



Phillip D. Murphy
Governor

Shelia Y. Oliver
Lt. Governor

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

Aida Camacho-Welch
Secretary to the Board
Tel. # 1-800-624-0241

December 18, 2019

Richard C. Fipphen
Assistant General Counsel
Verizon New Jersey Inc
140 West Street, 6th Floor
New York, NY 10007

Re: Township of Alloway v. Verizon New Jersey, Inc.
Docket No. TC19121515

Dear Mr. Fipphen:

Enclosed is a copy of the petition in the above-captioned matter.

You may contest the petition or make representations to the Board in connection therewith. To do this, you must file an original and three (3) copies of a written answer with the Board and serve a copy of the answer on the petitioner and all other parties named in the petition within twenty (20) days after service of the petition upon you.

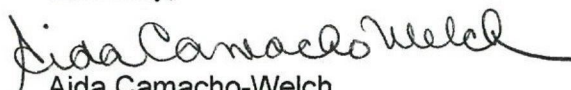
Parties may reply to an answer by filing an original and three (3) copies of the reply with the Board and serving a copy on all other parties within ten (10) days after service of the answer.

Proof of service of the answer and replies, if any, must be filed with the Board at the time of filing or immediately thereafter.

After an answer has been filed, the Board will determine: (1) if the matter is a "contested case"; (2) whether to transfer it to the Office of Administrative Law ("OAL") for hearing; or (3) whether to hear the case itself. If appropriate, before transferring a "contested case" to the OAL, the Board may attempt to settle the case in consultation with the parties.

Please include the above docket number on all filings and correspondence relating to this matter.

Sincerely,


Aida Camacho-Welch
Secretary to the Board

Enclosure
Cc: Petitioner
/DT

Cms
DAG
Legal
L. Gilbert

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DEC 13 2019

COUNTY OF CUMBERLAND
DEPARTMENT OF LAW

164 W. Broad Street., Bridgeton, NJ 08302
(856) 453-2165 (Ph)
(856) 453-2168 (Fax)



Theodore E. Baker, Esq.
COUNTY COUNSEL
Melissa D. Strickland, Esq.
ASSISTANT COUNTY COUNSEL

December 6, 2019

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Irene Kim Asbury, Secretary
Board of Public Utilities
44 S. Clinton Ave., Ninth Floor
P.O. Box 350
Trenton, NJ 08625-0350

TC 19121515

Re: IMO Verizon New Jersey Discontinuance of Land Line Telecommunications
Maintenance, Facilities, and Infrastructure

Dear Ms. Asbury:

Enclosed please find an original and ten copies of a Verified Petition together with one additional copy for the Respondent, Verizon New Jersey, in accordance with N.J.A.C. 14:1-4.2. I am providing these documents by mail and will electronically file the Petition as well. I am enclosing a check payable to the Treasurer State of New Jersey in the amount of \$25 in accordance with N.J.S.A. 48:2-56 as a miscellaneous complaint. Pursuant to N.J.A.C. 14:1-4.5(a)(2) would you please serve a copy upon the Respondent, Verizon New Jersey. By copy of this letter I am also serving a copy of this Petition on the Office of Rate Counsel, Stephanie Brand, Esquire.

Thanking you, I am

Very truly yours,

Theodore E. Baker

TEB/mep

enclosures

cc: Stephanie Brand, Esquire



Theodore E. Baker, County Counsel
ID No. 020141979
Melissa D. Strickland, Assistant County Counsel
ID No. 909892012
County of Cumberland
164 W. Broad Street
Bridgeton, NJ 08302
(856) 453-2165

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

Attorney for Township of Alloway

TOWNSHIP OF ALLOWAY'S)	BOARD OF PUBLIC UTILITIES
BONA FIDE RETAIL REQUEST)	
APPLICATION TO VERIZON NJ and)	
compliance with the requirements thereof)	Docket No.
)	
)	<i>Civil Action</i>
)	VERIFIED PETITION

FIRST CLAIM FOR RELIEF

This Petition is brought by the Township of Alloway, located in the County of Salem, with its principal place of business at the Municipal Building, 49 S. Greenwich St., P.O. Box 425, Alloway, NJ, by way of Petition to the Board of Public Utilities which alleges as follows:

1. Verizon NJ, Inc. (hereinafter sometimes referred to as "Verizon") is at all relevant times hereto a corporation doing business within the State of New Jersey providing, *inter alia*, telephone, internet, and communications services to the residents of the State of New Jersey.

2. The Township of Alloway is a municipal entity comprised of approximately 33.834 square miles lying wholly within the County of Salem, New Jersey, and is a rural community with 3,338 inhabitants as of July, 2019.

3. On November 16, 2018, the Township of Alloway filed an application pursuant to a Bona Fide Retail Request to Verizon, NJ seeking to require deployment of broadband throughout

the Township of Alloway pursuant to a Stipulation of Settlement in the matter of Verizon NJ, Inc.'s alleged failure to comply with Opportunity New Jersey commitments, Docket No. T012020155.

4. Pursuant to the Stipulation of Settlement entered into in or about April, 2014, an application to require the deployment of broadband in a defined census tract was to be made pursuant to a Bona Fide Retail Request to Verizon of NJ.

5. The Township of Alloway's BFRR Application was accompanied by at least 35 single line business or residential customers located in the census tract (212.01) in which the Township of Alloway is located.

6. The date by which a BFRR Application was to have been made expired on December 31, 2017, pursuant to a Stipulation of Settlement under Docket No. T012020155. However, the expiration end date of the BFRR Program was extended to July 1, 2019, pursuant to a Stipulation of Settlement in a subsequent matter filed before the BPU entitled In the Matter of Verizon New Jersey Discontinuance of Land Line Telecommunications Maintenance, Facilities, and Infrastructure, Docket No. TO15121325.

7. The Township of Alloway filed a timely application with Verizon prior to the amended end date of the BFRR Program.

8. Verizon denied Alloway's BFRR application on or about February 22, 2019.

9. Verizon asserted that 35 qualifying single line residential or commercial customers did not qualify and, therefore, denied the application.

10. In connection with the initial BFRR application, the Township of Alloway submitted 51 applications. Many of these applications were denied by Verizon as qualifying under the BFRR Program based on the allegation that these customers had 4G service.

11. Subsequent to the filing of the initial application the Township of Alloway provided additional applications made on behalf of Township residents in an effort to qualify 35 single line commercial or residential customers for service under the BFRR Program.

12. Verizon denied the additional submissions and refused to consider the BFRR application made by the Township of Alloway on behalf of its residents.

13. There is no provision in the BFRR Stipulation of Settlement in the matter of Verizon NJ, Inc.'s failure to comply with Opportunity New Jersey commitments, Docket No. T012020155, and the Stipulation of Settlement entered therein which precludes the supplementation of an application which is timely filed before the end of the BFRR Program.

14. There is no definition as to what constitutes 4G based wireless service in the Stipulation entered pursuant to the Stipulation of Settlement in the matter of Verizon NJ, Inc.'s alleged failure to comply with Opportunity New Jersey commitments, Docket No. T012020155.

15. There are no residents within the Township of Alloway who are able to receive DSL service from any provider (Digital Subscriber Line Services) and no residents are able to receive such service from Verizon NJ.

16. Based on continuing inquiries to its residents, the Township of Alloway has provided or has attempted to provide Verizon with additional submissions from residential or single line business customers who are believed to qualify under the BFRR Program.

17. Verizon has failed, neglected, and refused to consider additional submissions on the basis that the BFRR Program application deadline of July 1, 2019, has expired. Nowhere in the BFRR Stipulation does it specify that applications may not be amended, supplemented, or that additional submissions in support of the BFRR application could not be submitted nor that such additional information submitted on behalf of residential customers or single line business customers would be rejected if amendments or supplements were made to an application after July 1, 2019, if the initial application was made prior thereto. Nonetheless, Verizon has refused to accept additional information and has unilaterally determined that the application by the Township of Alloway on behalf of residents within census tract 212.01 will not be considered. The Township of Alloway respectfully avers and alleges that Verizon's refusal to consider its application together with any amendment or supplements thereto is in violation of and contrary to the provisions, the intent, and spirit of the BFRR Program and the Stipulation of Settlement referred to above in its own right and on behalf of all residents and businesses in the Township of Alloway.

18. In Verizon's promotional materials it is set forth that if an application "... is incomplete, we will let you know and you may resubmit it." Despite this representation, Verizon has failed, neglected, and refused to consider supplemental material and submissions made on behalf of residents and businesses of the Township of Alloway by the Township.

WHEREFORE, it is respectfully requested that the Board of Public Utilities enter an order directing and compelling Verizon to accept supplements and amendments to the BFRR application filed on behalf of Township residents with Verizon on December, 2018, and amended and supplemented after July 1, 2019.

SECOND CLAIM FOR RELIEF

1. The same allegations and averments as were made in the First Claim for Relief are repeated and incorporated herein by reference in the same manner as where originally stated as if fully set forth at length.

2. Verizon rejected numerous submissions provided to it with the BFRR application from the Township of Alloway allegedly on the basis that many of these residents had 4G service.

3. The BFRR Stipulation of Settlement referred to above in paragraph 1(ii) therein requires Verizon to make broadband service available to a minimum of 35 single line business or residential customers in a defined census tract who have no access to broadband from cable service providers, no access to 4G service.

4. Verizon denied submissions on behalf of numerous residents because Verizon claimed that 4G service was available to such residents.

5. Eventually Verizon responded to numerous inquiries on behalf of the Township as to the mechanism or means by which Verizon determined that 4G service was available to customers

on whose behalf submissions were made in connection with the BFRR application aforesaid. Verizon responded that it rejected the submissions on behalf of those customers because of a map showing that 4G service was available.

6. The FCC has specified broadband service as 25MB download and 3 MB upload. The FCC has also determined that the broadband service maps are unreliable and in many instances inaccurate.

7. When requested by the Township of Alloway for any testing done of residential 4G availability and the speed at which such availability was or was not available, Verizon declined to provide such information and eventually conceded that no such testing was ever performed; rather, Verizon alleged that because it resorted to a map showing that 4G coverage was available in areas where some of these customers resided that they were disentitled to have their applications qualified under the BFRR Program.

8. The Township of Alloway avers and alleges that there is no definition of the meaning of 4G service in the BFRR Stipulation. The only definition with respect to the upload and download speed of service in the BFRR Stipulation is set forth in paragraph 1C which defines broadband as delivering through the use of any technology, medium, data transmission service, including 4G based wireless service which is at the minimum speed provided by Verizon DSL, Digital Subscriber Line Services, as provided on the date of the Stipulation, April 21 or 22, 2014.

9. There is no source referred to by Verizon in connection with its denial of applications submitted on behalf of single line commercial customers or residential customers in Alloway Township of the speed of which DSL service should be provided. Nonetheless, Verizon denied

any application based upon a map and not based upon the speed of which internet or broadband service was being provided.

10. Residents of the Township of Alloway have taken speed tests of the existence of 4G service at their residences or single line businesses, as the case may be, and in the majority of cases, such service is widely inconsistent, completely unavailable at some times, and extremely slow at other times. There is no indication in the BFRR with respect to what the upload or download speed of DSL should be nor is there any indication in the BFRR Stipulation as to the availability of such service during a 24 hour period nor is there any indication as to what the average speed, lowest speed, or highest speed of service should be.

11. Since Verizon apparently takes the position that any broadband, irrespective of availability and service speed, would be a disqualifier for eligibility under the BFRR program, the mere existence of 4G service at any speed is apparently deemed to be a disqualifying condition.

12. Inasmuch as the minimum 4G service should be equal to DSL service as of April, 2014, the Petitioner requests a declaratory ruling of the Board of Public Utilities defining the minimum speed and minimum period of time during which 4G service should be available in order to serve as a disqualifying condition to render submissions on behalf of residents under the BFRR Program as ineligible for broadband upgrades under the program.

WHEREFORE, the Township of Alloway respectfully requests a declaratory determination by the Board of Public Utilities with respect to the minimum speed and available service requirements of 4G service to residents of the Township of Alloway that must be demonstrated by Verizon NJ in order to disqualify such submissions on behalf of residents and

single line customers for eligibility to the BFRR claim.

THIRD CLAIM FOR RELIEF

1. The same allegations and averments made in each and every paragraph of the First and Second Claims for Relief are incorporated herein by reference in the same manner as where originally stated as if fully set forth at length.

2. The Township of Alloway is almost wholly located within defined census tract 212.01. A portion of the census tract is outside the Township, however. Pursuant to the BFRR Program, qualifying communities have had the entire census tract constructed with fiber or FIOS service provided by Verizon in response an approval pursuant to the BFRR Program.

3. Verizon has denied and refused to commit to providing the same or equal service to various communities including, presumably, the Township of Alloway with respect to broadband service in the event that it is compelled to provide broadband pursuant to the BFRR Stipulation and Program.

WHEREFORE, the Township of Alloway respectfully requests a declaratory determination by the Board of Public Utilities specifying and clarifying whether or not upon approval of a BFRR Application for 35 residential customers or single line commercial customers the entire census tract within which customers reside or are located must provide such service throughout the census tract with respect to which the application was made and not just the customers who made BFRR submissions.

FOURTH CLAIM FOR RELIEF
DSL SERVICE

1. The same allegations and averments made in each and every paragraph of the First through Third Claims for Relief are incorporated herein by reference in the same manner as where originally stated as if fully set forth at length.

2. The BFRR Stipulation of Settlement, as aforesaid makes reference in paragraph 1C that broadband is defined as speeds at no less than the minimum speed of Verizon NJ Digital Subscriber Line service (DSL) that is provided by Verizon NJ as of today's date. However, the actual speed and whether or not such speed was or should be uniform throughout the State of New Jersey is not set forth.

3. In order to determine what constitutes broadband and the applicable upload and download speeds that equate with broadband pursuant to the BFRR Stipulation, either the Board or the Township of Alloway should be allowed to conduct such inquiries or discovery vis a vis Verizon to ascertain what speeds for DSL were in existence in Alloway Township and elsewhere throughout the State of New Jersey as of April 21 or 22, 2014, in order to determine whether or not broadband is being provided at that speed and is available throughout a 24 hour period in any given day at that speed.

WHEREFORE, the Township of Alloway requests that an Order be entered allowing inquiries and discovery to be undertaken vis a vis Verizon in order to ascertain what appropriate DSL speeds must be maintained and were the minimum speed of Verizon's NJ digital subscriber

line services in Alloway Township and elsewhere in New Jersey as of the date of the Stipulation in order to determine whether or not broadband is available or not as 4G service within the Township of Alloway.

Dated: 12/5/19

COUNTY OF CUMBERLAND



Theodore E. Baker

VERIFICATION

Pursuant to N.J.A.C. 14:1-4.6 the undersigned certifies and verifies that all factual information is accurate and that any willful misstatement may subject the undersigned to punishment.

Dated: 12/5/19



Theodore E. Baker