

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 13-C-0197 – Tariff filing by Verizon New York, Inc. to introduce language under which Verizon could discontinue its current wireline service offerings in a specified area and instead offer a wireless service as its sole service offering in the area.

**EMERGENCY PETITION OF
NEW YORK ATTORNEY GENERAL ERIC T. SCHNEIDERMAN
FOR AN ORDER PREVENTING VERIZON
FROM ILLEGALLY INSTALLING VOICE LINK SERVICE
IN VIOLATION OF ITS TARIFF
AND THE COMMISSION’S MAY 16, 2013 ORDER**

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June 26, 2013

Summary

Verizon's request to amend its tariff to permit substitution of Voice Link hybrid wireless service for traditional wireless service beyond Fire Island was explicitly denied in the Commission's May 16, 2013 Order. After permitting Verizon to install Voice Link on western Fire Island as a pilot test of the new technology due to the special circumstances stemming from Superstorm Sandy's damage to the coast, the Commission held specifically that it was "suspending Verizon's tariff amendment regarding its use of Voice Link in other parts of the State subject to further review."¹

Despite the unambiguous language of the Commission Order, Verizon has proceeded to implement its plans to install Voice Link service to seasonal customers in the Catskills. In clear violation of a Commission directive, and without any valid tariff permitting its use, Verizon has shipped a large quantity of Voice Link devices to its Monticello installation/maintenance center. Whenever a seasonal customer requests that their wireline Plain Old Telephone Service ("POTS") be restored for the summer, but dial tone is not functioning when the line is activated at Verizon's switch, the company has directed its technicians not to repair the existing service, but instead to install Voice Link in its place. Only where a customer forcefully refuses Voice Link will Verizon repair the wireline service.

Verizon's provision of Voice Link outside the confines of western Fire Island is illegal, and its open defiance of the Commission's May 16 Order must be met with effective sanctions.

¹ Case 13-C-0197, ORDER CONDITIONALLY APPROVING TARIFF AMENDMENTS IN PART, REVISING IN PART, AND DIRECTING FURTHER COMMENTS, issued May 16, 2013, at 2.

Facts

On May 3, 2013, Verizon New York, Inc. (“Verizon”) filed a proposed amendment to Tariff PSC No. 1 “setting forth the circumstances under which Verizon could discontinue its current wireline service offerings in a specified area and instead offer a wireless service as its sole service offering in the area.” Verizon specifically sought permission to offer this wireless service alternative, called Voice Link, in the western portion of Fire Island.² Verizon also asked to expedite approval sooner than the normal 30-day review period and to waive newspaper publication so it could “move forward to implement its plans to restore service on Fire Island as rapidly as possible.”

Verizon’s proposed tariff set out two different circumstances where Voice Link might be implemented as a substitute for traditional wireline service. These are where Verizon:

(a) certifies and demonstrates that a substantial portion of its facilities in the area is destroyed, rendered unusable, or beyond reasonable repair, or

(b) demonstrates that the use of wireless to serve specified customers, or groups of customers, is otherwise reasonable in light of the geographic location, the availability of competitive facilities to serve those customers or groups of customers, or in light of other criteria acceptable to the Commission.

At its May 16, 2013 Session, the Commission decided to conditionally approve the part of Verizon’s tariff applying to western Fire Island “because it is critical that service be available on Fire Island immediately,” while it suspended the second tariff provision quoted above “subject to further review” after seeking public comment.³

² May 3, 2013 tariff filing, cover letter to the Commission from Keefe B. Clemons, Verizon counsel.

³ May 16, 2013 Order, *supra*, at 1-2.

The Attorney General's Office has recently learned that Verizon intends to require customers outside of the Fire Island pilot area seeking to have their wireline service installed accept instead wireless Voice Link service, notwithstanding the Commission's May 16 Order. According to reports by representatives of the Communications Workers of America, Verizon has delivered a pallet load of Voice Link devices to its Monticello Installation/Maintenance Center, and has instructed its technicians in that region to provide summer seasonal customers returning to Catskill vacation homes, who have long been received Verizon wireline service, only Voice Link service. The union's report is corroborated by two complaints of Verizon seasonal customers who have been told Voice Link will be installed instead of repairing their wireline telephone service. Only by firmly refusing Voice Link were both customers able to keep their wireline service.⁴

Many Verizon customers spend their summers in bungalow communities in the Catskills region, often requesting their service be restored *en mass*. Because these dwellings are vacant during the winter and early spring, any wind or snow damage to the distribution facilities is only identified now, as the customers return for the summer season. Based on prior history, it is likely that hundreds of customers will seek to have their wireline service repaired. Thus, if Verizon substitutes Voice Link instead of wireline POTS for its seasonal customers seeking repair in this region, a substantial number of illegal installations will occur contrary to Verizon's tariff.

Unlike Fire Island, wireline network damage from Superstorm Sandy cannot be used as an excuse for substituting Voice Link for wireline service in the Catskills, where

⁴ See e.g., attached Affidavit of Joshua Michaeli.

the storm had limited impact.⁵ Instead, it appears that in the Catskills, Verizon has chosen to pursue the company's business strategy in blatant disregard for the Commission's Order.

The Commission's May 16 Order could not have been clearer in limiting Verizon's substitution of Voice Link for wireline service to western Fire Island, to enable evaluation of this unproven technology on a pilot basis. Indeed, the Commission directed Verizon to submit by November 1, 2013 a comprehensive "report evaluating the provision of Voice Link service on Fire Island"⁶ so this pilot can be weighed in conjunction with the public comments before the service can be expanded elsewhere. Verizon's attempt to usurp the Commission's authority by installing Voice Link in other parts of the state without a tariff must be halted immediately.

Request for Relief

The Commission should order Verizon to immediately cease and desist its illegal activities provisioning Voice Link anywhere in New York beyond the authorized western Fire Island pilot area, and also to promptly provision wireline service to any customer improperly connected to Voice Link.

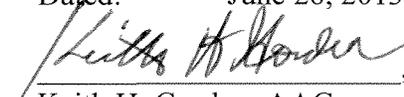
Moreover, Verizon's actions to provide Voice Link outside the western Fire Island pilot area, and efforts to compel customers in the Catskills region to accept Voice Link in place of wireline service is evidence that the company "knowingly fail[ed] or neglect[ed] to obey or comply with ... [a Commission] order." Therefore, pursuant to Public Service Law § 25, Verizon is subject to a \$100,000 "civil penalty for each and

⁵ Indeed, even after Hurricane Irene caused extensive damage to Verizon's wireline facilities in 2011, Catskills network facilities were repaired in the months following that extreme weather event.

⁶ May 16, 2013 Order, *supra*, at 12.

every offense, and in the case of a continuing violation, each day shall be deemed a separate and distinct offense.” The Commission should commence penalty proceedings against the company citing as separate and continuing violations each customer who has been denied timely installation of wireline service or had Voice Link installed as a substitute for the POTS service authorized by Verizon’s lawful tariff.

Dated: June 26, 2013

 , for
Keith H. Gordon, AAG

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AFFIDAVIT OF JOSHUA MICHAELI

STATE OF NEW YORK
COUNTY OF SULLIVAN, to wit:

1. My name is Joshua Michaeli, and during the summer season I reside in the Catskill Mountains region with my family at 445 Old Liberty Road, unit 16A, Monticello, New York, 12701.

2. My family has summered in the unit for several years, using Verizon landline telephone service. Each year, we suspend our seasonal service in the Fall and then have it restored in Spring/Summer when we return.

3. When we closed up the home at the end of the 2012 season, I called Verizon and asked to suspend out telephone service until springtime. I also scheduled a date to turn our telephone back on in June 2013 (number 845-791-7092).

4. In mid-May, I called Verizon again to confirm when our service would be restored, and was told that there was no record of the installation request I had made last Fall. I then repeated my request to have telephone service turned on in mid-June.

5. On June 18, 2013, my family returned to our unit and found that the telephone was not working properly. I then called Verizon to request that our telephone be repaired. The Verizon representative told me that the company wanted to install a wireless service called Voice Link instead of repairing our traditional wireline phone service. I declined Verizon's Voice Link offer, noting that our unit is in a wooded area where wireless communications may not work well. When I was transferred to the repair department to schedule a repair visit, the person making repair appointments again tried to convince me to accept Voice Link instead of having our existing service repaired, and I again said no thanks.

6. A short time later on June 18, a Verizon repair technician came to our summer home and in a few minutes repaired the wiring in the box attached to our building. Our wireline telephone service has been working since this repair.

Joshua Michaeli

Joshua Michaeli

Subscribed and sworn before me this 25th day of June, 2013 by Joshua Michaeli.

Keith H. Gordon (seal)

Notary Public

KEITH H. GORDON
Notary Public, State of New York
No. 4841690
Qualified in Westchester County
Commission Expires 3-18
4/25/2013