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January 15, 2019

Ms. Brinda Westbrook-Sedgwick
Commission Secretary
Public Service Commission of the
District of Columbia
1325 G Street, N.W., Suite 800
Washington, DC 20005

**Re: RM27-2016-02, In the Matter of the Commission's Investigation into the
Rules Governing Local Exchange Carrier Quality of Service Standards for
the District**

Dear Ms. Westbrook-Sedgwick:

Please find enclosed for filing an original and three (3) copies of the *Reply Comments of the Office of the People's Counsel for the District of Columbia* in the above-referenced proceeding.

If there are any questions regarding this matter, please contact me at (202) 727-3071.

Sincerely,



Barbara L. Burton
Assistant People's Counsel

Cc: All parties of record

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

In the Matter of	§	
	§	
	§	
The Commission's Investigation	§	RM27-2016-02
Into the Rules Governing Local	§	
Exchange Carrier Quality of	§	
Service Standards for the District	§	

**REPLY COMMENTS OF THE OFFICE OF THE PEOPLE'S COUNSEL FOR THE
DISTRICT OF COLUMBIA**

I. INTRODUCTION

Pursuant to the Public Service Commission of the District of Columbia's ("Commission") Notice of Second Proposed Rulemaking ("Second NOPR"),¹ the Office of the People's Counsel for the District of Columbia ("Office" or "OPC"), the statutory representative of District of Columbia consumers and ratepayers with respect to utility matters,² hereby respectfully submits the *Reply Comments of the Office of the People's Counsel for the District of Columbia* ("Reply Comments").

II. PROCEDURAL BACKGROUND

On October 5, 2018, the Commission issued the Second NOPR, which further revised the proposed amendments to Sections 2706, 2707 and 2710 of Chapter 27 of Title 15 of the District of Columbia Municipal Regulations ("DCMR") that were originally issued in the Commission's

¹ RM27-2016-02, *In the Matter of the Commission's Investigation into the Rules Governing Local Exchange Carrier Quality of Service Standards for the District*, Notice of Second Proposed Rulemaking ("RM27-2016-02"), 65 D.C. Reg. 41044031-011050 (October 5, 2018) ("Second NOPR").

² D.C. Code § 34-804 (Lexis 2018).

Notice of Proposed Rulemaking (“NOPR”) on April 15, 2016.³ The Second NOPR also proposed amendments to Sections 2704, 2705, 2708, and 2799, which were not included in the NOPR’s proposed amendments. As stated by the Commission:

The [Second NOPR’s] proposed amendments to Sections 2704, 2705, 2706, and 2708 update these sections to require that all telecommunications service providers, not just competitive local exchange carriers, that are withdrawing certification and regulated local exchange services comply with the requirements of Sections 2704, 2705, 2706, or 2708. The proposed amendments also add a new Section 2707 to include notice requirements for telecommunications service providers that are abandoning copper facilities in the District of Columbia. Section 2708 is clarified to apply only to relinquishments of certifications where the telecommunications service provider has never offered regulated telecommunications service to customers. The proposed amendments renumber the current Section 2707, Reports, to Section 2710 and makes amendments to the reporting requirements. Finally, definitions are added to Section 2799, the Definitions section.

RM27-2016-02, Second NOPR at p. 011031. Because it included amendments that were not proposed in the original NOPR, the Second NOPR differed in certain respects from the NOPR.

Initial and reply comments were originally due on November 5, 2018 and November 19, 2018, respectively. However, pursuant to the Commission’s October 26, 2018 Public Notice, the comment period was revised to allow for the submission of initial and reply comments on December 12, 2018 and January 14, 2018,⁴ respectively.

The Office, Verizon Washington, DC. Inc. (“Verizon-DC”) and Communications Workers of America (“CWA”) each filed initial comments.⁵ Through them, the Office and

³ *RM27-2016-02*, Notice of Proposed Rulemaking, 63 D.C. Reg 17 005773-005785 (April 15, 2016) (“NOPR”).

⁴ D.C. Government was closed on January 14, 2019 due to inclement weather, therefore OPC’s comments are being filed on January 15, 2019 when D.C. Government reopened for official business.

⁵ *RM27-2016-02*, Initial Comments of the Office of the People’s Counsel for the District of Columbia, filed December 12, 2018 (“OPC Comments”), Comments of Verizon Washington, DC Inc. on Proposed Service

CWA generally support the Commission’s proposed rule amendments. Conversely, Verizon-DC objects.

For the reasons stated below, the Office urges the Commission to reject the Comments submitted by Verizon-DC in this proceeding.

III. COMMENTS

A. *The Commission’s Proposed Copper Retirement Notice Rules in Section 2707 Should Be Adopted; Verizon’s Vague Claims to the Contrary Should be Rejected*

A majority of Verizon-DC’s Initial Comments address the Commission’s proposed copper retirement notice rules in proposed Section 2707 (Abandonment of Copper Facilities).⁶ Verizon-DC claims the proposed copper retirement rules are “unnecessary, impose costs on LECs for no added benefit, and will lead to customer confusion.”⁷ Verizon-DC also claims the proposed copper retirement rules will “impede the transition of local exchange service to better networks.”⁸ Verizon-DC’s criticisms are vague, unsubstantiated, and ignore the unique circumstances in the District which led to the proposed DC-specific copper retirement notice rules.

In Formal Case No. 1090, the Commission opened an investigation to assess the reliability of Verizon-DC’s telecommunications infrastructure in the District. In that proceeding,

Withdrawal and Copper Retirement Rules, filed December 12, 2018 (“Verizon-DC Comments”), and Letter from Vincent Trivelli, The Law Office of Vincent Trivelli, PLLC, to Brinda Westbrook-Sedgwick, Commission Secretary, filed December 12, 2018 (“CWA Comments”).

⁶ RM27-2016-02, Verizon-DC Comments at pp. 2-9.

⁷ RM27-2016-02, Verizon-DC Comments at pp. 2, 4.

⁸ RM27-2016-02, Verizon-DC Comment at p. 2.

the Commission received numerous complaints, letters, and emails from Verizon-DC's consumers expressing concern about Verizon-DC's plans to retire copper infrastructure and the quality of Verizon-DC's repair services related to copper facilities.⁹ The Commission found that "issues related to the continued use of copper facilities to provide telecommunications services merits a separate investigation into Verizon DC's current practices and future plans."¹⁰ That separate investigation was initiated in January 2013 as Formal Case No. 1102.¹¹ According to the Commission, the purpose of Formal Case No. 1102 was to:

investigate issues related to Verizon Washington, DC Inc.'s continued use of its copper infrastructure for the provision of telecommunications services and whether, and under what circumstances, the Company plans to transition customers from the telecommunications services provided over copper facilities to telecommunications services provided over fiber facilities.

Formal Case No. 1102, Order No. 17045 ¶1. After an extensive, multi-year investigation (which included comments, discovery, multiple rounds of expert testimony, technical conferences, community hearings, and an evidentiary hearing)¹², the Commission issued its merits Order (i.e., Order No. 17952), wherein it made numerous findings regarding copper retirement as it relates to Verizon-DC, including:

- (a) that Verizon-DC provided inadequate disclosures to customers related to copper retirement issues;¹³

⁹ *Formal Case No. 1102, In the Matter of the Investigation into the Continued Use of Verizon Washington, DC, Inc.'s Copper Infrastructure to Provide Telecommunications Services* ("Formal Case No. 1102"), Order No. 17045 ¶2, rel. January 17, 2013 ("Order No. 17045").

¹⁰ *Formal Case No. 1102*, Order No. 17045 ¶2.

¹¹ *Formal Case No. 1102*, Order No. 17045 ¶ 5.

¹² *Formal Case No. 1102*, Order No. 17952 at pp. 2-7, rel. September 1, 2015 ("Order No. 17952").

¹³ *Formal Case No. 1102*, Order No. 17952 ¶ 562.

- (b) that it “is in the public interest to require that when Verizon DC plans to discontinue providing a regulated service to customers it must so inform the customers in advance”;¹⁴ and
- (c) that the lack of advance public notice requirements in the District regarding copper facility retirements “prevents the Commission from currently mandating that a telephone service provider provide information about a copper facility abandonment to District of Columbia consumers.”¹⁵

The Commission determined that a “notice requirement for the abandonment of copper facilities will be proposed in a subsequent rulemaking proceeding.”¹⁶ The “subsequent rulemaking proceeding” referenced in Order No. 17952 is the instant proceeding, and the “notice requirement for the abandonment of copper facilities” is proposed Section 2707 of the Second NOPR.

All of the work undertaken by the Commission and various interested parties related to copper retirement and associated notices has culminated in the Second NOPR’s proposed Section 2707. The notice requirement is specific to the District because the investigations which led to the proposed rule (and the facts examined during those investigations) are specific to the District. In other words, the Commission identified a problem related to the lack of advance public notice requirements in the District regarding copper facility retirements and crafted a proposed solution to address that problem. When viewed against this historical backdrop, it is readily apparent that the copper retirement notice requirements under proposed Section 2707 are both important and needed in the District. Verizon-DC’s claim that Section 2707 is unnecessary has no merit.

¹⁴ *Formal Case No. 1102*, Order No. 17952 ¶ 563.

¹⁵ *Formal Case No. 1102*, Order No. 17952 ¶ 566.

¹⁶ *Formal Case No. 1102*, Order No. 17952 ¶ 567.

Verizon-DC's other claims about the proposed copper retirement notice rules (i.e., they are costly, add no benefit, will lead to customer confusion, and will impede technology transitions) are likewise unsupported. First, while OPC is sensitive to any costs that regulatory compliance can impose on telecommunications service providers ("TSPs"), Verizon-DC has provided no information about any costs Section 2707 would impose on it. Further, Verizon-DC's repeated claims about "costs" associated with advance notice requirements¹⁷ ignores the enormous cost *savings* Verizon-DC has achieved in the past (and will achieve in the future) from retiring copper facilities and services.¹⁸ It was reported more than a year ago that "Verizon's copper retirements alone may result in between \$171 million and \$190 million in cost savings..." based on locations for which Verizon had already filed to retire copper facilities.¹⁹ Any administrative cost(s) associated with providing advance notice of copper retirements would certainly be miniscule compared to the cost *savings* Verizon would enjoy from those copper retirements.

Second, Verizon-DC's claim that Section 2707 provides no benefit nor value stands in direct conflict with the Commission's previous finding in Formal Case No. 1102 that the provision of advance notice by Verizon-DC is in the public interest.²⁰ Advance notice of copper retirements provides important information to the Commission and OPC about changes being made to the telecommunications landscape in the District. It also assists consumers in the

¹⁷ RM27-2016-02, Verizon-DC Comments at pp.1-2, 4.

¹⁸ *In the Matter of Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, WC Docket No. 17-84; FCC 17-154, Report and Order, Declaratory Ruling, and Further Notice of Proposed Rulemaking ("WC Docket No. 17-84") ¶ 42, rel. November 29, 2017.

¹⁹ WC Docket No. 17-84") ¶ 42.

²⁰ *Formal Case No. 1102*, Order No. 17952 ¶566.

District in making informed decisions when facing potentially significant changes to their telecommunications services.

Third, Verizon-DC's claim about advance notice of copper retirements causing customer confusion defies logic. The contents of the notice to residential and business customers (as spelled out in proposed Sections 2707.3 and 2707.4) are simple, straightforward, and easily understandable. However, if a consumer is confused, there are numerous avenues she or he can pursue to clear up confusion—including, seeking clarification from the contact person referenced in proposed Section 2707.3(b), referring to any of the sources for additional information listed under proposed Section 2707.4(b),²¹ or contacting OPC. Indeed, the requirements of proposed Section 2707 have been developed specifically to *avoid* customer confusion.²²

Finally, Verizon-DC's claim that advance notice for copper retirements will “impede” its technology transition efforts is unfounded. Verizon-DC does *not* claim it would forego abandoning/retiring copper facilities in the District due to advance notice requirements, and for good reason: Verizon-DC is a for-profit corporation which will undoubtedly pursue technology/network upgrades (regardless of advance notice requirements) because those

²¹ Verizon-DC claims that the information in Section 2707.4(b) is unnecessary. *RM27-2016-02*, Verizon-DC Comments at pp. 8-9. To the contrary, that section provides information that could assist business and residential customers with obtaining information or clarification about a copper retirement notice. Moreover, the information provided pursuant to Section 2707.4(b) would be in one, single place (*i.e.*, in the copper retirement notice itself), whereas the information discussed by Verizon-DC (in an attempt to persuade the Commission that putting it in Section 2707.4(b) is unnecessary) is divided between at least four different sources. Therefore, the information provided pursuant to Section 2707.4(b) would be more useful and efficient for consumers, as compared to the alternatives Verizon-DC discussed.

²² Verizon-DC also claims that confusion will result from the copper retirement notices containing the *retirement implementation date*, and states that (if the Commission adopts copper retirement notice requirements) the notices should identify the *customer migration date* instead. *RM27-2016-02*, Verizon-DC Comments at pp. 6-7. Verizon-DC's comments indicate that the two dates differ, and that providing the customer migration date is feasible. Rather than replacing the retirement date with the customer migration date in the notice (as proposed by Verizon-DC), the Commission could address this issue by permitting TSPs to provide the customer migration date in the notices (if available) in addition to the retirement date.

upgrades will improve the Company's bottom line by enabling it to reduce maintenance costs; roll-out next-generation, feature rich services; and avoid maintaining two separate networks. More to the point, Verizon-DC previously reported to the Federal Communications Commission ("FCC") that it had "filed to retire copper at approximately 3.8 million locations across eight states" and "filed [those] copper retirement notices under both the existing and the previous [federal] copper retirement rules."²³ Therefore, by Verizon's own admission, it has aggressively pursued copper retirement plans in its service areas regardless of the copper retirement notice rules that have applied. Advance notice requirements have *not* impeded Verizon's copper retirement efforts in the real world. This is most likely because the decision by a local exchange carrier such as Verizon to retire copper facilities hinges on the company's business plan regarding when and where to deploy next-generation services to customers, not on regulatory requirements. Thus, Verizon-DC's claim about advance notice requirements impeding technology transition essentially boils down to a complaint about giving *any* advance notice about copper retirement. While Verizon-DC may view advance notice requirements as an obstacle or hindrance, that view is not shared by consumers in the District who have expressed concern about the continued availability of copper facilities,²⁴ the Commission (which previously identified the lack of advance public notice requirements in the District regarding copper facility

²³ *FCC, WC Docket No. 17-84*, Comments of Verizon, filed June 15, 2017 at pp. 17-18.

²⁴ *See, e.g., Formal Case No. 1102*, Order No. 17045 ¶ 2 n.2 and Attachment A (referencing a number of informal consumer complaints, letters and emails requesting that Verizon continue to provide telecommunications services using its copper infrastructure, and raising questions about the quality of repair services related to copper facilities).

retirements as a problem),²⁵ or the FCC, which also requires advance public notice of copper retirements.²⁶

B. The Commission Should Reject Verizon-DC's Proposal to Rely Solely on Federal Copper Retirement Notice Rules.

Verizon-DC states that proposed Section 2707 is unnecessary, in part, because the “FCC’s public notice requirements provide sufficient notice to the Commission and interested parties of any copper retirements in the District.”²⁷ While the federal rules contain important notice requirements, Section 2707 has been specially tailored for the District, based on District-specific facts and investigations. As such, it serves as an important complement to the federal requirements.

The Commission should be mindful of, and prioritize, its statutory responsibilities under the D.C. Code and ensure that those responsibilities are not overshadowed by Verizon-DC’s focus on what the FCC has said or done about copper retirement notice requirements.²⁸ For example, D.C. Code § 1-204.93 states that the Commission’s “function shall be to insure that every public utility doing business within the District of Columbia is required to furnish service and facilities reasonably safe and adequate and in all respects just and reasonable.”²⁹ In addition,

²⁵ *Formal Case No. 1102*, Order No. 17952 ¶¶ 447, 566.

²⁶ *See, e.g.*, 47 C.F.R. §§ 51.325-51.335.

²⁷ *RM27-2016-02*, Verizon-DC Comments at p. 3.

²⁸ The Commission should also ensure that the statutory responsibilities of the OPC regarding consumer advocacy and education do not take a back seat to Verizon-DC’s apparent desire to provide as little copper retirement notice information as possible. For example, Verizon-DC claims that providing copper retirement notices directly to OPC is unnecessary because any entity can subscribe to the Commission’s daily email list to receive notice of filings. Requiring OPC to constantly monitor the daily email list for copper retirement notice is not efficient, particularly when submitting a copy of the notice to OPC at the same time as the Commission (as required by proposed Section 2707.3) will not result in any additional time or cost to a TSP.

²⁹ D.C. Code § 1-204.93 (Lexis 2018).

D.C. Code § 34-1101(a) states that “[e]very public utility doing business within the District of Columbia is required to furnish service and facilities reasonably safe and adequate and in all respects just and reasonable.”³⁰ Moreover, D.C. Code 34-1101(d) states that “[t]he Commission is authorized to promulgate any rules necessary to implement this section.”³¹ OPC applauds the Commission’s focus on fulfilling these statutory responsibilities, as it relates to copper retirement notices, by proposing rules that promote safe and adequate service for consumers during the transition time period.

C. Exit Plans for Withdrawing Local Exchange Voice Services Under Section 2706 Should Apply to All TSPs.

Verizon-DC urges the Commission to streamline the process for withdrawing local services and *not* adopt the proposed amendments to Section 2706 that would require *all TSPs* (not just CLECs) to file an Exit Plan, on 90 days’ notice, to withdraw local exchange voice services.³² The Office explained in its Initial Comments³³ why the Commission’s proposal to apply Section 2706 to all TSPs (including Verizon-DC) is the correct approach. In an attempt to persuade the Commission to exempt Verizon-DC from filing Exit Plans to withdraw local exchange voice services under Section 2706, Verizon-DC presents data regarding intermodal competition for local exchange voice services, including wireless and Voice over Internet Protocol (“VoIP”) substitution.³⁴ This data ignores the fact that Verizon-DC remains the

³⁰ D.C. Code § 34-1101 (a) (Lexis 2018).

³¹ D.C. Code § 34-1101 (d) (Lexis 2018).

³² *RM27-2016-02*, Verizon-DC Comment at p. 9.

³³ *RM27-2016-02*, OPC comments at pp. 7-9.

³⁴ *RM27-2016-02*, Verizon-DC Comments at pp. 10-12.

dominant provider of local exchange telephone service in the District.³⁵ Moreover, Verizon-DC does not explain how that data supports its proposal to eliminate notice to Verizon-DC customers of their preferred local exchange voice service.

This is not the first time Verizon-DC has attempted to recite data about wireless and VoIP substitution as a defense against the Commission implementing sound, public policies that fairly balance the interests of regulated TPSs and their customers. For instance, when attempting to evade strengthened retail service quality metrics in response to service quality degradation in Formal Case 1090, Verizon-DC recited similar data about intermodal competition and claimed that such data obviated the need for additional regulatory oversight.³⁶ The Commission rejected Verizon-DC's rationale, holding:

Verizon DC does not even attempt to argue how competition can be used to measure service degradation, instead, Verizon DC's argument is that the presence of competition makes measurement of service degradation unnecessary. The Commission disagrees. As OPC notes, D.C. Code § 34-1101 states that "[e]very public utility doing business within the District of Columbia is required to furnish services and facilities reasonably safe and adequate and in all respects just and reasonable." This statutory requirement to provide reasonably safe and adequate service is not conditioned on any determination of the level of competition that the utility faces.

Formal Case No. 1090, Order No. 17313 at pp. 19-20 (emphasis added). The Commission's conclusion – that "[t]his statutory requirement to provide reasonably safe and adequate service is not conditioned on any determination of the level of competition that the utility faces" – also holds true regarding the withdrawal of local exchange voice services. In other words, the presence of intermodal alternatives does not eliminate (or even lessen) the Commission's mandate to ensure that every public utility doing business within the District of Columbia

³⁵ See, e.g., *RM27-2016-02*, OPC Comments at p. 8 n.24.

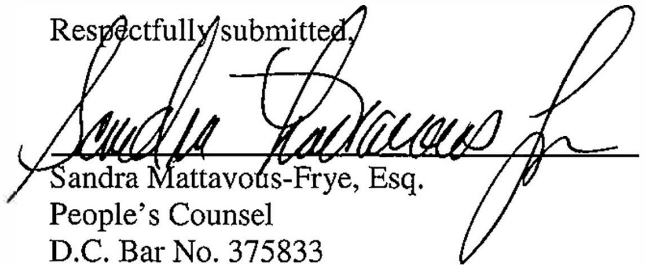
³⁶ *Formal Case No. 1090*, Order No. 17313 at pp. 12-15.

(including Verizon-DC) furnishes safe, adequate, just and reasonable service. As such, the existing requirement to submit an Exit Plan to withdraw local exchange voice services should be maintained, and that requirement should cover all TSPs.

IV. CONCLUSION

WHEREFORE, the Office urges the Commission to reject the recommendations put forth in *Verizon-DC's Initial Comments* regarding the Second NOPR and asks the Commission to adopt those espoused in in OPC's *Initial Comments*.

Respectfully submitted,



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Dated: January 15, 2019

CERTIFICATE OF SERVICE

RM27-2016-02, In the Matter of the Commission's Investigation into the Rules Governing Local Exchange Carrier Quality of Service Standards for the District

I hereby certify that on January 15, 2019, a copy of the *Reply Comments of the Office of the People's Counsel for the District of Columbia* was served on the following parties of record by hand delivery, first class mail, postage prepaid, or electronic mail:

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