

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

**Joint Petition of Verizon Pennsylvania
LLC and Verizon North LLC for
Competitive Classification of All
Retail Services in Certain Geographic
Areas, and for a Waiver of
Regulations for Competitive Services**

Public Meeting May 19, 2015

**Docket Nos. P-2014-2446303 &
P-2014-2446304**

DISSENTING STATEMENT OF COMMISSIONER JAMES H. CAWLEY

Consistent with my original dissent from the adoption of the main Verizon Competitive Classification Order (Verizon Order),¹ I dissent from the Motion adopted today that implements various “clarifications” to the original Verizon Order.

In my Verizon Order Dissenting Statement I raised some of the difficulties that would arise by according legal deference to the Product Guides of the Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North) incumbent local exchange carrier (ILEC) telephone companies (collectively, Verizon Companies or Verizon).² The Motion adopted today makes a concerted and valiant effort to align the Product Guides of the Verizon Companies with certain Commission regulations that have not been waived in this proceeding for the basic local exchange telephone services that have been classified as competitive in the 153 Verizon wire centers. However, nothing prevents the Verizon Companies from rewriting their respective Product Guides as they see fit for the basic local exchange telephone services that they will be offering on a competitive basis. Furthermore, the original Verizon Product Guide and its subsequent versions are not subject to approval by this Commission. They need, of course, to comply with those few of our regulations that have not been waived. In practice, the Verizon Product Guides will become “moving targets” that this Commission will be obliged to police by individual informal and formal adjudications (e.g., informal and formal consumer complaints), where the burden of proof will rest with individual end-user consumers and precise standards of enforcing Section 1501 of the Public Utility Code, 66 Pa.C.S. § 1501, statutory parameters and requirements will be lacking because a number of relevant consumer protection regulations have been waived for the 153 Verizon wire centers in question.

The fundamental flaw of the Verizon Competitive Classification Order in elevating the status of the Verizon Product Guides into a legal standard — which can change at Verizon’s whim and without prior Commission approval — cannot be effectively cured through the clarifications put

¹ *Joint Petition of Verizon Pennsylvania LLC And Verizon North LLC for Competitive Classification of all Retail Services in Certain Geographic Areas and for a Waiver of Regulations for Competitive Services*, Docket Nos. P-2014-2446303 and P-2014-2446304, Order entered March 4, 2015, (Verizon Competitive Classification Order or Verizon Order), and Dissenting Statement of Commissioner James H. Cawley, dated February 26, 2015.

² Docket Nos. P-2014-2446303 and P-2014-2446304, Dissenting Statement of Commissioner Cawley, February 26, 2015, at 25.

forward by today's Motion.³ Over time, this Commission will be obliged to "reinvent the wheel" by laboriously re-establishing a relevant body of law for the protection of consumers of competitive basic local exchange telephone services, largely duplicating the regulations that have been waived for the 153 wire centers at issue.

I also fear that the clarification guidance adopted today does not sufficiently address the carrier of last resort (COLR) obligations of the two Verizon ILECs in their provision of competitive basic local exchange telephone services in the 153 wire centers. The Verizon Product Guide already specifies that:

G. Provision of Service

- (1) We will provide the services covered by this Product Guide where we have facilities available to provide the particular services and will provide the services using the facilities *and technologies best suited* to provide the particular services efficiently and *economically*.
- (2) Situations in which we will not provide service include, *but are not limited to*, the following:
* * *
 - (b) where providing the service is *uneconomic* or *not justified based on economic factors*;
 - (c) where we are *unable to make an economic assessment due to our inability to secure necessary information from the owner or developer of a property or other relevant party, to make that assessment*;

Verizon PA, Product Guide, Sec. 1.2.G, 1st Rev. Sheet 2 (September 5, 2014) (emphasis added).

Basic local exchange telephone service — whether it is provided on a fully regulated or competitive basis — is something beyond "voice service" alone, and through its functionalities it provides basic access to various communications capabilities and services and not just "voice service."⁴ Furthermore, the COLR obligations of ILECs such as Verizon PA and Verizon North are identified with *wireline* basic local exchange telephone services both under Pennsylvania and federal regulatory parameters.⁵ I am deeply worried that the language of the Product Guide will permit Verizon PA and Verizon North to accelerate the introduction of the technologically inferior fixed wireless Voice Link product and service in lieu of or as a replacement for wireline-

³ See generally Verizon Competitive Classification Order at 65, 99, and Ordering Paragraph 7, at 125.

⁴ For example, "local exchange telecommunications service" is defined in 66 Pa. C.S. § 3012 as the "transmission of *messages or communications* that originate and terminate within a prescribed local calling area." 66 Pa.C.S. § 3012 (emphasis added).

⁵ The funding support distributions to certain qualifying ILECs by the Pennsylvania universal service fund (Pa. USF) involve wireline services. Similarly, the federal USF and Connect America Fund (CAF) funding support distributions also involve wireline services (basic network and broadband access). The federal USF Low Income support to Verizon PA and Verizon North for Lifeline end-user consumers also involves wireline services.

based competitive basic local exchange telephone service⁶ in their 153 wire centers, in conjunction with their unregulated affiliate Verizon Wireless. The available evidentiary record in the underlying proceeding strongly suggests that Verizon “offers Voice Link to voice-only customers located in areas where FiOS is not available and ‘who have experienced repeated service trouble’.”⁷ The same evidentiary record also suggests that Verizon “customers with poor service quality face a double whammy — not only can they not subscribe to FiOS but also Verizon is offering a product that is *inferior* to basic stand alone service in these communities,” and that “[i]nstead of taking steps to prevent trouble reports or to repair defective plant, Verizon has chosen to deploy Voice Link.”⁸

The technological inferiority of Verizon’s fixed wireless Voice Link product and service was also demonstrated in the aftermath of Hurricane Sandy and in regulatory proceedings before the Federal Communications Commission (FCC) and the New York Public Service Commission (NY PSC).⁹ If Verizon PA and Verizon North were to selectively utilize and self-interpret their Product Guide language to “provide the services using the facilities and technologies best suited to provide the particular services efficiently and economically” in order to furnish competitive basic local exchange telephone services or substitute existing wireline-based services in the 153 wire centers with the technologically inferior Voice Link, these Verizon ILECs will not meet their COLR obligations. However, the Motion that is adopted today does not contain any safeguards on a going-forward basis. Therefore, I fear that end-user consumers who request or receive competitive basic local exchange telephone services in the 153 Verizon wire centers, and potentially the statutory advocates if they so desire, will have to litigate before this Commission the technological inferiority of Voice Link in its present form and level of functional sophistication, as happened before the FCC and the NY PSC in 2013.

⁶ Verizon PA and Verizon North provides wireline stand-alone basic local exchange telephone services both through a conventional wireline network but also through fiber to the home or the premises (FTTH or FTTP) landline network facilities.

⁷ Docket Nos. P-2014-2446303 and P-2014-2446304, CWA-IBEW St. 1.0, Direct Testimony of Susan M. Baldwin, at 87 (public information), citing Verizon response to Labor-11 data request (reproduced as Schedule SMB-13 in CWA-IBEW St. 1.0).

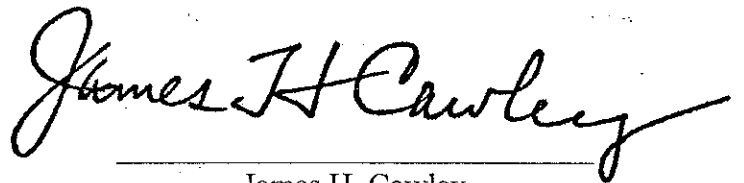
⁸ Docket Nos. P-2014-2446303 and P-2014-2446304, CWA-IBEW St. 1.0, Direct Testimony of Susan M. Baldwin, at 87 (emphasis added — public information).

⁹ The technological limitations of the Verizon fixed wireless Voice Link product and service include but may not be limited to: (a) The inability to transmit home alarm and personal medical alert signals; (b) the inability to transmit credit card information; (c) the inability to handle facsimile transmissions; (d) emergency 911/E911 calls can be affected by wireless network congestion; and, (e) the Verizon Voice Link cannot be utilized for broadband access purposes. See generally FCC Public Notice, *Comments Invited on Applications of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services*, WC Docket No. 13-150, (FCC, Rel. June 28, 2013), DA-1475, https://apps.fcc.gov/edocs_public/attachmatch/DA-13-1475A1.pdf ; *In re Application of Verizon New Jersey Inc. and Verizon New York Inc. to Discontinue Domestic Telecommunications Services*, FCC, WC Docket No. 13-150, Comments of New York Attorney General Eric T. Schneiderman, July 29, 2013; Initial Comments of the New Jersey Division of Rate Counsel, National Association of State Utility Consumer Advocates, and the Utility Reform Network, July 29, 2013; Verizon New York transmittal to the NY PSC, Case 13-C-0197, September 11, 2013 (Verizon New York decision to rebuild its wireline network in western Fire Island, NY, and to offer Verizon Voice Link solely on an optional basis, rather than as its sole service in the area), also submitted at FCC WC Docket No. 13-150.

Finally, the Motion provides an opportunity to comment on certain interpretative guidance concerning the original Verizon Competitive Classification Order. Additional internally-generated policy guidance that may affect the implementation of the Verizon Order and the individual adjudications of informal or formal consumer complaints receiving competitive basic services in the 153 Verizon wire centers should also receive the same degree of transparency through the use of one or more Tentative Orders. Furthermore, ten days for the submission of comments on the interpretative guidance contained in the Motion is clearly inadequate.

For the above-referenced reasons, I respectfully dissent from the decision reached by the majority.

Dated: May 19, 2015

A handwritten signature in black ink that reads "James H. Cawley". The signature is written in a cursive, flowing style with a long horizontal stroke at the end.

James H. Cawley
Commissioner