

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on November 27, 2012

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 10-C-0202 - Verizon Service Quality Improvement Plan.

ORDER TO SHOW CAUSE

(Issued and Effective November 28, 2012)

BY THE COMMISSION:

INTRODUCTION AND BACKGROUND

On December 17, 2010, the Commission adopted a revised Service Quality Improvement Plan (SQIP)¹ for Verizon New York Inc. (Verizon or the Company). Among other things, the SQIP Order directed Verizon to focus its service quality efforts on core customers,² finding that those customers had limited recourse available to them, other than regulatory protections.

Therefore, the SQIP Order directed Verizon to ensure that its

¹ Case 10-C-0202, Verizon Service Quality Improvement Plan, Order Adopting Verizon New York Inc.'s Revised Service Quality Improvement Plan with Modifications (issued December 17, 2010) (SQIP Order).

² Core customers are those in need of regulatory protection (i.e., residential and business customers who lack competitive wireline alternatives, are on Lifeline, or have special needs (e.g., those with medical conditions, or elderly, blind, or disabled customers)).

revised SQIP met our revised timeliness-of-repair out-of-service over 24 hours or service affecting over 48 hours (OOS>24 or SA>48)³ performance standards (e.g., 20% threshold) for its core customers by the end of 2010.

In adopting the SQIP, we found that the Company should be held to a firm standard in evaluating whether it in fact met our service quality directives for several reasons. We fully expected Verizon to provide enough administrative focus and resources in every one of its five service areas (e.g., distinct areas of New York State where Verizon measures service quality compliance) to ensure that the Company met our 20% threshold for both OOS>24 and SA>48 metrics because the focus on core customers was relieving the Company from significant timeliness-of-repair service reporting requirements on about 90% of its other access lines.⁴ When a measured service area performed better than 20% in a given month, that did not imply that every single reported trouble condition was repaired within 24 or 48 hours; rather the Company was afforded a built-in "cushion" to

³ The timeliness of repair metrics include 1) Percent Out-Of-Service Over 24 Hours (OOS>24), defined as the monthly percentage of customer trouble reports classified as out-of-service which are not cleared within 24 hours; and 2) Percent Service Affecting Over 48 Hours (SA>48), defined as the monthly percentage of customer trouble reports classified as service affecting which are not cleared within 48 hours. For both of these metrics, the performance threshold for each maintenance administrative entity is 20% or less. See 16 NYCRR, Parts 603.3 (c) and 603.3(d).

⁴ The Company had previously reported on 28 Repair Service Bureaus, each of which on average served about 178,000 access lines. The five new areas serve about 80,000 core customer access lines on average based upon the 400,000 estimated core customers through December 2010. The five service areas are: Upstate East; Upstate West; Midstate; Long Island; and New York City.

miss up to 20% of its monthly measured trouble reports. Second, the number of service areas was significantly reduced, which allowed for more aggregated results and, in turn, greater flexibility to how Verizon deployed its resources. Finally, changes to the Uniform Measurement Guidelines (Guidelines)⁵ were allowed, which also made it easier for the Company to achieve the 20% benchmark for both the OOS>24 and SA>48 metrics.⁶ To allow Verizon to align its operations and systems with the SQIP Order, and to restructure its reporting from the 28 service areas to just five service areas, the penalty provisions in the SQIP Order became effective beginning in March 2011.

Based on the above considerations, we concluded that if Verizon failed to meet the monthly 20% OOS>24 and SA>48 thresholds in any service area, a show cause order would be issued requiring Verizon to demonstrate why a penalty action should not be commenced pursuant to Public Service Law (PSL) §25. Under PSL §25(2):

Any public utility company, corporation or person and the officers, agents and employees thereof that knowingly fails or neglects to obey or comply with a provision of this chapter or an order adopted under authority of this chapter so long as the same shall be in force, shall forfeit to the people of the state of New York a sum not exceeding one hundred thousand dollars constituting a civil penalty for each and

⁵ The Guidelines provide the details of how the service metrics are calculated.

⁶ The changes specifically excluded customers that requested or accepted appointments for repairs outside of the threshold metric intervals. Matter 10-00319, Verizon New York Inc. - Uniform Measurement Guidelines of the Service Quality Standards, Notice Inviting Public Comments on Verizon New York, Inc's Request to Modify the Uniform Measurement Guidelines (issued February 24, 2010).

every offense and, in the case of a continuing violation, each day shall be deemed a separate and distinct offense.

Pursuant to PLS §§24 & 25(2), in any such penalty action, the Commission could seek a court order requiring Verizon to forfeit a sum not exceeding \$100,000 for each and every offense.

Verizon did not comply with the Commission's timeliness-of-repair metric in July of 2012 in the New York City (NYC) area with an actual performance of 20.58%. There were 5407 customer troubles classified as out-of-service in the NYC area in July, of which 1,113 took longer than 24 hours to repair. Based on the information Verizon has presented thus far, we are not persuaded this failure was beyond the Company's control. Therefore, consistent with our SQIP Order, we direct Verizon to show cause, why the Commission should not initiate a penalty action, based on the Company's failure to meet our timeliness-of-repair performance metrics during July of 2012.

DISCUSSION AND CONCLUSION

Public Service Law §25 states that a public utility and agents and employees thereof shall obey and comply with the provision of the statute, orders of the Commission or regulations adopted under the authority of the PSL. Concerning Verizon's failure to meet timeliness-of-repair for July of 2012, PSL §25(2) provides that where Verizon or its employees "knowingly fails or neglects to obey or comply with a provision of this chapter or an order adopted under authority of this chapter . . . [it] shall forfeit to the people of the state of New York a sum not exceeding one hundred thousand dollars constituting a civil penalty for each and every offense"

The decision to pursue a penalty action is entirely discretionary based upon the facts of each case. The SQIP Order

is clear as to when a show cause order shall be issued (i.e., if Verizon misses the 20% threshold for either OOS>24 and SA>48 metrics for any of its five service areas); and it is flexible as to what showing Verizon must make to persuade the Commission that no penalty action is warranted. Requiring such a showing is warranted here due to the way we designed the timeliness-of-repair out-of-service OOS>24 or SA>48 performance metrics (e.g., 20% threshold). These standards apply only to Verizon's core customers. That focus on core customers relieved the Company from significant timeliness-of-repair service reporting requirements on about 90% of its access lines. Although affording Verizon additional flexibility to address events that can cause service disruptions, we continued our expectation that Verizon would provide sufficient administrative focus and resources in every one of its service areas to ensure that the Company met our 20% threshold for both OOS>24 and SA>48 metrics during such periods. Verizon's violation in NYC for July of 2012 demonstrates that it knowingly failed or neglected to comply with the timeliness-of-repair performance requirements in the Commission's SQIP Order.

Therefore, we find sufficient evidence to require Verizon to show cause why a penalty action should not be commenced based on Verizon's failure to meet the timeliness-of-repair performance requirements in the SQIP Order for the NYC area for July of 2012. Verizon is directed to provide its explanation and legal analysis, as well as all evidence, as to why the Commission should not pursue a penalty action against the Company for its failure to comply with the Commission's SQIP Order standards for timeliness-of-repair OOS>24 during the month of July, 2012.

The Commission orders:

1. Verizon New York Inc. is ordered to show cause, within twenty-one (21) days of the effective date of this Order, why the Commission should not commence a penalty action against it for failure to comply with certain service quality procedures and metrics pursuant to Commission order for July, 2012.

2. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary