

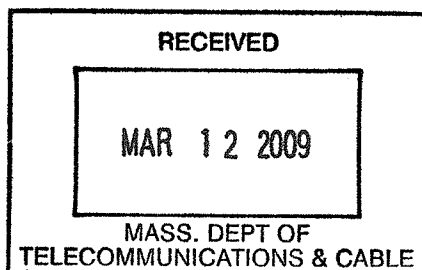


THE COMMONWEALTH OF MASSACHUSETTS
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March 9, 2009

Catrice C. Williams, Secretary
Department of Telecommunications and Cable
Two South Station, 4th Floor
Boston, Massachusetts 02110

RE: Proposed Regional Service Quality Investigation

Dear Ms. Williams:

On February 9, 2009, the Department of Telecommunications and Cable ("Department") issued a Request for Comment on its proposal to open a regional investigation of Verizon Massachusetts' ("Verizon") basic service quality in the Berkshire, Hampden, Hampshire, and Franklin Counties ("Request for Comment"). The Department requested initial comments by February 23, 2009 and reply comments by March 9, 2009. In accordance with the Department's schedule, the Attorney General is pleased to submit her reply comments in this matter.

Introduction

On February 23, 2009, numerous individuals and communities submitted comments in support of the proposal by the Department to open a regional investigation of Verizon's basic service quality in the Berkshire, Hampden, Hampshire, and Franklin Counties ("Request for Comment").¹ In contrast, Verizon states that its "quality of service to its Massachusetts customers is very good"² and asserts that "there is no reasonable basis, either from a public policy or statutory perspective, for opening a regional investigation of Verizon MA's service quality."³

¹ / See, e.g., comments filed separately by each of the following towns: Alford, Easthampton, Leverett, New Ashford, Rowe, Warwick, and Williamstown.

² / Verizon, at 1.

³ / Verizon, at 2.

Based on her review of the comments filed, the Office of the Attorney General (“Attorney General”) reiterates her support for the Department’s initiative, and, as stated in her initial comments, if the proceeding is commenced, she will fully participate on behalf of the consumers of the western Massachusetts.

Verizon states:

That the RPHL rate may differ from one portion of the state to another is neither surprising nor a cause for concern or an investigation. There will be differences between rural and urban areas, between densely populated and sparsely populated regions and between areas served by different types of outside plant, and these differences may have nothing to do with the level of service quality provided by Verizon MA.⁴

The Attorney General recognizes that service quality variations are inevitable, but she is not persuaded that seemingly persistent sub-par performance in some parts of the state is acceptable. Verizon’s obligation to provide basic local service throughout the state does not vary depending on the locations served and it would be unwise policy to permit a two-tier telecommunications network to persist. The Attorney General also recommends that if the Department decides to proceed with the regional service quality investigation, the Department consider service quality in the four western counties not only as measured by the RPHL, but as measured by all twelve of the Department’s service quality metrics, and as measured at the wire center level.

According to Verizon, different levels of service quality are a natural consequence of geography. In particular, Verizon states that western Massachusetts is “subject to more harmful storms than the eastern portion of the state.”⁵ Verizon did not provide any specific information in support of this assertion. More to the point, however, if Verizon believes that the Western portion of Massachusetts is subject to harsher conditions, the Department could reasonably assume that Verizon would allocate sufficient resources to address these conditions, and replace, as necessary, any outside plant that may have deteriorated to the point that it is particularly susceptible to rain and storms.

I. Consolidation of Hancock, Rowe and regional service quality investigation

The Department proposes to consolidate two existing town-specific Verizon service quality investigations (D.T.C. 07-2, *Petition of the Board of Selectmen of the Town of Hancock Pursuant to G.L. c. 159, §24 Regarding the Quality of Verizon Telephone Service* and D.T.C. 07-5 *Petition of the Board of Selectmen of the Town of Rowe Pursuant to G.L. c. 159, §24 Regarding the Quality of Verizon Telephone Service*) as well as a pending undocketed complaint by the Town of Shutesbury into the proposed regional service quality investigation. The Attorney General commented that she would recommend that the towns of Hancock and Rowe decide whether to consolidate their investigations. The Town of Rowe has commented that it

⁴ / Verizon, at 8.

⁵ / Verizon Initial Comments, at 8.

sees benefits in consolidation; however, the Town of Hancock has not submitted initial comments. Therefore, the Attorney General recommends soliciting the Town of Hancock for its opinion on consolidation of the dockets.

II. Verizon's comment that complaints received to date do not justify an investigation of service quality in the entire 413 area code should be rejected

As Verizon describes the evidence prior to the acceptance of initial comments, an insufficient number of complaints were received in order to justify an investigation of service quality in the entire 413 area code. Comments of Verizon New England Inc. in Proposed Regional Service Quality Investigation, 3, February 23, 2009 ("Verizon Comments"). However, following the submission of comments about plain old telephone service ("POTS") by seventeen (17) towns, including sixty-six (66) complaints, as well as prior complaints and comments by towns not included in the initial comments, including, Hancock, Middlefield, Otis, Cheshire and Windsor, a sufficient number of towns and residents have raised concerns about service quality to justify an investigation into whether there is a service quality problem in western Massachusetts of the state. Further, Verizon remarks that the cited cases of Hancock and Rowe are not properly considered as evidence. Verizon Comments, 7. Regardless of whether the cited cases and other comments are properly considered as evidence, they are sufficient to lead the Department to consider opening an investigation into the quality of service raised in the cases and comments.

Verizon also states that "[t]he few service-quality complaints the Department has received from communities in western Massachusetts over the past three years are unrelated to one another and were largely triggered by local, individual, perceived service issues and an understandable desire for advanced, high-speed data services."⁶ However, in response to the Department's request for comment, several towns and numerous private citizens filed comments detailing inadequacies in the service provided by Verizon. These comments, taken together, represent some common concerns in this region of the state with Verizon's infrastructure and responsiveness to customers. A few examples from the filed comments follow:

- Mayor Michael A. Tautznik of Easthampton explains that the copper infrastructure in Easthampton is not being properly maintained or updated. He also notes other problems, including the "slow response by Verizon work crews."⁷
- According to Lisa Stratford, Town Clerk and Clerk to the Select Board of the Town of Leverett ("Board"), the Board "has been increasingly concerned about the poor quality of telephone service provided by Verizon."⁸ Ms. Stratford further states that "[i]ndividual service calls to Verizon have frequently been met with statements that there are no better

⁶ / Verizon Initial Comments, at 10-11.

⁷ / Comments of Michael A. Tautznik, Mayor of Easthampton, MA.

⁸ / Comments of Lisa Stratford, Town Clerk and Clerk to the Select Board of the Town of Leverett, MA.

lines available to remedy the problems and that lines in Leverett generally are in a deteriorated condition.” She notes that the Board has started compiling letters of complaint in preparation for filing a formal complaint with the Department. The Board believes that there is a widespread problem that must be investigated, and advises the Department that a “regional investigation is the best approach to this situation. We are aware that other towns are experiencing problems with Verizon service similar to ours and that the telephone system is interconnected among towns in the region. A regional investigation would allow the Department to collect information on a broad basis and address the problem coherently and comprehensively.”⁹

- Charles Ketchen, Chairman of the Board of Selectmen of the Town of Alford, notes that “the Town of Alford definitely has concerns” about service quality.¹⁰ He adds that “The Board of Selectmen receive ongoing reports/complaints of service interruptions and delays in correction... Verizon officials have been vague and noncommittal as to their plans/schedules for upgrading their wires - which would allow Alford to access more high speed/quality connections and service.”¹¹ Mr. Ketchen also explains that the Board is “very much in favor of your investigation, as we feel its outcome will provide more equitable treatment (by Verizon) of our smaller towns and their citizens.”¹²
- Ed Grosso of the Town of New Ashford states that power failure at their remote terminal disables all telephone service to over 90% of its population. Not only are residents unable to dial 911 to reach emergency personnel, but the Fire Station and Town Hall are also left without communications.¹³ Mr. Grosso also notes that several residents in the northern part of the town experience frequent outages due to old or faulty cabling. Mr. Grosso points out that there may be more problem areas than have come to light so far, simply because customers might feel that complaining about inferior service is futile, and will achieve no improvement in service quality. Mr. Grosso concludes that “a regional approach may be the best way to correct problems if they are widespread. This may save time and money.”¹⁴
- The Town of Rowe Board of Selectmen believes “that there is reasonable basis for the Department to conclude there may be significant or widespread problems with Verizon’s service quality.”¹⁵ Furthermore, Rowe states that “we do believe that a regional investigation is the best approach as most of the towns in western Massachusetts are very

⁹ / Id.

¹⁰ / Comments of Charles Ketchen, Chairman, Board of Selectmen, Town of Alford, MA.

¹¹ / Id.

¹² / Id. See also comments of Arthur Dellea stating: “Verizon telephone service is very poor in Alford. At times in the past, we’ve had half of the town without phone service for a day at a time, even on clear sky days, without any notification or explanation from Verizon whatsoever. And still, though most of the town’s lines have been supposedly replaced, whenever it rains a large percentage of our residents lose basic phone services! This is a detriment to the basic safety of our residents, and it needs to be addressed immediately, and fixed permanently.”

¹³ / Comments of Ed Grosso, Chairman, New Ashford Technology Committee, New Ashford, MA.

¹⁴ / Id.

¹⁵ / Comments of the Board of Selectmen, Town of Rowe, MA.

small and lack the funding or manpower needed to pursue such a petition on their own.”¹⁶ The Town of Rowe Board also finds that “it would be beneficial to group all towns together into one investigation as a broader-based complaint would most likely get better results.”¹⁷

- The Town of Warwick also supports the investigation of Verizon’s service quality on a regional basis, and notes that “the state of infrastructure for pots lines here ranges from challenged to deplorable.”¹⁸ The Town explains further that “[r]esidents here experience outages, phantom rings, ring-through, and cross-talk. There is no cellular service. This makes the land line an especially critical service.”¹⁹
- Williamstown submits descriptions of poor service from numerous affected residents. The problems include “phantom dialing” 911 due to a short in the cabling,²⁰ sporadic hum,²¹ and static “so loud at times it is impossible to hold a conversation.”²² Several residents of Williamstown state that they have switched from Verizon to Time Warner for telephone service because Verizon’s call quality was so bad. One former Verizon customer wrote, “Every time it rained, my phone would go dead when I had Verizon as my provider.”²³ Another wrote, “It’s a bit of a relief to know that it’s a community problem; we thought it was just us.”²⁴

Poor, unreliable telephone service quality harms consumers, jeopardizes the safety and well-being of residents, challenges small businesses, and discourages telecommuting. Furthermore, unreliable basic local service interferes with customers’ ability to use dial-up service to access the Internet.²⁵

Verizon contends that the Department can address local service quality problems without a regional investigation, and opposes what Verizon describes as an “open-ended, large-scale”²⁶ regional investigation. The Attorney General supports the Department’s focused investigation of service quality in the four western counties, within a specified time period, and also urges the Department to investigate Verizon’s failure to repair customers’ out-of-service lines in a timely manner.

¹⁶ / Id.

¹⁷ / Id.

¹⁸ / Comments of J. David Young, Administrative Coordinator, Board of Selectmen of the Town of Warwick, MA.

¹⁹ / Id.

²⁰ / Comments of Williamstown, at 3 and 17.

²¹ / Id., at 4.

²² / Id., at 5.

²³ / Id., at 27.

²⁴ / Id., at 20.

²⁵ / In many rural areas, customers do not have access to DSL and therefore must rely on dial-up access over their basic telephone lines to access the Internet.

²⁶ / Verizon, at 9.

A. The northwest corner of the state appears to experience significant POTS problems

In particular, the Attorney General notes that a majority of the service quality complaints come from the northwest corner of the state. (Please see Attachment A, a map showing the towns that filed comments in this investigation regarding poor service quality for POTS by Verizon.)

B. Contrary to Verizon's assertions, many residents are not focused on DSL service but rather have raised concerns about POTS

In Verizon's initial comments, it refers to a letter filed by two individuals in Shutesbury, in which the residents discuss service quality and the lack of DSL service. Verizon Comments, 4. While there may be concerns or a desire for DSL service in western Massachusetts, this does not dismiss concerns about POTS quality. Moreover, service quality complaints have come from the towns of Hancock, Middlefield, Rowe and Shutesbury, which have recently received upgrades bringing High Speed Internet service to these towns. Verizon Comments, 1. Verizon's inference that consumers are expressing their latent desire for DSL through the medium of complaints about POTS seems short sighted. Verizon Comments, 11.

C. Verizon's out-of-service lines continue to be slow, causing customers to wait for long periods of time to have their basic connection to the network restored.

Verizon states that it "exceeded the individual benchmark standards for eleven out of the twelve service quality metrics in the plan throughout the year and obtained the highest possible score on at least eight of those metrics every month."²⁷ Verizon does not, however, explain why its repair of out-of-service lines continues to be slow, causing customers to wait inordinately long to have their basic connection to the network restored. The Attorney General, therefore, renews the concern discussed in her initial comments that the Department investigate the cause of the slow repair. In many states, the standard for repairing out-of-service troubles within 24 hours is far more stringent (frequently 90% rather than the 60% standard in Massachusetts). Consumers are harmed by service-affecting troubles reported on their basic lines, by out-of-service dial tone, and by their inability to use a reliable dial-up access to the Internet while they wait for broadband deployment.

Verizon also "notes that complaints filed by customers in communities in western Massachusetts often focus on the lack of availability of broadband, DSL, wireless or other high-speed services by Verizon MA and its competitors."²⁸ The Attorney General understands that the Department's proposed investigation would not encompass the availability or quality of broadband service. Nonetheless, the quality of the basic network infrastructure in rural communities may affect Verizon's ability to deploy DSL. Furthermore, the quality of basic local

²⁷ / Verizon, at 1-2.

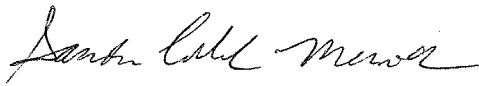
²⁸ / Verizon, at 10, footnote 7.

service affects the quality of dial-up access to the Internet by those communities that are still waiting for broadband access.

Conclusion

In sum, the Attorney General believes that the number of comments received in response to this request for comments in the Proposed Regional Service Quality Investigation, together with the previously filed M.G.L. c. 159, § 24 complaints by Middlefield, Hancock and Rowe provide enough information to warrant an investigation into service quality in western Massachusetts. As Verizon has commented, these comments, complaints and filings may not properly be considered as evidence; however, this does not mean that they do not show some kind of pattern or at least serious concerns about service quality in western Massachusetts over POTS. Therefore, this information is persuasive to allow the Department to open an investigation into service quality for POTS in western Massachusetts.

Respectfully submitted



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Dated: March 9, 2009

Western Massachusetts Towns where Residents have Experienced Poor Telephone Service

Key

RED= Complaint to D.T.C.

BLUE= M.G.L. c. 159 § 24 Case opened

GREEN= Complaint from Sen. Downing

Number of Complaints Received by Town

Alford-3
Colrain- 1
Conway-1
Heath- 1
Easthampton- 2
Leverett- 11
New Ashford- 1
New Salem-1
Northfield- 1
Shelburne- 1
Shutesbury- 5
Turners Falls- 1
Warwick-1
Wendell- 1
Worthington- 2
Williamstown-32
Westhampton- 1

M.G.L. c. 159 § 24 case opened

Hancock
Middlefield
Rowe

Complaint received from Sen. Downing

Hancock
New Ashford
Otis
Rowe
Winsor

