in
New Jersey. BPU Docket No. TO150749

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SERVICE LIST

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Verizon New Jersey, Inc.'s Continued Use of its Copper
Infrastructure to Provide Telecommunications Services and
Verizon New Jersey Inc.'s Transition Plan to Migrate
Customers from its Copper-to-Fiber Infrastructure/Network in
New Jersey. BPU Docket No. TO150749

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STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES

In the Matter of Rate Counsel's Request For an
Investigation into Verizon New Jersey, Inc.'s
Continued Use of its Copper Infrastructure to
Provide Telecommunications Services and
Verizon New Jersey, Inc.'s Transition Plan to
Migrate Customers from its Copper-to-Fiber
Infrastructure/Network in New Jersey.

BPU Docket No. TO15060749

RATE COUNSEL'S REPLY TO VERIZON'S RESPONSE TO
RATE COUNSEL'S REQUEST FOR INVESTIGATION

I. Introduction

In this Reply filing Rate Counsel incorporates by reference herein the arguments contained in its initial and second request for investigation into Verizon's copper to fiber transition in New Jersey respectively dated June 29, and August 27, 2015.

It is evident from Verizon's Response that Rate Counsel and Verizon disagree and have different interpretations concerning what constitutes the discontinuance of service under Federal Communications Commission ("FCC") regulations which would require Verizon to file a Section 214 Application and subject Verizon to customer notice requirements under §63.71.¹ As noted by Rate Counsel in its second request, in its *Tech Transition Order*² the FCC affirmed that

¹/ 47 C.F.R. § 63.71.

²/ *In the Matter of Ensuring Customer Premises Equipment Backup Power for Continuity of Communications*, PS Docket No. 14-174; *Technology Transitions*, GN Docket No. 13-5; *Policies and Rules Governing Retirement Of Copper Loops by Incumbent Local Exchange Carriers*, RM-11358; *Special Access for Price Cap Local Exchange Carriers*, WC Docket No. 05-25; *AT&T Corporation Petition for Rulemaking to Reform Regulation of Incumbent Local Exchange Carrier Rates for Interstate Special Access Services*, RM-10593, *Notice of Proposed Rulemaking and Declaratory Ruling*, (FCC 14-185, Adopted November 21, 2014, Released November 25, 2014); and *In the Matter of the Wireline Competition Bureau Short Term Network Change Notifications Filed By Verizon New Jersey*,

they "... are not preempting the ability of any state commission to evaluate an incumbent LEC's retirement of its copper loops to ensure such retirement complies with any applicable state legal or regulatory requirements." *Id.*, at Paragraph 96, p. 54.³ The Board continues to have an overarching responsibility on behalf of customers to ensure that the IP-Transition process proceeds in a safe and orderly manner, thus guaranteeing the continued provision of safe, adequate and reliable service by the carrier. At present, the interpretation and the manner in which Verizon continues its IP-Transition in New Jersey rests squarely before the Board.

Rate Counsel takes this opportunity to expand on some of the points raised in Verizon's Response.

II. Contrary to Verizon's contention, service offerings on Verizon's fiber platform are not comparable or necessarily better than services offered over its copper platform.

Verizon's states it is offering customers in the relevant areas, the same basic voice services (at the same rates, terms and conditions) . . . over superior fiber optic technology. *Response at pp.1-3*. Rate Counsel does not negate that a fiber platform is more durable and provides a customer with an opportunity to subscribe to a wider array of enhanced IP services, but this is not the issue for which Rate Counsel seeks the Board's intervention. The request here is for Board review of the manner in which Verizon is conducting its transition to fiber to ensure that vital utility service continues to be provided in a safe and reliable manner to New Jersey customers. The fiber system's durability and potential to provide enhanced communications

Inc., WC Docket No. 15-131. Adopted August 6, 2015 and Released August 7, 2015, ("*Technology Transitions et al.*, Order and FNPRM"), herein referred by Rate Counsel as the ("*Tech Transition Order*"), at Paragraph 96, p. 54.
³/ *Id.*, at footnote 347 p. 54, citing to 29 FCC Rcd at 14994, para. 54; *Triennial Review Order*, 18 FCC Rcd at 17148, para. 284.

options do not alter the fact that the fiber platform is not self-powered/self-sustaining and this generates grave concern among customers.

1. Customers are receiving reduced service at increased cost.

For customers who rely on and value the availability of continued functioning voice service during prolonged emergency power outages, the service over a fiber platform is not comparable and is inadequate. For these customers, and there are many, the value of the copper wireline voice service is inextricably tied to its ability to continue working during emergencies. Transitioned customers now must shoulder the added cost of purchasing at a minimum, 12 back-up D-cell batteries to extend equipment functionality to allegedly a maximum of only 20 hours. Customers complain that while they may be paying the same rates for the fiber platform for the time being, they are actually receiving *reduced* voice service and reliability during prolonged power-outages. Additionally, customers who currently subscribe to Verizon's DSL service will have to upgrade to Verizon's FiOS product at an additional cost.

2. There should be no disconnections of service under any circumstance.

Verizon's customer letter clearly states that service will be discontinued if customers do not arrange for Verizon to switch their service within 45 days, with complete termination of service fifteen days thereafter, even if those customers seek continued wireline service and have paid their bills. This action is contrary to state statutes, the Board's regulations and the recent Order approving the Reclassification Stipulation recently entered into between Board Staff and Verizon. N.J.S.A. 48:3-3 provides that no utility may "withhold or refuse to provide any service which reasonably can be demanded or furnished when ordered by the board." Likewise, N.J.A.C. 14:3-3A8(d) states clearly that a telephone utility may terminate Basic Residential Local Telephone Service only for nonpayment of charges.

The Board has an overarching responsibility to ensure public utilities to provide safe, adequate and proper service and allows the Board to "require any public utility to continue to furnish service and to maintain its property and equipment in such condition as to enable it to do so." N.J.S.A. 48:2-23. *See also*, N.J.A.C. 14:10-1A.7 (requiring telephone utilities to "maintain equipment and facilities as necessary to ensure the provision of safe, adequate and proper service at all times."). In its response, Verizon completely ignores these statutes and regulations. Customers should not be disconnected for failing to meet Verizon's arbitrary deadlines. Doing so violates the Board's statutes and is contrary to the public interest and safety of customers.

3. Fiber may not be as reliable as Verizon asserts.

Rate Counsel has received a customer complaint concerning the fiber service itself, which in certain cases has resulted in disconnected calls, swooshing, clicking, tapping and echoing on a call. These interruptions may occur sporadically at any given time of day, and on any and all calls: incoming, outgoing, long distance and local, on phone calls received from wireless, copper and fiber platforms. Verizon technicians are still trying to determine the root cause of the problems encountered. The definition of safe, adequate and reliable service includes full functionality at any given time of day. Further investigation is needed to ascertain whether this is a general problem or an isolated one.

4. Questions remain regarding compatibility of customer devices with the fiber platform.

In prior filings Rate Counsel has raised concerns regarding customers who currently employ service devices such as medical remote monitoring systems and security alarms, which may not be compatible with fiber and may cease to function after the transition. Consumers have advised that they have been told certain devices will not work with fiber. Verizon, on the other hand, claims that all medical devices will work after the transition. Rate Counsel has been unable

to verify this information. This is a prime example of why the requested Board review is needed. Rate Counsel urges the Board to investigate whether alarm systems and medical and other customer devices are indeed compatible with the new fiber infrastructure. Such a review is necessary to protect public safety.

- 5. Verizon's discussion of the deployment of fiber in Greenwich and Stowe Creek is misleading. The experience in those towns actually underscores the need for a Board investigation.**

Verizon argues that the "FCC and the Board have endorsed deployment of fiber facilities and migration of customers to such facilities, as asserted under the recent FCC IP-Transition Order and through Board support of Verizon's deployment of fiber facilities in the towns of Greenwich and Stowe Creek, New Jersey." Response at p. 2. However, the deployment of fiber facilities in the New Jersey Towns of Greenwich and Stowe Creek were the result of an *Order to Show Cause and Investigative Proceeding* initiated by the Board due to the over-whelming number of complaints by Verizon customers in these towns concerning the chronic deteriorated state of Verizon's copper system and the resulting persistent degraded voice service in those towns.⁴ Far from representing BPU support for Verizon's actions here, the situation in those towns supports Rate Counsel's assertion that BPU involvement is needed to force Verizon to provide safe, adequate and proper service and treat their customers fairly.

It is worth noting that Verizon has yet to resolve the voice and broadband service quality issues for thousands of residents in the many townships bordering and surrounding Greenwich and Stowe Creek. These neighboring towns have documented years of service quality complaints against Verizon regarding the chronic lack of service and the state of disrepair and deterioration of Verizon's copper infrastructure. Yet their requests for fiber or improved copper service have

⁴ *I/M/O the Board's Review of Verizon New Jersey Inc.'s Service Quality Issues*, BPU Docket TO12020156, Order dated March 12, 2012.

been denied. The continued state of affairs for Verizon customers in these locations is a matter of concern, not evidence of success.

Rate Counsel notes that it is the lack of reliable service in these townships, likely due to Verizon's *de facto* retirement of its copper facilities, that forced Verizon to migrate the customers in Greenwich and Stowe Creek to the fiber platform and that forces customers in other nearby towns to "clamor for deployment of fiber." Response p.3. Yet, in other areas of the state, Verizon is forcing customers to switch or be disconnected. What this demonstrates is that the transition to fiber is being accomplished haphazardly and that Verizon is using its considerable power over its customers to force them to bend to the Company's wishes. This is not the orderly transition contemplated by the FCC. The Board must step in to investigate the situation throughout New Jersey, and restore order and fairness to Verizon's customers.

6. Verizon's claims of cost savings cannot be substantiated.

Verizon states that "it has avoided approximately 1.4 million repair dispatches by migrating customers to fiber facilities to address repeated service issues with the copper facilities serving those customers. . . and . . . estimates consumer gains from these avoided repairs at \$140 million." *Response*, at p. 3. This claim cannot be substantiated and should not be accepted without further investigation. Verizon has never disclosed the cost to maintain the copper infrastructure despite consistent requests for this information by Rate Counsel in numerous prior proceedings. It thus cannot be determined whether the estimated "savings" were the result of rates collected by Verizon which should have been used for the continual maintenance of the copper infrastructure.

III. Service Discontinuance, Reduction and Impairment Are Subject to Section 214 Application and Review and Must Also Comply with State Regulations.

1. Verizon has failed to obtain necessary approvals or provide adequate notice.

Verizon contends that it has made the required FCC filings and its IP-Transition is compliant under both state and federal regulations. Response at pp. 4-6 and pp. 8-10. Verizon maintains that it is authorized to do so and that the Public Notice of "Short Term Network Change Notification" ("Short Term Public Notice") filed pursuant to the requirements of §51.325-35 is FCC compliant.⁵ However, Rate Counsel reiterates that the FCC's *Tech Transition Order* states that reduction, or impairment of service is subject to section 214(a), and prior authorization is required when the actions will discontinue, reduce, or impair service to retail customers. Para. 113, at p. 62. The FCC states:

Therefore, we reject arguments that a carrier need not ever seek Commission approval for discontinuance of service to a carrier-customer. ... As explained above, these arguments ignore the fact specific nature of the conclusions in those proceedings, and they overlook *BellSouth Telephone*. We also find that our clarification is fully consistent with and strengthens the Commission's finding in these cases that it must distinguish between discontinuances, reductions, or impairments of service that will result in the discontinuance, reduction, or impairment of service to a community or part of a community and those that will not have such an impact on the using public. ... Discontinuance, reduction, or impairment of wholesale service is subject to section 214(a), and prior authorization is required when the actions will discontinue, reduce, or impair service to retail customers, including carrier-customers' retail end users. ... In such cases, a 214 application is necessary to determine if the impairment of service to the carrier customer's end users will adversely affect the present or future public convenience or necessity. *Id.* (citation omitted).

Rate Counsel submits that the nature of Verizon's IP-transition in New Jersey requires Verizon to file an application for approval under Section 214(a) and then provide notice to customers pursuant to 47 U.S.C. § 63.71.⁶ Verizon's compliance with the Short Term Public

⁵/47 C.F.R. §51.325-35.

⁶/ *Tech Transition Order*, at Paras.137-138, at pp. 76-78 and Para. 145 and fn 497 at p. 81 and Para. 149, p. 85 and Para. 153, at pp. 86-87.

Notice requirements is immaterial as it provides inadequate opportunity to object and review the full impact of the planned reduction and/or discontinuance of services on all customers and thus provides inadequate and/or no public notice to directly affected retail and end-user customers. Assuming *arguendo* that the filing of a Short Term Public Notice under § 51.333 is proper, which it is not, the Notice fails to provide customers with the *Tech Transition Order's* more robust 180-day customer notice.⁷ Moreover, Verizon currently violates the 90-day transition period on some if not all of its customer IP-transitions. Rate Counsel has noted that the implementation date on Verizon's Short Term Notice has and may differ from Verizon's customer notice letters to customers that transition customer services from wireline to fiber within as little as 30-45 days from receipt of the customer's notice letter, thereby cutting the Short Term Notice 90-day implementation period by as much as 25-30 days in violation of § 51.333(b)(2) of the Commission's regulations.⁸ This warrants the Board's investigation, review and oversight.

2. The Board has overarching responsibility to ensure that public utilities provide safe, reliable and proper service pursuant to N.J.S.A. 48:2-23.

As discussed by Rate Counsel in its requests for investigation, state authority to safeguard the public interest in receiving reliable, safe and adequate telecommunications services has not been preempted by federal regulation.⁹ Verizon argues that N.J.S.A. 48:2-23 is silent about the types of facilities (i.e. copper or fiber) that must be used to provide services. Response at pp. 4 and pp. 10-11. Yet, Verizon fails to acknowledge that it is disconnecting customers that do not meet Verizon's deadlines and the regulations clearly authorize the Board to "require any public utility to continue to furnish service and to maintain its property and equipment in such

⁷/ *Id.*, at Para. 16, at pp. 12-13; Para. 23, at pp. 15-16; and Paras. 28, 29 and 30, at pp. 18-20.

⁸/ 47 U.S.C. § 51.333(b)(2); *See also, Id.*, at Para. 28 and *fn* 98, at p. 18.

⁹/ *Id.*, at Para. 96, at p. 54.

condition as to enable it to do so.” N.J.A.C. 14:10-1A.7. Rate Counsel’s petition merely asks the Board to exercise its overarching responsibility to ensure the continued provision of safe and reliable service and the utility company’s obligation to provide services on equipment that will guarantee safe and reliable service.

3. Further investigation is needed concerning the time allowed for migration before suspension of service and the duration of battery back-up life.

In its response Verizon describes its standard in-house notice procedures and practices. Response at pp. 5-6. However, complaints received by Rate Counsel belie that a standard practice are being utilized or followed by Verizon personnel to provide customer notification and follow-up information when Verizon customer representatives and technicians contact customers regarding the migration process. Rate Counsel recently received a complaint from a customer who claims his notice letter provides only a 30-day window, as opposed to a 45-day window to migrate services before complete disconnection and suspension of voice service occurs. Rate Counsel has also been advised through customer complaints that customers have been told by Verizon representatives and/or technicians that the battery back-up unit only has a life-supply/duration of 12-16 hours, which contradicts Verizon’s statement that its battery unit provides 20-hours of standby time for customers. Response at pp. 6-7. These and other discrepancies connected to Verizon’s transition process further support Rate Counsel’s request that the Board take action and investigate the process to ensure fairness to customers and compliance with the law.

4. Contrary to Verizon’s interpretations the FCC’s rulings confirm overarching public interest concerns and the need for continued monitoring by the Board.

Verizon states that the FCC’s *Battery Backup Order* and the additional rules released in the FCC’s August 7, *Tech Transition Order* were released to encourage and support the IP-

Transition. Response at pp. 6-8. Rate Counsel submits that the rules released were for the benefit of customers, in an effort to curtail and limit the potential for customer abuse and to promote public interest by ensuring the continued provision of safe and reliable service. The orderly retirement, reduction and discontinuance of service requires that the Board review and closely monitor the process to avoid the customer confusion and alarm caused by Verizon throughout this process.

5. All interested local and state parties should have been given notice pursuant to the FCC's *Tech Transition Order*.

Verizon further asserts that it is retiring copper facilities in five New Jersey wire centers, has made the required Notice filings at the FCC and has provided copies of same with Board Staff. Response at pp. 4-5. Again whether or not Verizon has made the appropriate filings under FCC regulations and provided the required notice and required information to customers in its notice, is a question of both state and federal regulatory interpretation. For the reasons detailed in Rate Counsel's requests for investigation into this matter, Rate Counsel asserts that Verizon has and continues to violate both state and federal regulations.¹⁰ Moreover, Rate Counsel was not aware that Verizon had provided advance notice and copies of their FCC Notice Filings to Board Staff of the planned transitions in the five wire centers. Rate Counsel was not provided with copies of the notices. Rate Counsel reiterates that the FCC's *Tech Transition Order* specifically finds that "key public agencies" are important players in the process, as guardians of the public interest. The Order strongly encourages cooperation between carriers and state commissions, and other state and local entities to ensure consumers understand and are prepared for the transition. *Id.*, Para. 64, at p. 38 and Para. 78, at p. 47. The FCC finds that "[I]n light of the accelerated pace of copper retirements and the allegations in the record of this and other

¹⁰/ Rate Counsel's Initial Request for Investigation at pp. 2 and pp. 6-9; *See also*, Rate Counsel's Second Request discussion at pp. 4-8.


proceedings, ... that the states should be fully informed of copper retirements occurring within their respective borders so that they can plan for necessary consumer outreach and education". *Id.*, Para. 70, at pp. 40-41.

Rate Counsel respectfully urges the Board not to relinquish its authority to oversee and ensure that the transition of services for customers from copper to fiber occurs in an orderly and safe manner, and meets all state and federal regulatory requirements ensuring proper customer notification and education. To accomplish these goals Rate Counsel recommends that the Board initiate an investigation of Verizon's copper to fiber transition and a process for review and oversight of that transition.

Thank you for your attention and consideration in this matter.

Respectfully Submitted,

STEFANIE A. BRAND,
DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL

A handwritten signature in cursive script that reads "Stefanie A. Brand". The signature is written in dark ink and is positioned above a horizontal line.

Stefanie A. Brand,
Director
Maria T. Novas-Ruiz,
Assistant Deputy Rate Counsel

Dated: October 8, 2015.