

New Networks

Comments Filed:

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RE: WIRELINE COMPETITION BUREAU SHORT TERM NETWORK CHANGE NOTIFICATION FILED BY VERIZON NEW YORK INC.

Report No. NCD-2353¹

Report No. NCD-2351²

First Filing: New Networks Requests the FCC Halt this Section 251 Short Term Wireline Network Change and Start Investigations of Verizon New York's (VNY) Actions.³

UPDATE ADDED: New Networks Calls for an Immediate Investigation of Verizon's Bell Harbor Short Term Network Change—Impacting over 50,000 Residents of “The Rockaways”, in New York City.

SUMMARY: The following comments were filed by New Networks with the FCC on May 19th, 2014 and updated May 20th, 2014, requesting the FCC halt Verizon's plan and to start immediate investigations. Verizon New York has filed with the FCC to close the copper wires in its networks and replace it with fiber optics at the Bell Harbor, Queens, 'central office', which is a building that aggregates lines in a community. After an investigation, our experts found that the plan will impact about 50,000 customers in the Rockaways, Queens, New York City.

Verizon has filed this as a notification using Section 251 of the Telecom Act and this process is used for simple, small changes in technology in the networks as it is rubber-stamped and approved with no data, analysis or any announcements. Verizon New York has decided to use this administrative procedure which we believe is not appropriate because of the magnitude of the changes and impacts, and this below-the-radar approach will be used everywhere Verizon has FiOS, as Verizon has already filed to do the same thing in Ocean View, Virginia.

However, this issue is tied to a new report by Public Utility Law Project, written by New Networks, which shows that residential and business POTS, (Plain Old Telephone Service) customers have had major rate increases for 'massive deployment of fiber

¹ http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-326960A1.docx

² http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-326958A1.docx

³ There are two notifications -- Report No. NCD-2353 and NCD-2351, but our primary concern is with any changes to shut off the copper networks and we will refer to them as one group.

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optics', (among other reasons) — 84% since 2006 on basic service, as well as increases on every ancillary service. And in Verizon's New York City's cable franchise, Verizon has claimed that it is creating a "FTTP" (Fiber-to-the-Premises) network classified as a 'Title II', common carriage, telecommunication service, meaning that it should be part of the state utility. This is compared to FiOS, which is a brand of Verizon's cable, internet and broadband service, which are classified as "Title I", "information services" and has few obligations as compared to telecommunications, or "Title VI", a cable service.

This was done, it appears, so that most of the construction expenses could be charged to utility customers, while the revenues go into a different financial bucket, benefiting Verizon Corporate. It is illegal to charge POTS customers for cable, internet and broadband services. Also, most of the 'rights-of-way' are for the utility, not for an Information service.

Is the construction in the Rockaways for the utility, or FiOS, paid for by investors, or POTS customers? Also, there is no data about the impacts, number of customers, number of current copper-based lines in service – nothing was filed by Verizon NY.

Links to the Materials:

- **Report: It's All Interconnected.**
- <http://newnetworks.com/verizonfiostitle2/>
FCC information and filings
- <http://www.fcc.gov/encyclopedia/section-251-wireline-network-changes>
- **Verizon**
- <http://www.verizon.com/about/networkdisclosures/>
- **Related filing by Advocate groups about the forced migration of customers throughout the US US.**
- http://www.publicknowledge.org/assets/uploads/blog/14.05.12_Copper_Letter.pdf

NOTE: We have added the additional filing at the end of the original document.

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First Filing: New Networks Requests the FCC Halt this Section 251 Short Term Wireline Network Change and Start Investigations of Verizon New York's (VNY) Actions.⁴

Fact: This Section 251 notification is part of Verizon Communications' larger plan; Verizon New York is a wholly owned subsidiary. In June 2012, Lowell McAdam, Verizon's CEO stated that 'killing the copper' was a "pot of gold".⁵

“But the vision that I have is we are going into the copper plant areas, and every place we have FiOS, we are going to **kill the copper**. We are going to just take it out of service, and we are going to move those services onto FiOS. We have got parallel networks in way too many places now, so that is a **pot of gold** in my view.” (Emphasis added)

FACT: The copper-based networks, including all of the wires, equipment, buildings including the “central office” and other chattel are part of state based Public Switched Telephone Networks, (PSTN), the utility networks. Verizon New York never mentions this fact in any of these documents nor does Lowell McAdams in any of the presentations made to the investment community.

Major Points:

- 1) Do not allow Verizon to claim this is a Section 251 short term change: VNY is shutting off the copper-wired networks in a large New York City neighborhood, Bell Harbor, Queens, New York City, NY.
- 2) The FCC currently has multiple open dockets, proposals and plans that are related to the retirement of the copper networks.
- 3) There have been calls by Advocates for investigations about 'killing the copper'.
- 4) Over 5,400 residential as well as businesses and companies are impacted; Bell Harbor has a larger population than 83% of all New York State municipalities.
- 5) Bell Harbor represents more people than in the AT&T IP Transition trial in Alabama.
- 6) Verizon NY has supplied no information about how many will be impacted.
 - a) This is not an additional service; Verizon is shutting off the current, primary, copper-based services.
 - b) Is Voice Link and Wireless involved?
 - c) Verizon's FiOS Services only have a 30-40% uptake rate.
- 7) Legal Status. Is this being done to sell cable TV or is it part of the utility?
- 8) Is Verizon NY charging POTS customers for this fiber optic upgrade?
- 9) Section 251 is for interconnection with competitors. Shutting the copper harms

⁴ There are two notifications -- Report No. NCD-2353 and NCD-2351, but our primary concern is with any changes to shut off the copper networks and we will refer to them as one group.

⁵ <http://www.newnetworks.com/VerizonKillCopperjune2121012.pdf>

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- competition.
- 10) Follow the Money—Which bucket of money pays for these upgrades and is there any equivalence of the copper service in place?
 - 11) Failure to disclose the sub-plot – offer cable service over a monopoly wire.
 - 12) There is no economic analysis of the impacts to the community.
 - 13) Who owns this upgraded network and what obligations are being transferred?

Discussion:

- 1) **Do Not Allow Verizon to Claim this is a Section 251 Short Term Change: VNY is Shutting Off the Copper-Wired Networks in a Large New York City Neighborhood.**

Verizon New York has filed to essentially shut off the copper wiring in a New York City neighborhood, Bell Harbor, Queens, where they are deploying FiOS, Verizon's cable TV VOIP-phone and high-speed Internet service.⁶ They are doing this under Section 251 of the Telecommunications Act of 1996, which pertains to the interconnection of competitors to the incumbent networks and is used to make basic network changes, such as replacing a network switch.

And using this process, the FCC will simply rubber stamp Verizon New York's notification. There is no review, no data or analysis supplied, no information about the impacts on the customers in the areas being shut off and Verizon is using this 'under-the-radar' approach to move its corporate policy —Shut off the wires because it makes the company more profits.

In fact, the September 2012 J.P. Morgan analyst conference, McAdam said that moving the customers to FiOS makes the company more profits:⁷

“And we're going to move them off of copper and onto the FIOS, which helps the FIOS profitability as well as removes all the expense associated with that copper plant. So we're going to move forward with that.”

⁶ NOTE: After a complaint was filed, on May 15th, 2014, Verizon New York has claimed that they are not supplying cable service to Fire Island. Verizon had refused to fix the copper wires on the Island and other places after Sandy and replaced it with Voice Link, an 2G-styled wireless device that could not do basic wired-data applications. After a proceeding at the NYPSC, Verizon folded because of a public outcry, and the company claimed it would supply FiOS to the community by Memorial Day 2014.
<http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId={5A32123E-30DB-4572-8750-5E8037AA934A}>

⁷ <http://www.newnetworks.com/Verizonjpmorgansept72012.pdf>

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And we note that in areas, such as in New York State, where it is not being deployed, Verizon's plan is to shut off the copper and force customers onto Verizon Wireless' services.⁸

McAdam stated in June 2012:⁹

“And then in other areas that are more rural and more sparsely populated, we have got LTE built that will handle all of those services, and so we are going to cut the copper off there.”

At the September 2012 J.P. Morgan analyst conference, McAdam said moving the customers to wireless makes the company more profits:

“And in many areas we're also taking customers that aren't performing well on copper and we're moving them over to the wireless technology. So that improves our cost structure significantly and streamlines all those ongoing maintenance costs.”

AT&T has the same goal in its 22 states and it is part of AT&T's FCC “IP Transition” where the company has trials in Del Ray Beach, Florida and Carbon Hill, Alabama.¹⁰

As we will discuss, this is not a simple network change but a major policy shift — i.e., shutting off whole neighborhoods whole services are still in use. Moreover, Verizon has not supplied any information about the impacts on customers, or even how many lines are in service today that are copper-based.

This network change is substantial and a harmful attempt by Verizon to slip this under-the-radar and this needs investigation, not some rubber stamp notification. Let's go through some of the major issues.

2) Verizon NY Is ‘Shutting Off the Copper Facilities.’

Verizon NY writes that they are shutting off the copper networks and replacing it with ‘fiber-to-the-home’ and ‘fiber to the curb’ loops, in an entire neighborhood, Bell Harbor, Queens, New York City. (We readily admit there is no enough data about this to confirm our assumption.) Verizon New York writes:

“Description of Reasonably Foreseeable impact of the Planned Change:
After the retirement of the copper facilities, Verizon will: (1) No longer

⁸ <http://www.newnetworks.com/VerizonKillCopperjune2121012.pdf>

⁹ Ibid.

¹⁰ <https://prodnet.www.neca.org/publicationsdocs/wwpdf/22814att.pdf>

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offer services over copper facilities; and (2) Cease maintaining the copper facilities.”¹¹

“..incumbent LEC’s short term notice or notice of replacement of copper loops or copper subloops with fiber-to-the-home loops or fiber-to-the-curb loops...”¹²

2) **The FCC Currently Has Multiple Open Dockets, Proposals and Plans that Are Related to the Retirement of the Copper Networks.**

The FCC currently has multiple open dockets, proposals and plans including:¹³

- AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353;
- Technology Transitions, GN Docket No. 13-5;
- Petitions for Rulemaking and Clarification Regarding the Commission’s Rules Applicable To Retirement of Copper Loops and Copper Subloops, RM-11358;
- Letter of US TelePacific Corp. et al. Requesting Commission to Refresh Record and Take Expedited Action to Update Copper Retirement Rules to Promote Affordable Broadband Over Copper, WC Docket No. 10-188;
- A National Broadband Plan for Our Future, GN Docket No. 09-51

Under the FCC’s rule a Section 251 notification is an ‘accept’ and ‘notify’ informal process, when what is needed is a formal public process where the various parties can make clear their issues and concerns, and the company is required to answer basic questions.

With an open docket at the New York State Public Service Commission surrounding Verizon’s request to no longer have to maintain the copper wire in areas of New York State, including Fire Island,¹⁴ this Verizon filing harmed the due process of the State of New York’s Public Service Commission, the City of New York, the citizens of Bell Harbor Queens New York, and concerned parties, including a lack of outreach to small competitive telecommunications businesses that would be entitled to due process under the Regulatory Flexibility Act, which is a mandatory part of every FCC proceeding.

¹¹ http://www.verizon.com/idc/groups/public/documents/adacct/ny_short_term.pdf

¹² http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-326960A1.docx

¹³ Re: AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353; Technology Transitions, GN Docket No. 13-5; Petitions for Rulemaking and Clarification Regarding the Commission’s Rules Applicable To Retirement of Copper Loops and Copper Subloops, RM-11358; Letter of US TelePacific Corp. et al. Requesting Commission to Refresh Record and Take Expedited Action to Update Copper Retirement Rules to Promote Affordable Broadband Over Copper, WC Docket No. 10-188; A National Broadband Plan for Our Future, GN Docket No. 09-51

¹⁴ <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterSeq=42688>

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3) **There have been Calls for Investigations about ‘Killing the Copper’.**

On May, 12, 2014, a group of advocates and experts filed a letter for the FCC to start investigations into customers being forced off of their current copper-based state-based utility, Public Switched Telephone Networks (PSTN) — as there have been complaints nationwide about this forced migration.

“Public Knowledge, The Utility Reform Network, The National Association of State Utility Consumer Advocates (NASUCA), Office of the People’s Counsel, District of Columbia, Maryland Office of People’s Counsel, State of New Jersey, Division of the Rate Counsel, The National Consumer Law Center, on Behalf of Its Low-Income Clients, write to the Federal Communications Commission today to express concern about reports that have surfaced across the country indicating that carriers are forcing customers off of traditional copper-based phone service. Complaints often state that customers are being involuntarily moved to fiber or IP-based service (or some combination thereof), even if those new technologies fail to serve all of the user’s needs or will be more expensive. Denying basic phone service to people who have relied on the network for decades violates the network compact that has successfully guided our communications policy for one hundred years. A Commission investigation of these complaints is necessary to ensure the continued vitality of the fundamental values that underlie our network, including universal service.”¹⁵

4) **Over 5,400 Residential as well as Businesses and Companies are Impacted.**

Bell Harbor Queens has over 5,400 residents according to the 2010 US Census, and this represents a population that is larger than 83% of all New York State municipalities.¹⁶ According to Wikipedia:

“The neighborhood is part of Queens Community Board 14.^[1] According to the 2010 United States Census, the neighborhood, coupled with nearby Neponsit, had a population just over 5,400.”¹⁷

Another source, City-data.com, puts the population of Bell Harbor at 8,785¹⁸ and with Neponsit¹⁹ (which has almost the same coverage area) there are 9,799 people.

¹⁵ http://www.publicknowledge.org/assets/uploads/blog/14.05.12_Copper_Letter.pdf

¹⁶ http://en.wikipedia.org/wiki/Belle_Harbor,_Queens

¹⁷ Ibid.

¹⁸ <http://www.city-data.com/neighborhood/Belle-Harbor-Rockaway-Park-NY.html>

¹⁹ <http://www.city-data.com/neighborhood/Neponsit--Belle-Rockaway-Park-NY.html>

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We note that Verizon is also doing a ‘short term network change’ in Virginia in “Ocean View”. East Ocean View²⁰ has a population of 4900, and West Ocean View²¹ has 4,400 (and it is unclear if both communities are being impacted).

Verizon has provided no maps or information about any of these communities.

5) **Bell Harbor Represents More People than in the AT&T IP Transition in Alabama.**

Need we remind the FCC that AT&T’s IP Transition trials in Carbon Hill, Alabama only covers 4,388 living units (which includes all businesses) though AT&T redacted the number of customers they serve.²²

However, almost all data on Carbon Hill, Alabama shows the population in 2012 as 1,996, less than half the size of Bell Harbor Queens, New York City.²³

How is changing the networks to IP in an entire community in New York City any different?

6) **Verizon has Supplied No Information About How Many Will be Impacted.**

Verizon has supplied no information about anything, from the number of customers impacted to any study to demonstrate that customers will not be harmed.

In the AT&T IP Trials, the FCC asked multiple questions about the impacts of the proposed change. And yet, here:

a) This is not an additional service; Verizon is shutting off the current, primary, copper-based services.

- How many customers are currently using copper wires today?
- How many lines are in service that use the copper wires?
- Are there applications that are going to be changed that were based on the copper wires? For example, many customers have noted that the price goes up for FiOS services as compared to the copper services, such as DSL.

²⁰ <http://www.city-data.com/neighborhood/East-Ocean-View-Norfolk-VA.html>

²¹ <http://www.city-data.com/neighborhood/West-Ocean-View-Norfolk-VA.html>

²² <https://prodnet.www.neca.org/publicationsdocs/wwpdf/22814att.pdf>

“Living units include business, residential, vacant and under-construction locations. Living units are the units network engineers use when designing and building communications networks because each living unit is a separate location that AT&T historically has been required to serve upon request.”

²³ <http://www.city-data.com/city/Carbon-Hill-Alabama.html>

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- ‘Dial up’ Internet services may not work on the Verizon fiber optic networks.
- Replacements may be required — Customers may have to replace their alarm circuits and technology, which is costly.
- Is Verizon offering phone service that requires a battery as opposed to the utility networks where the power is constant?

b) Is Voice Link and Wireless involved?

- If the customer doesn’t want FiOS, for example, what options is Verizon supplying as a substitute to the customer for ‘already working services’?
- Is Verizon planning on forcing customers onto wireless if they don’t want FiOS, assuming that is what is being offered?

c) Verizon’s FiOS Services only have a 30-40% Uptake Rate.

- It is one thing to have voluntary replacement of the copper wires with fiber, but Verizon’s FiOS service only has 35-40% uptake rates as stated by Verizon Communications 2013 Annual Report.

“As of December 31, 2013, we achieved penetration rates of 39.5% and 35.0% for FiOS Internet and FiOS Video, respectively, compared to penetration rates of 37.3% and 33.3% for FiOS Internet and FiOS Video, respectively, at December 31, 2012.”²⁴

What happens to all of the other 65% in their territory that didn’t want FiOS?

d) Sandy Damage: Where’s the Documentation?

- Bell Harbor had extensive damage from the Sandy Storm. There is no information about the damage, the remaining copper wiring — or whether there was FEMA and insurance money to fix the networks.

7) Legal Status: Is This Being Done to Sell Cable TV or Is Part of the Utility?

- Is this change being done so that the company can offer its FiOS brand of services such as Verizon’s cable TV service (Title VI) or its broadband and Internet service (Title I)?
- Is this a replacement of the copper utility wire and part of the utility upgrade as Verizon claims in its cable franchise that the FTTP (Fiber-to-the-Premises) networks are ‘Title II’, common carriage, telecommunications service?

²⁴ <http://www.sec.gov/Archives/edgar/data/732712/000119312514073266/d622994dex13.htm>

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- Verizon also has a cable franchise with New York City. Is this ‘network change’ being done as part of the cable franchise? Verizon does not have any authority to turn off the copper-based customers under their franchise agreement.

8) **Is Verizon Charging POTS Customers for This Fiber Optic Upgrade?**

The new report by Public Utility Law Project²⁵ with New Networks brings into question whether these upgrades are being funded through rate increases on POTS customers, where Verizon has been able to claim that the fiber optic deployments are “Title II”, thus charging utility customers. However, the report also uncovered that Verizon’s other services, such as cable and Internet may be cross-subsidized and expenses may be ending up being charged to utility ratepayer customers.

We have attached the new report as part of this discussion.

9) **Section 251 Is for Interconnection Used by Competitors. Shutting the Copper Wire Harms Competition.**

The current copper-based wires can be used by competitors to offer residential and business broadband service (though there are restrictions). The Verizon changeover eliminates the ability of competitors to offer services, as they are not allowed at this time to use the fiber optic wires.

Verizon claims that it does not have to offer the full use of the new wire and its potential, but a fraction of the capability that is the equivalent of a voice-grade call:

“However, to the extent required by applicable agreements and federal law, Verizon will offer to requesting carriers a 64 Kbps Voice - Grade channel over fiber loops that have been deployed where copper was retired.”²⁶

Improper notification of small competitors. There was no outreach or any mechanism that a small competitive Internet Service Provider or CLEC would know about this FCC change. And if this was a formal process, the FCC would be required to provide adequate outreach as per the Regulatory Flexibility Act. Doing this under-the-radar and allowing this to happen without due process harms all customers who use competitors or would in the future.

²⁵ <http://newnetworks.com/publicnn.pdf>

²⁶ http://www.verizon.com/idc/groups/public/documents/adacct/ny_short_term.pdf

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10) Failure to Disclose the Sub-plot – Offer Cable Service over a Monopoly Wire.

Verizon failed to disclose basic information about their planned use of these networks or the current obligations and requirements.

- We believe this is part of Verizon’s FiOS services, and Verizon will be selling other services over the wire, which is the main reason to do these upgrades.
- The FiOS network is not opened for direct competition so this directly benefits only Verizon and helps its plan to upsell customers other services.
- Verizon makes no reference that Verizon will be offering a cable service, “Title VI”, as one of the primary reasons to do this change.

11) Follow the Money.

- Who’s paying for this change — is being done as part of the utility and did Verizon receive FEMA money, Insurance, or other funding to pay for ‘utility services that would have been paid as part of the damage caused by Sandy?
- Is the FCC really going to allow customers who unknowingly paid hundreds of dollars extra for a fiber optic service — and who only wanted basic phone service — to now have their phone service shut off or forced onto more expensive services they may not want or need?
- What safeguards are going to be put into place to not have major rate increases or force customers onto FiOS products and services? Can customers still get a DSL (lower cost) equivalent? Can they get stand alone phone service (POTS), at the same costs or less, as Verizon has claimed it saves money by putting in fiber optics, lowering the maintenance costs?

12) There Is No Economic Analysis of the Impacts to the Community.

There is no economic analysis of the impacts on an entire, large community of shutting off the copper, or any details about the current size of market, new revenues to Verizon via selling cable services, no impact of the changes required by customers who have existing, working services on the copper wires and may not want to be ‘forced’ onto another service, especially if they have to get new technology to use it.

13) Who Owns this Upgraded Network and What Obligations Are Being Transferred?

- These services may have been funded by POTS customers as part of the utility, but this upgrade may be then ‘privatized’ where the profits for this service go to Verizon Corporate.
- Moreover, if this is part of the utility, then is the cable service going to pay market pricing for the use of the networks?

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- What rights are being transferred? Do they include ‘quality of service’ issues, are these new services ‘common carriage’, can customers take the company to court as a Tariffed service (as opposed to a contract)?

Conclusion:

New Networks has been an active proponent for residential and business fiber optic services since 1992 and we’ve been on record at the FCC since 1998 when we filed as part of the first Advanced Network Services (Section 706) report to Congress by the FCC, and throughout the last decade.²⁷

For reasons herein, the FCC needs to immediately halt this administrative process and immediately start investigations into these and other issues we addressed.

Isn’t shutting off the copper wires in a community a large enough event to warrant that the FCC does more than rubber stamp Verizon New York’s (the utility company) notification?

²⁷ http://www.newnetworks.com/NNI_FCC_9-98.txt

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ADDITIONAL COMMENTS:

New Networks Calls for an Immediate Investigation of Verizon’s Bell Harbor Short Term Network Change—Impacting over 50,000 Residents of “The Rockaways”, in New York City.

RE: WIRELINE COMPETITION BUREAU SHORT TERM NETWORK CHANGE NOTIFICATION FILED BY VERIZON NEW YORK INC.

Report No. NCD-2353²⁸

Report No. NCD-2351²⁹

Map of the Rockaways and the Bell Harbor Central Office Coverage.



- This is map of the Rockaways territory that depends on the Bell Harbor CO as told by telecommunications databases that supply central office coverage.
- It represents about 50,000 customers, an area that is larger than 90% of all municipalities in the State of New York.
- Based on experts, the prefixes for the phone service (such as “718---634—XXXX”) include:
- Prefixes are: “634”, “318”, “474”, “734” and “945”.
- The Central Office in question: Belle Harbor, New York Central Office (NYCQNYBH) is located at 216 Beach 81st St., Queens, NY

This is a massive change of a very large area of New York City and the questions we asked in our previous comments are now compounded by the failure to disclose basic details that should have been addressed in their original short term network change.

²⁸ http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-326960A1.docx

²⁹ http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-326958A1.docx

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- Is this being done as part of the utility?
- Is Verizon doing it to offer FIOS?
- How many competitors are there using these wires?
- How many copper lines are in service?
- How many people, businesses, schools, etc. are impacted?

As we mentioned, we are pro-fiber optic services to residential and business customers.

However, this is a wholesale change which may be used to help Verizon New York sell more cable services and meanwhile, POTS customers have been paying excess local phone charges for 'massive deployment of fiber optics' as utility product.

Our experts concluded that over 50,000 people are in proposed network change area – and that makes this area in the Top 20 of cities, towns or municipalities in the New York State.

And this is also an 'IP transition' without any oversight, as compared to the requirements of the AT&T IP transition trials. In this case, the copper wire, (the utility wire, the PSTN wire) is now being discarded for an IP service.

This should never have been allowed as a simple 'network change' notification as part of Section 251 but as a formal process, with data required from Verizon New York and the rights of customers and competitors to air their views with a full comments period and the right to question Verizon New York's plans.

We call on the FCC to halt Verizon's application and start immediate investigations as requested.