



Chris Christie
Governor

Kim Guadagno
Lt. Governor

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

Kristi Izzo
Secretary of the Board
Tel. # (609) 292-1599

NOTICE¹

IN THE MATTER OF VERIZON NEW JERSEY, INC.'S ALLEGED FAILURE TO COMPLY WITH OPPORTUNITY NEW JERSEY COMMITMENTS Docket No. TO12020155

Notice of Opportunity to For Public Comment

On January 29, 2014, the Board of Public Utilities ("Board") directed Board Staff to seek comment on a proposed Stipulation of Agreement between Board Staff and Verizon New Jersey relating to its Alternative Plan For Regulation ("PAR-2") and Verizon's compliance with Opportunity New Jersey ("ONJ") by, among other things, implementing a new broadband request process known as a bonafide retail request or "BFRR".

Parties wishing to be heard on the proposed stipulation, Opportunity New Jersey or the settlement of this case should submit comments to board.secretary@bpu.state.nj.us no later than March 24, 2014 at 5:00 PM and include "Verizon New Jersey, Docket No. TO12020155" in the subject line of the email. After reviewing comments, it will be determined whether to take additional action relating to this matter.

Hard copies or any comments should also be sent to:

New Jersey Board of Public Utilities
Kristi Izzo, Secretary
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, N.J. 08625-0350

A handwritten signature in cursive script that reads "Kristi Izzo".

Kristi Izzo
Secretary of the Board

Dated: January 29, 2014

¹ Not a paid legal advertisement.

switching and transmission technologies for its network known as Opportunity New Jersey ("ONJ"). The service capability and technology deployments outlined in ONJ were based upon assumptions regarding technology, markets and economic conditions over an extended period of time.

WHEREAS, PAR-1 required Verizon NJ to fully deploy broadband service in its service territory by the end of 2010 and provided for the monitoring of Verizon NJ's progress regarding such deployment.

WHEREAS, since the adoption of PAR-1, the Board has reviewed implementation of ONJ, particularly (1) the status of ONJ and relevant deployment strategies; (2) the business as usual benchmarks established to gauge ONJ's progress to date, and (3) the economic development impacts that ONJ has had on the State. *See, e.g., In the Matter of the Board's Inquiry into Bell Atlantic-New Jersey, Inc.'s Progress and Compliance with Opportunity New Jersey, Its Network Modernization Program*, Docket No. TX96100707, Order, October 18, 1996.

WHEREAS, by Order dated August 19, 2003, in Docket No. T001020095, the Board approved a second plan for alternative regulation ("PAR-2") that replaced PAR-1, but left in place the requirements of ONJ established under PAR-1.

WHEREAS, on March 12, 2012, the Board served on Verizon NJ an Order to Show Cause directing Verizon NJ to show cause why the Board should not find that it failed to comply with the PAR Orders in providing full broadband capability in its service territory by 2010; and to file an answer to the Order to Show Cause.

WHEREAS, on April 12, 2012, Verizon NJ filed an answer responding to the Order to Show Cause ("Answer"). In its Answer, Verizon NJ asserted that it satisfied its ONJ

commitments, including full deployment of broadband service within its service territory, and requested that the Board dismiss the Order to Show Cause.

WHEREAS, as a resolution to the Board's investigation regarding Verizon NJ's compliance with ONJ, the signatories agree that the requirements embodied in this Stipulation resolve the dispute between the signatories in a reasonable manner and THEREFORE agree as follows;

1. Implementation of Broadband Request Process: For single-line business or residential consumers ("consumers") residing in Verizon NJ's authorized service territory who do not have access to Broadband service (as defined below), Verizon NJ will, commencing thirty (30) days after the issuance and service of a Board Order approving this Stipulation and concluding the earlier of the Board's approval of a new plan of alternative regulation or December 31, 2017, make Broadband service available to such consumers pursuant to the terms of the bonafide retail request ("BFRR") requirements described below. Under the BFRR process, Verizon NJ shall make Broadband service available to:
 - a. a minimum of thirty-five (35) single-line business or residential consumers (in any combination) located in a Census Tract (as defined by the United States Census Bureau on the date of this Stipulation's execution) in Verizon NJ's authorized service territory who:
 - i. have no access to Broadband from cable service providers (including single-line business or residential consumers located outside of cable providers' Primary Service Area (defined in the applicable cable providers' Franchise Order issued by the Board));
 - ii. have no access to 4G-based wireless service; and

- iii. each sign a contract agreeing to at least one (1) year of service and pay a \$100 deposit to be credited towards their service (“BFRR consumer”).
- b. Within nine (9) months of the receipt of a completed BFRR that meets the criteria referred to in 1(a)(i)-(iii) above (“BFRR consumer”), Verizon NJ must either itself or by contracting with another provider (including wireless, cable, or satellite provider¹), arrange to have Broadband service provided to such BFRR consumer’s home or business. The nine (9) month time period for completing broadband installation may be extended by up to six (6) months upon notice by Verizon NJ to the Board and to the BFRR consumer, for delays beyond Verizon NJ’s reasonable control, including situations involving equipment or property acquisition, rights-of-way, permitting, or if the total number of BFRR deployments exceeds twenty (20) in a calendar year.
- c. For the purposes of this Stipulation, Broadband is defined as delivering, through the use of any technology medium (including 4G-based wireless, fiber, copper, or cable), data transmission service at speeds no less than the minimum speed of Verizon NJ’s Digital Subscriber Line Services (“DSL”) that is provided by Verizon NJ as of today’s date.
- d. Consumers who request Broadband service and meet the criteria set forth in paragraph 1(a) above, shall be advised by Verizon NJ that the BFRR process is available and provided with details of the program. Consumers who believe that Broadband service is improperly being denied to them under the BFRR process

¹The satellite technology referred to herein shall be technology that is superior to broadband satellite technology commonly deployed in the past. For example, a certain industry-leading satellite provider has announced plans to launch new satellite-based broadband services at speeds of between five and 10 megabits per second, far in excess of the arrangements previously available.

should also be advised by Verizon NJ that they can contact the Board to contest the denial.

- e. Within thirty days after the issuance and service of a Board order approving this Stipulation, Verizon NJ shall post detailed information concerning the BFRR program on its web site. Within ninety days after the issuance and service of a Board order approving this Stipulation, Verizon NJ will include an insert into its paper bills providing notice to its customers of the BFRR program. Verizon NJ shall provide semi-annual reports to the Board detailing the number of BFRR requests received by Census Tract. The reports should identify: (1) every BFRR request received; (2) the action taken in response to each request; (3) all applicants who are denied Broadband service under the BFRR process, and (4) the reason for the denial. The Board Staff may, upon reasonable notice to Verizon NJ, request that Verizon NJ provide supplemental reports updating the most recent semi-annual report.
2. Public Entities: Public schools, municipal police and fire stations, emergency services, rescue squads and/or paramedics shall not be subject to the BFRR process described in section 1 above. With regard to any such public school, municipal police, fire station, emergency service, rescue squad and/or paramedic in Verizon NJ's authorized service territory that does not have access to Broadband from a cable service provider or access to 4G-based wireless service, Verizon NJ shall: (i) establish a single point of contact to handle inquiries about Broadband service options and (ii) shall make Broadband service available on terms, conditions and rates mutually agreeable to the parties. Within nine (9) months of the execution of this Stipulation resolving this investigation, Verizon NJ

shall provide written notice to the public elementary schools in Hopewell and Upper Pittsgrove in Cumberland County, of their option to order Broadband service through what is known as the “Pittsgrove Consortium.”²

3. Access to BFRR: For residential consumers of Hopewell and Upper Pittsgrove who do not have access to Broadband and meet the BFRR process requirements set forth in Section 1(a) above, Verizon NJ shall complete all BFRR requests no later than nine (9) months of Verizon NJ’s receipt of a qualified request. The six (6) month extension referred to in Section 1(b) above, shall not apply to BFRR applications submitted by Hopewell and Upper Pittsgrove residential consumers.
4. Order to Show Cause: Upon the Board’s adoption of this Stipulation and service upon the signatories, Verizon NJ will implement the BFRR process detailed above to any qualified consumers who request Broadband service within Verizon NJ’s service territory. Further upon the Board’s adoption of this Stipulation and service upon the signatories, this Order to Show Cause will be closed and Verizon NJ’s ONJ requirements will be enforced through Verizon NJ’s compliance with the BFRR process and the requirements of this Stipulation. If Verizon NJ fails to comply with the terms of this Stipulation, the Board may take action to enforce such terms as the Board deems appropriate.
5. Effective upon Approval. The signatories agree that this Stipulation was negotiated and agreed to in its entirety with each section being mutually dependent on approval of all other sections. If the Board modifies or rejects any of the terms of this Stipulation, each signatory will have the option, before implementation of any different terms, to accept,

² The Pittsgrove Consortium allows for a group e-rate application that allows discounts to be passed on to each member district, and allows for shared expenses among members.

change, or to resume the proceeding as if no agreement had been reached. If this proceeding is resumed, each signatory is given the right to return to the position it was in before this Stipulation was executed.

6. Drafting of Stipulation. The entire Stipulation has been reviewed by and is acceptable to the signatories and their counsel as to form, content and meaning. The Stipulation was drafted jointly by the signatories and shall not be construed against any signatory based on its preparation.
7. Enforceability. In the event of default or breach of any term and/or condition of this Stipulation, the harmed signatory shall be entitled to rely upon this Stipulation or any other recourse available by law, to enforce the terms and conditions of this Stipulation.
8. Counterparts. This Stipulation may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one agreement.
9. Authority to Bind. The signatories hereby agree to be bound to this Stipulation, and they acknowledge that they are authorized on behalf of their respective clients to execute this Stipulation and to bind their respective clients by their signatures below.
10. Governing Law. This Stipulation shall be governed by the applicable law of New Jersey without regard to choice of law rules.

WHEREFORE, the parties hereto do respectfully submit this Stipulation and request that the Board issue a Decision and Order approving it in its entirety, in accordance with the terms hereof, as soon as reasonably possible.

VERIZON NEW JERSEY INC.

By: _____
Gregory M. Romano

Date: _____

NEW JERSEY BOARD OF PUBLIC UTILITIES
JOHN J. HOFFMAN, ACTING ATTORNEY GENERAL
FOR THE STATE OF NEW JERSEY
*ATTORNEYS FOR THE STAFF OF THE NEW JERSEY
BOARD OF PUBLIC UTILITIES*

By: _____
Deputy Attorney General

Date: _____