IN THE MATTER OF VERIZON NEW JERSEY, INC.'S ALLEGED FAILURE TO COMPLY WITH OPPORTUNITY NEW JERSEY COMMITMENTS	)))))	ORDER TO SHOW CAUSE DOCKET NO. TO12020155

Comments by

New Networks Institute

Bruce Kushnick, Executive Director

bruce@newnetworks.com

We submit these Comments with 5 other documents listed in the bibliography.

May 14^{9h}, 2012

Table of Contents

Comments by New Networks Institute on
Verizon's Response to the Show Cause Order

Summary:

On March 12th, 2012 the New Jersey Board of Public Utilities (BPU) issued a show cause Order to Verizon, New Jersey for its failure to properly upgrade New Jersey's communications infrastructure, the state utility, commonly known as the Public Switched Telephone Networks (PSTN). In 1993, Verizon closed a deal with the State known as Opportunity New Jersey" (ONJ). Verizon asked for and received new alternative regulations, known as PAR1[1] that removed most of the caps on profits and in exchange was supposed to use these excess phone charges (and tax write offs) to provide 45 Mbps, bi-directional services "that will allow residential and business customers to receive high definition video and to send and receive interactive video signals with complete deployment in 2010". I.e. to have 100% of the state completed by the year 2010.

The show cause action was started based on complaints by two small towns, Greenwich and Stow Creek of Cumberland County, who are not being served and who also have continuous service quality issues.

Verizon has responded to the show cause, claiming that it has completed every obligation and that there are 45 Mbps capabilities in every central office in New Jersey. Verizon also claims it has suffered because of changes in the market --- there is plenty of competition --- and claims to have lost 50% of access lines. Verizon, New Jersey also claims it has had major financial losses since 2007.

As we will discuss:

In Hong Kong today, customers enjoy 300 Mbps services for $40.00 and that includes phone service, while Japan, France, South Korea and other countries enjoy 100 Mbps as standard. Had Verizon actually fulfilled the obligations set forth in the contract, New Jersey would have had massive increases in the State's economic growth, including new jobs and attracting businesses to New Jersey. Instead, one report shows that New Jersey lost $70 billion in the economy from 2004-2008.

We believe Verizon entered into a contract with the State and its citizens to take the phone wire that was in place and upgrade it. The changes in regulation, which raised rates and gave the company massive tax perks, resulted in Verizon overcharging customers billions of dollars to do these upgrades, which they did not do. In fact, Verizon pulled a bait and switch with DSL, a service Verizon claimed to be inferior in 1992 as it uses the old copper wiring. Bell Atlantic, now Verizon did this same bait and switch in every state they control.

[1] Order (dated May 6, 1993 in Docket No. T092030358 ("PAR Order")

Verizon will argue that they are ‘losing money’ when in reality they are saving hundreds of millions of dollars on taxes. These losses, it appears, are being created because the affiliates have been dumping their expenses into the utility, not paying what other competitors would pay and more importantly, may be getting customers to pay for the development of services and products, which are then transferred out of the utility.

Verizon claims they lost 50% of lines but this is another slight of hand where the company doesn’t supply the ‘total lines’, but only a small subset of the lines. Meanwhile Verizon complains that the market has shifted, yet it is now clear that the market changes have only enhanced their business, supplying multiple new revenues streams from providing Internet service, broadband and long distance, all of which they were restricted from when the original ONJ law was passed in 1993.

But what is really galling --- Verizon claims that the 45 Mbps service is a capability in the network. It is pure garbage based on the hundreds of thousands of documents outlining that ONJ was for the deployment of residential and business services. Worse, Verizon claims that 100% deployment doesn’t really mean everyone in the state, when in fact ever customer has been paying extra and thus every customer was to be served.

Verizon has announced it has stopped deploying FiOS in new areas and claims to only have 60% of 70 municipalities, not 100%. Verizon has announced it will be abandoning DSL and wants to supply very expensive, inferior wireless services where their wires currently have been upgraded.

Verizon talks of competition but the original law required the networks open to all competitors. Verizon’s networks are now closed to competitors.

We believe that the changes in the law and regulations deregulated the market and services, which only benefited Verizon. We believe Verizon has been submitting yearly annual reports bordering on fraud to obfuscate the truth that the company had not actually fulfilled its obligations over a 20 year period. And it is most important to have the State’s essential infrastructure upgraded, not simply abandoned or worse, having Verizon cover up their failure to properly upgrade NJ’s essential infrastructure.

The Remedies We Request:

- Follow the Money: A full investigation of all monies or costs paid by the utility and customers to all of the Verizon affiliates, such as Verizon Wireless, Verizon Online, and Verizon Long Distance.
- Refunds to all customers for money they paid for a service they never received.
- Structural separation of Verizon’s affiliates from the utility.
- Return to ‘rate of return’ regulation for all services that use the current Verizon wiring in the state of New Jersey.
- Completion of the rewiring New Jersey to 100% of the customers, so it can finally reap the benefits of having a world class infrastructure.
- Open the ‘broadband utility’ to all competitors to offer services.

Discussion

1) **Verizon was able to overcharge customers and the State billions of dollars in excess phone charges and tax write offs (depreciation) since the plan's implementation in 1993 through 2011.**

We are not alone in examining the financial rewards Verizon received based on the changes in state law. In 1997, the NJ Ratepayer Advocate wrote:

> "Since the time of the adoption of the ONJ Plan, Bell Atlantic-New Jersey (BA-NJ) has received enormous financial benefits, greatly in excess of the Company's original projections. The gains captured by BA-NJ, which probably would not have been achievable but for the Plan, as set forth immediately below, involve earnings, dividends, return on equity, cost of debt and additional benefits." (1993-1996)
>
> - During this period: "BA-NJ paid out an additional $954.8 million in dividends over what was projected in 1992"

Another study by Economics & Technology found that Verizon, New Jersey's return on equity (profits) went from 22% to 40%, while in 1997 alone, Verizon paid a dividend equating to $93 dollars a customer.

- "Since the adoption of the ONJ Plan in 1993 Bell Atlantic-NJ's financial return on equity (ROE) jumped from 22% to almost 40%. Rather than put those profits back into its telecommunications infrastructure, BA-NJ actually *disinvested* some $76-million between 1993 and 1995. ("Disinvestment" is to write off more than you put into new construction.)

- In 1997, BA-NJ provided a $559-million dividend to its parent — equating to approximately $93.17 per access line per year (or $7.76 per line per month). By way of comparison, BA New York's dividend was only $42.52 on a per-access line basis ($3.54 per line per month);

Since that time, there have been few other studies except those done by New Networks Institute, (see bibliography) and neither the BPU nor the FCC nor any other regulatory body monitored and published how much excess phone charges and tax write offs the company has been taking, or worse, how the 'affiliates' have been dismantling the PSTN for the benefit of Verizon, and not the State's customers. (We included a separate report on the topic of affiliate transactions, released in April 2012.)

We estimate that by the end of 2009 almost $13.2 billion dollars had been garnered by Verizon, New Jersey in excess phone charges and tax write-offs based on the deregulation that was applied because of Opportunity New Jersey – the opportunity is clearly for Verizon and not the State or its citizens. (These overcharges, of course, require the State to initiate the investigations we have outlined with ample discovery of Verizon's business transactions.)

2) Economic Harms: We estimate that the municipalities and State lost hundreds of billions of dollars in economic growth.

Based on projections made by Verizon-funded studies over the last two decades, including "Opportunity New Jersey", the original Verizon, NJ report created by Deloiotte & Touche, the State should have prospered but instead did not realize the job growth or the strides in education or healthcare. And it did not have the infrastructure to attract technology–based companies who were creating innovation of next generation products and services. And in rural New Jersey, such as in Greenwich or Stow Creek, Verizon's failure to properly upgrade the utilities essential telecommunications infrastructure caused serious harms to the growth in the municipalities' economies, as they could not benefit from new businesses like eco-tourism or other services these rural communities could provide.

We estimate that Verizon, New Jersey cost the State $225 billion in potential economic growth from 1996 through 2011, based solely on Verizon's own funded Brookings study on broadband, as well as the original Opportunity New Jersey projected economic growth analysis.[2]

We add that over the last 5 years there have been thousands of other studies on the potential growth of the economy and jobs for both urban and rural areas that were submitted as part of comments for the FCC's National Broadband Plan.[3]

Worse, the State has lost economic growth. An economic study conducted by the Center on Wealth and Philanthropy at Boston College showed that: "More than $70 billion in wealth left New Jersey between 2004 and 2008 as affluent residents moved elsewhere."[4] Verizon's President, Dennis Bone as chairman of the New Jersey Chamber of Commerce stated[5] "This study makes it crystal clear that New Jersey's tax policies are resulting in a significant decline in the state's wealth".

We believe these losses are because Verizon never built out the networks to attract new businesses. More to the point, Verizon, New Jersey didn't pay taxes.

[2] A Verizon-funded Brookings study found that nationally broadband would increase the GDP by $500 billion annually.

[3] http://broadband.about.com/od/economicdevelopment/a/Broadband-As-An-Economic-Driver.htm?goback=.gde_1656547_member_111171462

[4] http://www.nj.com/business/index.ssf/2010/02/nj_loses_70b_in_wealth_over_fo.html

[5] Ibid.

3) Verizon, New Jersey paid no taxes in 2009 and 2010 and probably 2011.

Verizon New Jersey's SEC annual reports showed massive losses of $786 million resulting in $321 million in 'income tax benefits'. NOTE: Verizon has removed its state-based SEC annual reports for 2011 from public view.

4) Verizon financial losses are not being created by business losses as described alone but it appears to be through the manipulation of the assets, revenues, and expenses via the multiple Verizon subsidiaries.

These subsidiaries are:

a) Not paying what other competitors would pay back to the utility.
b) Are dumping their expenses into the utility.
c) Removing rate-payer funded assets out of the utility.
d) These losses and depressed revenues are then used to get regulatory and policy changes and to boost the revenues of the wireless company.

5) Verizon, New Jersey customers it appears are cross-subsidizing the wireless company.

We believe that Cellco, the wireless company, which is a joint venture with Vodafone, a British firm, with the DBA "Verizon Wireless":

a) Verizon Wireless has been getting preferential treatment, which could paying less than competitors for access,
b) Are the wireless towers construction budgets and services being funded through the movement of the construction budgets out of Verizon, New Jersey?
c) Verizon Wireless has been dumping expenses into the utility accounting.
d) Instead of acting as a 'competitor' to the wireline networks, the wireless company is now colluding with the wireline utility.
e) Goosing Wireless profits at the expense of wireline customers? AT&T's 2010 annual report revealed that AT&T has 're-segmented' its revenues and expenses and when doing this, it somehow increased wireless profits and lowered wireline profits.

6) According to PAR1, it is illegal to cross-subsidize competitive products with utility services.

> "Non-structural v. structural safeguards
> In its plan, NJ Bell indicates that various safeguards have been included to ensure that NJ Bell ratepayers will not bear any of the costs of the competitive services and that NJ Bell's competitors

> will have access to NJ Bell's network services on the same terms and conditions as NJ Bell (Plan, §III). To show that cross-subsidization between competitive and noncompetitive services does not exist,6
>
> "Beyond the eight criteria and cross-subsidization prohibition in N.J.S.A. 48:2-21.18, the Telecommunications Act of 1992 also contains safeguards which apply to the offering of any competitive service by a local exchange telecommunications company. N.J.S.A. 48:2-21.19(e)(1)"

Verizon may argue that the monies they using are from 'deregulated' products. Verizon may argue that the laws were 'forebeared' meaning no longer being enforced, or that FCC decisions changed the positions of these 'competitive' safeguards.

Our position is: Every service that was deregulated and/or deemed competitive since PAR 1 should never have been deregulated as the law was based on commitments that were never met. And it is clear that if the regulations were 'relaxed', it was obviously done without examining the funding by customers of these products and service --- i.e., tracking the flow of monies involved. The State nor the FCC has audited or examined these various transactions.

7) Verizon pulled a bait and switch and rolled out DSL.

DSL travels over the old copper wiring on the customers' phone line and was deployed starting in 1998. DSL was considered inferior in 1992 and Verizon claimed it would 'impede economic growth' if relied upon. This bait and switch proves that Verizon did not need ONJ to be passed as the extra money did not go into fiber optic services.

New Jersey lost a decade of innovation and economic growth, as is evidenced by the previous study done on the economy. Here's the exact language as presented by the Deloitte & Touche *"Opportunity New Jersey's Telecommunications Infrastructure Study"* 1991.

> "Interim approaches to increased network capacity may retard rather than expedite the movement to a higher bandwidth public networks."[7]
>
> "Asymmetric Digital Subscriber Loop (ADSL) could provide a low-cost one-way 1.5 Mbps circuit (plus an ordinary phone line over a single copper paid to permit low-cost distribution of on-demand compressed video programming.

[6] Par1 page 99
[7] Ibid.IX 51

> "The economics of this technology are not yet fully understood. Moreover, should it cost prove reasonable, HDSL and ADL may one provide an interim step in the process of network evolution. At some point continued instillation of interim solutions may retard rather than expedite the movement to a higher bandwidth public network."

This was written in 1991.

8) Verizon pulled a bait and switch with FiOS.

It is illegal under state law to fund competitive products and there are a host of questions about the product as it is not an upgrade of the PSTN, the utility.

- FiOS is a cable service, not part of the utility, and therefore should have been treated as a competitor.
- When FiOS is installed it pulls the copper wire from the utility, but it appears that the 'new wire' is no longer part of the utility.
- FiOS is also anti-competitive as FiOS is sold against the utilities' phone and DSL product, which then is used to claim that there is 'competition' and many states granted rate increases for the local phone services.
- The fiber optic wire is being deployed where FiOS is deployed and other competitors can not use this wire to offer competitive video or Internet services.

When Verizon, New Jersey claims major losses, where are the FiOS revenues going? Does FiOS pay what other competitors would pay for access to the fiber? Remember, FiOS is cable service. It was created via a state-wide franchise.

9) PAR 1 required these networks to be open to competition. They are closed.

Because customers were the funders of these networks, whether it was FiOS or not, these networks were required to be open to all video, internet and phone competitors. Instead FiOS is closed to all competitors.

This is so complicated that it's easier to untangle a child's hair that is stuck with bubble gum than to understand all of the wranglings but, essentially, Verizon will argue that:

a) Cable services are not required to be open.
b) The FCC declared anything with fiber 'interstate information' and no longer a "telecommunications" service, where information services have no obligations to be open, while simultaneously,
c) Verizon will claim that part of these services are 'telecommunications' services but 'deregulated', but are part of the utility.

The short answer is – These are all excuses to block competition and fulfilling their obligations and Verizon is talking out of three sides of their mouths. If customers have been funding the networks, then this funding should stop. If the utility, which could still be a telecommunications service, decides to be so, then it can be open to competitors. However, at this time Verizon claims simultaneously that it is part of the utility, thus fulfilling the obligations, as well as a cable service, which does not have the same obligations, and then an 'interstate information service'. The state should force Verizon stop to this shell game as the results are --- Verizon wins and the State has lost.

Specific Verizon Response Show Cause Issues:

Verizon's response is embarrassing and any 2 year old could tell that Verizon is re-write history to suit their purposes.

10) **Verizon's claim that the 45 Mbps service requirement was a capability in the network and not a residential service is a fairy tale.**

Even the definition of the service in PAR 1 makes clear it was a "residential and business service".[8]

> "Broadband Digital Service — Switching capabilities matched with transmission capabilities supporting data rates up to 45,000,000 bits per second (45mps) and higher, which enables services, for example, that will **allow residential and business customers to receive high definition video and to send and receive interactive (i.e., two way) video signals.**" (Emphasis added)

Verizon has truncated this definition in their response to leave out the part about 'residential and business customers' --- thus making it appear that they it is for 'all of their other services as a 'capability'. For example, ATM, High-Cap, Frame Relay are not residential services while DSL can't do speeds of 45 Mbps and FiOS while capable does not sell 45 Mbps bi-directional services.

> "Moreover, Opportunity New Jersey envisioned "Switching Technologies matched with transmission capabilities to support data rates up to 45,000,000 bits per second and higher (`45 megabits).'' And Verizon offers a variety of products that meet such a definition, including High-Cap, Frame Relay, ATM, DSL and FiOS, with FiOS capable of meeting and exceeding the 45 megabit broadband data rate." (Emphasis added).

But most important, Verizon claims that they have 'equipped '100% of the central offices with broadband capability and 99% of the Census blocks in the state.

> "Verizon has invested literally billions of dollars in making broadband available throughout New Jersey – significantly more than what was contemplated by ONJ – equipping 100% of its central offices with

[8] Par1

> broadband capability and offering broadband service to customers in more than 99% of the census blocks in the State."[9]

Instead of providing 45 Mbps services, Verizon claims it is Number 1 in the US because it provides the most connections with "3 Mbps down and 768 Kbps up" --- which can't handle HD video.

> "Recent data show clearly that New Jersey leads the nation in overall high-speed broadband penetration. New Jersey has more than 0.67 broadband connections per household within the approximate range of the FCC's National Broadband availability target (3 Mbps down and 768 Kbps up) – more than any other state. This trend towards steadily increasing broadband speeds (and a decreasing reliance on dial-up service), is indicative of the quality improvements that have marked broadband services."

The law did not need to be changed for 3 Mbps download speeds as it could have been handled by the old copper wiring with DSL.

It's all a bait and switch. The law stated it could handle HD video in both directions, yet Verizon's claims about completing the 45 Mbps requirement is to use DSL or other incredibly slow speeds as a replacement – speeds that can not fulfill the basic requirement of HD video in both directions.

But the kicker to show this bait and switch was this response which clearly shows that Verizon has decided to make "DSL" the standard, not the actual 45 Mbps or the capability to handle HD video in both directions.

> "Broadband Digital Service: 100% central offices equipped with DSL, with broadband available to customers in More than 99 percent of census blocks by 2010."[10]

11) It was never about a network capability. It was always about residential and business services.

There are tens of thousands of other documents, articles, speeches, annual and quarterly reports and even the "video dialtone" filings in the 1990's at the FCC that outlines that what was promised was a residential and business service, not some specification in the network ether. We have submitted "$200 Billion broadband Scandal[11], written in 2005, which supplies hundreds of citations of documents and quotes about Verizon's plans in New Jersey and all of the other Verizon states pertaining to the 'residential' services that were to be deployed.

[9] Verizon, New jersey's Answer to Order to Show Cause, page 1
[10] Response page 7
[11] www.newnetworks.com/broadbandscandals.htm

Bell Atlantic, which controlled 8 states, including New Jersey, Pennsylvania, Virginia and Washington, DC claimed it would be spending $11 billion and have 8.75 million homes rewired by 2000.

Bell Atlantic 1993 Annual Report[12]

> "First, we announced our intention to lead the country in the deployment of the information highway... We will spend $11 billion over the next five years to rapidly build full-service networks capable of providing these services within the Bell Atlantic Region…. We expect Bell Atlantic's enhanced network will be ready to serve 8.75 million homes by the end of the year 2000. By the end of 1998, we plan to wire the top 20 markets.... These investments will help establish Bell Atlantic as a world leader...."

This was way beyond simply puffery or some dancing around the "forward looking statements". This was collusion 101. As we document, in almost every state, major commitments were made to rewire whole states with new deregulatory legislation and state Public Utility Commission commitments. And the hype continued through 1996. Bell Atlantic claimed it would have 12 million homes (including New Jersey) wired with fiber to the curb, "switched broadband networks".

Bell Atlantic Press Release, July 1996[13]

> "The company plans to add digital video broadcast capabilities to this "fiber-to-the-curb," switched broadband network by the third quarter of 1997… Bell Atlantic plans to begin its network upgrade in Philadelphia and southeastern Pennsylvania later this year…. Ultimately, Bell Atlantic expects to serve most of the 12 million homes and small businesses across the mid-Atlantic region with switched broadband networks."

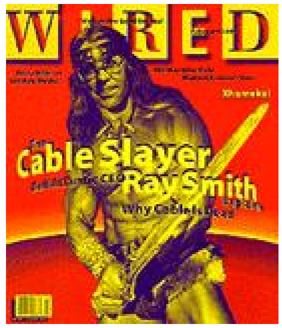
Our personal favorite is the cover story from Wired magazine featuring then Bell Atlantic CEO Ray Smith, who claimed they would have 50% of the cable market by 2000.[14]

---

[12] Bell Atlantic 1993 Annual Report

[13] "Bell Atlantic Selects Equipment Supplier for Initial Switched Broadband Network Deployment," Press Release July 15, 1996

[14] http://www.wired.com/wired/archive/3.02/smith.html



And let us be clear. Verizon New Jersey was part of a much larger scandal as every Verizon state had commitments for these upgrades that were not done.

Video Dialtone. We mentioned video dialtone, which were the original plans by all of the phone companies to rewire their territories. Bell Atlantic actually took the FCC to court to be able to offer video over phone lines, which they had been restricted from offering. Each phone company put in applications at the FCC to describe the ‘residential’ services and how many lines they would be providing and where. The next page highlights just the Verizon companies, which were NYNEX, Bell Atlantic and GTE. None of the Bell Atlantic and NYNEX states, which included New Jersey, Massachusetts, DC and Virginia, among others, ever did the upgrades as stated in their video dialtone 'permanent' filings or their state obligations.

Verizon FCC Video Dialtone Applications,
(Verizon =NYNEX, Bell Atlantic, GTE)

Date	Telco	Location	Homes	Type
10/21/92	Bell Atlantic-	VA Arlington, VA	2,000	technical/market
10/30/92	NYNEX	New York, NY	2,500	technical
11/16/92	New Jersey Bell	Florham Park, NJ	11,700	permanent
12/15/92	New Jersey Bell	Dover Township, NJ	38,000	permanent
12/16/93	Bell Atlantic	MD & VA	300,000	permanent
05/23/94	GTE/Contel of VA.	Va. Manassas, VA	109,000	permanent
05/23/94	GTE Florida Inc.	Pinella, Pasco Co., FL	476,000	permanent
05/23/94	GTE California Inc.	Ventura Co., CA	122,000	permanent
05/23/94	GTE Hawaiian Tel.	Honolulu, HA	334,000	permanent
06/16/94	Bell Atlantic	Wash. DC LATA	1,200,000	permanent
06/16/94	Bell Atlantic	Baltimore, MD; DE; Northern NJ; Phila. PA; Pitts. PA; and S.E. VA	2,000,000	permanent
07/08/94	NYNEX	RI	63,000	permanent
07/08/94	NYNEX	MA	334,000	permanent

12) 100% doesn't equal 100%.

Verizon's claim is that 100% doesn't equal 100% but 40% or less – Who knows? Verizon hasn't upgraded the utility plant. Verizon, even if they use FiOS deployment, is only in "60% of 70 communities", based on their own affidavits and show cause response.

What happened to the other 369 communities mentioned in the State's report on the FiOS cable franchise?

> "Accordingly, New Jersey consumers in portions of 349 municipalities can now choose between Verizon FiOS and a landline competitor; either Cablevision, Comcast or Time Warner. Eventually, Verizon says that number will be 369"[15]

The report claims that "94.6% or 349 have partial service". It's obvious that Verizon has less that 60% or Verizon would have included it in their testimony to inflate the numbers.

But what is most disturbing is that "an additional 155 municipalities in the state that are not included in its current application of 369 towns"[16] .

There are 524 municipalities in New jersey so if 155 aren't wired, and only 70 have 60% completed, just how many actually have or can receive the TV service is still a mystery. Many communities have wires passing through but are NOT being used or available as a service.

Let's be clear. What was supposed to happen was the old copper wiring in 100% of homes, offices, schools, libraries and hospitals was supposed to be replaced with a fiber optic wire. Period. Everyone was paying, everyone got service.

13) Verizon Submitted Fictitious Data Pertaining to Fulfilling Commitments.

Version, New Jersey has not fulfilled any of the other requirements, much less during the time frames that the company was required to complete. And yet, every year the company submitted documents that were fictitious, if not fraudulent. This next chart is taken directly from Verizon, New Jersey's 2000 Infrastructure Report. And it is clear that every year Verizon claimed it was fulfilling its requirements, yet the services were not available or deployed. Verizon lied on an annual basis.

---

[15] New Jersey Board Of Public Utilities Report To The Governor And Legislature
"The Effects Of The System-Wide Cable Television Franchise In New Jersey" Public Law 2006, Chapter 83, June 2010
[16] Ibid.

APPENDIX B

Service Capability & Enabling Technology Deployment

I. Opportunity New Jersey's Service Capabilities	1996	1997	1998	1999	2000	Commitments
Wideband (144 kbps to 1.5 mbps)						
w/o acceleration (est)	41%	50%	62%	71%	n/a	none
with acceleration (act)	50%	66%	78%	84%	95%	95% 2000
Broadband (up to 45 mbps & higher)						
w/o acceleration (est)	1%	1%	3%	9%	n/a	none
with acceleration (act)	19%	34%	35%	42%	52%	100% 2010

Note: “w/o acceleration“ stands for “without acceleration”, meaning that if ONJ had not passed this would be the tempo of technology deployment, vs “with acceleration” meaning that ONJ was passed.

Verizon did not have 144 kbps services to 1.5 Mbps services available to 95% of the state by 2000. There were only 2 services that would fit that description ISDN, which was the precursor to DSL or DSL, which had a starting speed of 768 kbps. (ISDN was never properly deployed and was later known as “It Still Does Nothing”.)

Verizon doesn’t have 52% of the state, offering a 45 Mbps residential service in 2012, yet here it is in black and white for the year 2000 – 12 years ago.

Using the “F” Word: Fraud.

The next page is what Verizon has responded with as their timeline for fulfillment of their obligations and it is clear that

- Verizon doesn’t actually count 45 Mbps services but their new definition of broadband, which is anything besides two cans and string.
- Year after year they have been submitted documents which we believe are fraudulent – they knowingly submitted annual reports with ‘completion’ of their obligations which had nothing to do with the actual commitments or fulfillment of those commitments.
- For example, at the end of 2007 Verizon claimed to have 92% of the State completed, which was pure fantasy as the only way that could be possible is to simply stop putting out truthful information about high speed broadband. FiOS isn’t in 60% of 70 communities.
- All of the other ‘milestones’ Verizon lists are not only suspect (and unaudited) but have nothing to do with actual services being offered to customers, which was the goal of ONJ, not capabilities in the networks.

Unless the State believes that they DSL over the copper wiring was actually the same as 45 Mbps services capable of HD video in both directions, the State needs to hold Verizon accountable for submitting fraudulent documents on a year by year basis to deceive the state and it's citizens.

Verizon Response Listing the Infrastructure Reports
Fulfillment of Commitments

2003 Infrastructure Report:

- 1,747.5 million miles of fiber
- 68% broadband availability
- 163 Fast Packet Switches
- 52 ATM Switches

2004 Infrastructure Report:

- 1.8 million miles of fiber
- 82% broadband availability
- 129 Fast Packet Switches
- 57 ATM Switches

2005 Infrastructure Report:

- 2.1 million miles of fiber
- 83% broadband availability
- 129 Fast Packet Switches
- 62 ATM Switches
- Mass market deployment of FTTP
- 100% of Verizon wire centers and 766 remote terminals equipped to provide DSL service

2006 Infrastructure Report:

- 2.4 million miles of fiber
- 91% broadband availability
- 131 Fast Packet Switches
- 71 ATM Switches
- 651,000 premises passed with FiOS network

2007 Infrastructure Report:

- 2.5 million miles of fiber
- 92% broadband availability
- 141 Fast Packet Switches
- 72 ATM Switches
- 1.1 million premises passed with FiOS network

2008 Infrastructure Report:

- 12 -

14) Line Losses and Financial Losses Are a Shell Game.

Th rest of this page is from the response and it is filled with redacted information but Verizon claims it lost over 50% of lines and that their losses 'ballooned' in 2009.

This market transformation dictates that Verizon is no longer the dominant telecommunications provider in New Jersey that it was when it operated as New Jersey Bell, let alone the monopoly utility for which the Board approved the PAR-1 plan and ONJ. At the end of 1993, Verizon served **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** access lines.[60] By the end of 2011, the number of Verizon access lines had shrunk to **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** – a decline of nearly **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** access lines, or more than 50 percent.[61]

Meanwhile, Verizon's revenue has declined twice as rapidly as its costs, with operating revenue for Verizon New Jersey "total company" (*i.e.*, intrastate and interstate combined) – adjusted to 2011 dollars – dropping from more than **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** in 1993 to **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** in 2011.[62] Verizon is now at the point where it has operated for the past several years in New Jersey with significant negative net income for both its intrastate and total company (interstate and intrastate) operations.[63] For example, Verizon New Jersey reported net income of negative **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** for its Board-regulated intrastate operations for the year ended 2007, followed by negative net income of **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** for 2008.[64] That loss ballooned to over **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** for 2009.[65] And, most recently, Verizon reported net income of negative **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** for its Board-regulated intrastate operations for the year ended 2010 and negative **[BEGIN PROPRIETARY]** [redacted] **[END PROPRIETARY]** for the year ended 2011.[66]

In the Matter of Verizon New jersey's, Inc's Alleged Failure to Comply with Opportunity New Jersy Committments, Docket No T012020155, Show Cause Order, March 12, 2012

However, the data provided by the 2009-2010 SEC filed annual reports for Verizon, New Jersey showed that Verizon paid no taxes in 2009 and 2010 and probably 2011. Verizon New Jersey's SEC annual reports showed massive losses of $786 million resulting in $321 million in 'income tax benefit". This was based on $6.2 billion dollars in revenue for just 2009-2010.

We've dedicated an entire report to exploring these losses and the affiliate transactions. www.newnetworks.com/Verizonshellgame2012.pdf

NOTE: Verizon has removed its state-based SEC annual reports for 2011.

However, the most important aspect of these losses has been the dumping of corporate expenses from Verizon Services. **Who is Verizon Services?**

Verizon Services is the corporate headquarters expenses which includes "corporate finance, external affairs, legal, media relations, employee communications, and corporate advertising". Translated into English, this most likely means that it dumps everything, from lobbying, monies for the Verizon Foundation, executive pay, travel and a host of other charges that have nothing to do with the cost of actually offering phone service.

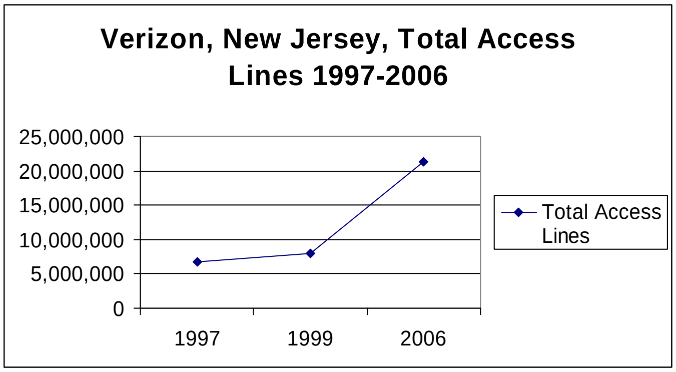
Verizon's state-based SEC reports state:

> "The second category is comprised of overhead and support services which generally benefit all subsidiaries of Verizon. Such services include corporate governance, corporate finance, external affairs, legal, media relations, employee communications, corporate advertising, human resources, treasury, and rent expenses associated with the rental of facilities and equipment."

In just 2009-2010, Verizon Services charged Verizon New Jersey $1.9 billion dollars in services alone. Are the losses really just corporate charging customers for "media relations" and other questionable charges that would never have been allowed prior to ONJ's passage?

15) Line Losses are Another Fairy Tale.

From 1997 through 2006, according to the actual data Verizon, New Jersey supplied to the FCC, Verizon's access lines increased 214%. When ALL of Verizon, New Jersey's lines are included in the actual accounting of lines, there have been major increases in lines.



Truth is -- Verizon doesn't tell anyone that the 'losses' are of just 1 category of lines, POTs, plain old telephone networks voice calling, dubbed 'switched access'. But the largest uncounted lines are the 'special access' lines, which are nothing special as they can include mundane services like alarm circuits. It doesn't include 'data' lines, like DSL. It most probably doesn't include FiOS.

Total Access Lines, Verizon, New Jersey

	1997	1999	2006
Total Access Lines	6,786,078	8,045,108	21,319,500
Increase Since 1997			**214%**

Source: FCC Statistics of Common Carriers by year.

14) Verizon's Wireless-only numbers are also inaccurate.

Verizon quotes the Center for Disease Controls' (CDC) analysis of 'wireless-only' customers.

> "Wireless service has become a replacement for home landline phone service. The United States Centers for Disease Control and Prevention ("CDC") conducts surveys to determine the level of wireless substitution. The latest CDC survey determined that, as of June 2011, 31.6 percent of households in the U.S. had only wireless phones, and an additional 16.4 percent of American homes received all or almost all calls on wireless telephones. In other words, in 48 percent of American households, wireless phones are either the exclusive or predominant form of voice communication"[17]

As we discuss in our report, the CDC is missing two critical components to their analysis.

- The CDC does not include business customers in their surveys.

[17] Response page 22

- The CDC does do not ask a fundamental question --- whether the customer has a ‘line’ for broadband or Internet or cable. Everything discussed is just ‘voice’ residential calls.

In short, the CDC only asks about voice calling residential households’ use of phone service. Based on other surveys, about 5-7% of the customers are totally wireless-only, not 31%.

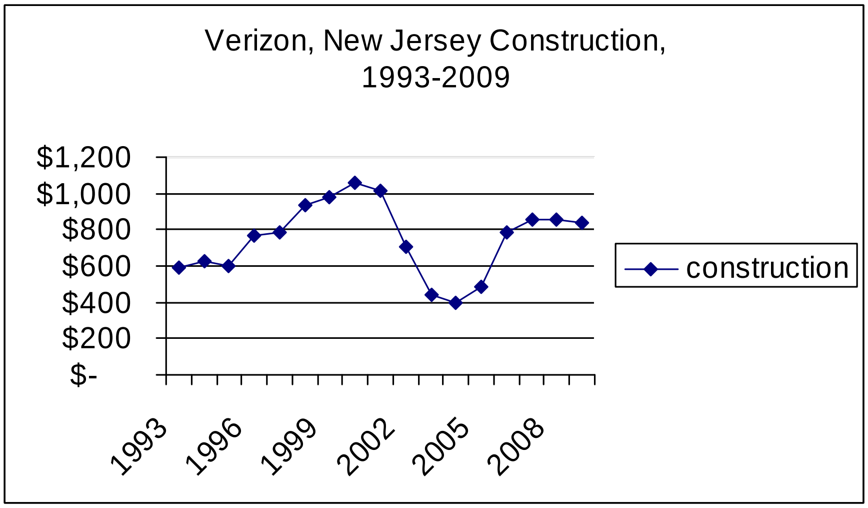
We do not question that lines have been dropped because of wireless calling. However, there has been no full accounting of this by Verizon or even the regulators, such as the FCC, and based on the data presented, this data is being used to obfuscate the numbers so that Verizon can attempt to close down their obligations.

15) Verizon, New Jersey Construction Budgets

Verizon is proud of saying that they spent $13 billion dollars in New Jersey on wireline and FiOS.

> “Since Opportunity New Jersey was adopted, Verizon has invested literally billions of dollars in making broadband available throughout New Jersey – significantly more than what was contemplated by ONJ. While ONJ envisioned that Verizon would invest approximately $1.5 billion more than the $3.87 billion it already planned to spend on network development in New Jersey between 1992 through 1999, Verizon actually invested nearly $5.1 billion from mid-1993 through 1999 to support the modernization of its network infrastructure to meet its deployment commitments in New Jersey, opening markets to competition. In the following years, Verizon invested an additional $8.3 billion in New Jersey. All told, Verizon has invested ***more than** *$13* **billion*** since the plan was approved.”

Unfortunately, that is just a restatement of the actual capital expenditures the company would have made based on basic maintenance and normal upgrades. If the company did spend money on FiOS, it came directly from the original utility construction budgets.



Source: Verizon, New Jersey's annual reports.

We found that Verizon spent $12.7 billion from 1993-2009 --- but what is disturbing is Verizon stopped spending on construction (the big dip in the chart) from 2002-2005, which was when they held the State hostage to get changes in law to get the FiOS statewide cable franchise. In fact, from 1993-2000 the company spent, on average, almost $100 million more a year than they did from 2001-2009 – i.e. There was no serious increase that would identify the FiOS expenditures. More to the point, where's the utility expenditures? If FiOS was actually deployed, then it took money directly out of upgrading the utility.

The State's Economic Future Is in Serious Jeopardy.

16) **Verizon claims that there have been market and technology shifts that have harmed the company. Whereas, Verizon benefited.**

> "MARKETS, TECHNOLOGY, AND CONSUMER DEMAND CHANGED DRAMATICALLY FOLLOWING THE ADOPTION OF OPPORTUNITY NEW JERSEY IN 1993. When Opportunity New Jersey was adopted in 1993, the telecommunications technology of the day and the industry structure were very different than what exists now. The changes in technology and industry structure have led to increased competition, and declines in traditional landlines and revenue for the former New Jersey Bell entity."

Poor, poor, poor, Verizon ---Woe is me. Woe is me, the sky is falling. The markets did change, but not for the detriment of Verizon. The declines in traditional land lines, for example were nothing more attempting to distort the 'total lines'

But in raw numbers? Verizon has prospered over the last two decades, but examining the details is obscured by the manipulation of assets, revenues and expenses. However, instead of offering just phone service, Verizon has been able to now have multiple revenue streams over the same wires.

a) New Revenue 1: Verizon entered the long distance market and can now bundle local and long distance --- adding long distance revenues.
b) New Revenue 2: Verizon became a competitor and was supposed to be able compete against the other Bell companies and internationally,
c) New Revenue 3: Verizon entered the DSL/broadband market - -- and now has an additional revenue stream over the same customer phone wire.
d) New Revenue 4: Verizon entered the Internet market as an Internet Service Provider (ISP) - -- and now has an additional revenue stream over the same customer phone wire
e) New Revenue 5: Verizon entered the cable market—and now can offer local, long distance, broadband, internet and cable – all over 1 wire.
f) New Revenue 6: Verizon entered the wireless market of which in every case there is evidence indicating that it was all funded through ratepayers'. excess charges that should have been used to upgrade the utility plant.
g) New Revenue 7: Verizon was able to 'spin' off businesses, Including wireless and directory, to remove it from the utility.
h) Verizon was able to lobby the FCC and close their networks to competitors, which was opened during the Telecom Act of 1996.

In 1984, the combined companies that would become Verizon had revenues of $32 billion, with Bell Atlantic having only $8.1 billion dollars. At the end of 2011, Verizon now had $111 billion dollars -- an increase of almost 250% and the real question of course is --- if customers helped to fund all of these other businesses, including lobbying, including foundation monies including executive pay, then why do they keep complaining?

17) Verizon has abandoned DSL and Verizon has stopped the expansion of FiOS.

Where's the new infrastructure going to come from for the 21st century if Verizon is not upgrading the wireline networks? Verizon recently laid off 336 employees from Connected Solutions who were part of the repair and maintenance crews for the utility networks.

18) Verizon claims wireless is a substitute for Wireline. Wireless is not a competitor to either DSL or even FiOS.

Wireless is currently excessively priced to compete with cable, for example. Today, the average person watches 33 Hours a week of cable/TV according to Nielsen's 2011 round up. That would cost over $1000.00 a month for 1 person on Verizon's Wireless.

Wireless can't compete on price with DSL or FiOS… FiOS currently is advertised at $99.00 a month and that includes cable, higher speeds than wireless can offer and phone service, local, and long distance.

19) Dooming the State to never be competitive globally.

Verizon quotes a report by the Verizon-funded ITIF, where Verizon is Number 1 in America in broadband. Shame Verizon didn't go to the original source which shows that the average speed in America is 5 Mbps, not 45 Mbps, so being on the top of the heap when Verizon and AT&T have harmed the entire US doesn't speak well of Verizon.

Worse, Verizon didn't bother to discuss that Hong Kong now offers 1 Gbps speeds for the price of DSL or that 100 Mbps is standard in South Korea, Japan, or France. The US is currently 12th, 18th or 33rd in the world in broadband because Verizon failed to properly upgrade the utility infrastructure --- in ALL of its states.

This has and will continue to harm our economy and innovation as other countries will develop the products and services of the future that their citizens enjoy.

20) Verizon claims it is not 'economical' to service Greenwich or Stow Creek.

Verizon quotes the FCC's National Broadband Plan[18], which Verizon uses as a justification to say they don't actually have to rewire 100% of the state, thus leaving out entire regions of their territories.

> "Because service providers in these areas [with low population density] cannot earn enough revenue to cover the costs of deploying and operating broadband networks, including expected returns on capital, there is no business case to offer broadband services in these areas. As a result, it is unlikely that private investment alone will fill the broadband availability gap"[19].

The FCC has never bothered to examine the state-based commitments or the customer funding of broadband based on these commitments in every 'advanced network' report and the National Broadband Plan. We have filed over 20 times with the FCC, starting in 1999 to outline that they have excluded hundreds of thousands of documents, state legislation and state commission regulations, proceedings and testimony pertaining to a fact – State laws were changed to fund broadband.

Verizon forgets that the costs of doing the wiring have been paid for by customer overcharging and the excess profits given to Verizon over a 20 year period. More importantly, the price of service had a construction budget built into it and all costs were averaged so that the rural customers would not have much higher prices than urban

[18] National Broadband plan at 136
[19] Page 31 Response

customers. (Businesses were always charged a premium as well.) And construction budgets, too, were spread over the entire Verizon territory so that the less expensive areas supplement the more expensive ones.

More to the point, customers, as well as the 2 small communities' municipality buildings and services, already paid thousands of dollars per line for the upgrades that were not done. Worse, Verizon has been charging customers who can't get or will never use FiOS and is even cross-subsidizing their affiliates, charging customers for wireless services they may never got.

Along side this Verizon has cost every customer who doesn't have a competitive choice for phone service, or more to the point a competitive service that competes with the cable incumbents.

It has also cost the communities of Greenwich and Stow Creek millions in job growth and economic development, such as eco-tourism, which these two small towns would have benefited from, had they the infrastructure and communications to communicate with the outside world. The town doesn't have the 144 kbps to 1.5 Mobs services, which was supposed to be ubiquitous in the year 2000.

And it is worth repeating: Verizon has also suggested a 'wireless' solution for rural areas. These services are incredibly expensive per gigabit and so watching cable on your broadband service would cost a household a few thousand dollars. --- This as compared to FiOS cable, for example, where the phone, cable and broadband package sells for $99.95.

21) The State failed to properly monitor or enforce the laws for 20 years.

The State never investigated ONJ. This includes a failure to examine the flow of monies, especially to and from the various Verizon affiliates, nor the cross-subsidization of these affiliates, much less the dismantling of the entire state utility.

22) The FCC failed to properly monitor state-based broadband commitments or customer-funding of broadband since the state of the Telecom Act of 1996.

Sections 706 of the Telecom Act of 1996 requires the FCC to examine whether or not broadband is being deployed in a timely and reasonable manner. And since the inception of the first 'advanced networks services' report in 1999, New Networks has pointed out to the FCC that they have never examined the commitments by state pertaining to broadband nor have then examined the role customers have had in as the defacto investor of broadband via the state alternative plans.

Conclusion:

The Remedies We Request

- Follow the Money: A full investigation of all monies or costs paid by the utility and customers to all of the Verizon affiliates, such as Verizon Wireless, Verizon Online, and Verizon Long Distance.
- Refunds to all customers for the monies they paid for a service they never received.
- Structural Separation of Verizon's affiliates from the utility.
- Full return to 'rate of return' for all services that use the current Verizon wiring in the New Jersey
- Completion of rewiring New Jersey as it was supposed to be so it can finally reap the benefits of having a world class infrastructure.
- Open the 'broadband utility' to all competitors to offer services.

About the Author

Bruce Kushnick, Executive Director of New Networks Institute, (NNI) has been a telecom analyst for over 30 years. He is also chairman of Teletruth, a loosely held group of experts, phone auditors, lawyers, technologists, economists and concerned citizens who work collectively on projects. Kushnick writes for Harvard Nieman Foundation for Journalism's Watchdog project and more recently, Huffington Post. Bruce Kushnick was a Special Graduate student at Harvard as well as MIT in interdisciplinary sciences and has a degree in music composition from Brandeis University.

From 1982 through 1992, Kushnick was a Senior Telecom Analyst, working for Link/IDC and other firms and wrote seminal reports on how the addition of technologies and new network services would change the way America used the communications networks. For example, he wrote the first reports on interactive voice services in 1985 and rolled out the first 3 digit information service (like 311 in New York) in 1992 with Cox Newspapers.

Kushnick has been tracking now Verizon and AT&T's broadband commitments, capital expenditures, revenues, as well as state and federal laws and regulations since 1984 and has published two books, hundreds of papers, articles, comments and complaints at the FCC, IRS, SEC, FTC, and state commissions. In 2005, Kushnick testified and presented documentation to the New Jersey Board of Public Utilities pertaining to Verizon's failure to properly upgrade the state's communications networks based on the commitments made in Opportunity New Jersey. This was not new information. In 1997, Kushnick's first book outlined the failure of Verizon to fulfill its commitments under ONJ as did his second book, published in 2005.

FUNDING: These Comments were paid for by NNI, which has no affiliation to any corporation, non-profit or political party. We did it because it is the right thing to do.

Short Bibliography

- Verizon's State-Based Financial Issues & Tax Losses: The Destruction of America's Telecommunications Utilities, April 2012
- www.newnetworks.com/Verizonshellgame2012.pdf
- Case Study: Verizon New Jersey Broadband Failure (1997-2009)
- www.teletruth.org/docs/casestudyNJVerizon.pdf
- Free Download The Unauthorized Bio of the Baby Bells, with Foreword by Dr. Robert Metcalfe, 1997
- www.newnetworks.com/downloadbook.html
- Free Download $340 Billion Broadband Scandal, 2005
- www.newnetworks.com/broadbandscandals.htm
- The History, Financial Commitments and Outcomes of Fiber Optic Broadband Deployment in America: 1990-2004. The Wiring of Homes, Businesses, Schools, Libraries, Hospitals and Government Agencies, 2009
- http://www.newnetworks.com/FCCCITIbroadband.pdf