STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 14-C-0370 - In the Matter of a Study on the State of Telecommunications in New York State.

NOTICE SEEKING COMMENTS

(Issued June 23, 2015)

The telecommunication landscape in New York State and across the nation continues its rapid transition to new more powerful technologies. The last decade has produced radical change throughout the telecommunications industry. Previously voice and video were distinct services, with different technology platforms, capabilities, providers and service offerings. This is no longer true. The Internet and broadband connections to the Internet have emerged as a powerful technology that has disrupted all of the conventional wisdom that governed the mechanisms, business models and regulatory construct for overseeing voice, cable and broadband communications.

The Commission continues to have a primary and overarching interest in ensuring that telecommunications services are available at just and reasonable rates and are provided in a reliable and adequate manner. The Commission has historically supported competitive markets as an effective approach to ensuring core regulatory interests and consumers evolving needs are met. Where competition does not ensure core interests, the Commission continues to act and evolve its regulatory approach.

The last time the Commission embarked on a broad review of the telecommunications market in New York was the 2006

Competition III proceeding.[1] Therein, the Commission determined that, among other things, given the significant and growing level of intermodal voice competition and incumbents' reduced market power and loss of customers and revenues, a lightened regulatory approach for traditional carriers was warranted and necessary in order for them to remain viable providers in the future. The Commission expected to reduce regulation and rely on market forces to achieve just and reasonable rates and maintain adequate service quality, and in the wake of its Competition III proceeding initiated several efforts to streamline outdated regulations and provide for pricing flexibility where competition existed.[2]

It has been almost ten years since the Commission's Competition III proceeding was conducted and in that time, the technological evolution in the communications industry has continued. In fact, it appears that consumer interests have evolved dramatically with the growth of wireless smart phones, Voice over Internet Protocol (VoIP) technology and broadband services. The passage of time and changing industry trends along with the near ubiquitous deployment of wireless and wireline broadband technologies has again brought us to an inflection point.

It is against this backdrop that Case 14-C-0370, In the Matter of a Study on the State of Telecommunications in New York State (the Telecommunications Study) was initiated. The

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[1] See, Case 05-C-0616, Proceeding on Motion of the Commission to Examine Issues Related to the Transition to Intermodal Competition in the Provision of Telecommunications Services, Statement of Policy on Further Steps Toward Competition in the Intermodal Telecommunications Market and Order Allowing Rate Filings (issued April 11, 2006) (Competition III proceeding).

[2] See, e.g., Case 10-C-0202, Verizon Service Quality Improvement Plan, Order Adopting Verizon New York Inc.'s Revised Service Quality Improvement Plan with Modifications (issued December 17, 2010) and Case 07-C-0349.

Telecommunications Study is designed to help the Commission and the State Legislature identify areas where there may be market failures or other regulatory opportunities to advance the public interest.

With the continuing evolution of the communications market and changing consumer demands, oversight of the telecommunications industry to promote core public interests remains paramount. But the oversight role should be reviewed in the context of evolving consumer expectations and the evolving market. The review must consider the maintenance of public safety communications, including the provision of advanced next generation E911 to all New Yorkers, reliable, resilient and open network architecture, affordable rates, service quality standards, universal service and consumer protections. It must also consider new priorities that include the promotion and availability of world-class advanced voice, video, and broadband telecommunications services to all New Yorkers regardless of their location or economic status.

The framework that is guiding this examination of the telecommunications industry in New York includes the following areas of inquiry:

- What is the current status of competition for communications services and networks in New York;
- What are current and future consumer expectations for the communications industry;
- How should those consumer expectations be satisfied;
- What are the Commission’s core public interest principles going forward and how should they be maintained;
- What regulatory issues should be pursued to advance the public interest; and,
- Will these changes require regulatory or legislative initiatives?

Public involvement, including that of the telecommunications industry, consumer groups, and other interested stakeholders is essential to the establishment of a record upon which the Commission can chart a path into the future of telecommunications for New York State. To facilitate a public dialogue, Staff of the Department of Public Service (Staff) has prepared a Staff Assessment of Telecommunications Services. The Staff Assessment may be obtained at http://www.dps.ny.gov/TelStudy/,or may be accessed on the Department's Document and Matter Management System (DMM) at www.dps.ny.gov, by clicking on Commission Documents and then Search by Case number and entering 14-C-0370. The Staff Assessment is a fact based review of the industry trends in voice, video and broadband and the current telecommunications landscape in New York State, including the different telecommunications technologies, such as copper, fiber, hybrid cable systems and wireless networks, on which comments are sought. In addition to the broad areas of inquiry noted above, a list of questions is attached on which comment is sought. If parties believe other areas of inquiry should be pursued, they are invited to supplement the list. The comments received in response to the Staff Assessment and this Notice will be used to develop recommendations for further regulatory changes.

Also pending is a petition by the Connect New York Coalition filed in Case 14-C-0306 which seeks review of various aspects of telecommunications services in New York State. The issues raised in the petition overlap with issues that are being addressed in Case 14-C-0370. Therefore, comments are invited on that petition in the context of this proceeding as well.

NOTICE is hereby given that comments may be submitted to the Secretary by e-filing through the Department's Document

and Matter Management System (DMM),[3] or by e-mail to the Secretary at secretary@dps.ny.gov. Those unable to file electronically may mail or deliver their comments to the Hon. Kathleen H. Burgess, Secretary, New York State Public Service Commission, Three Empire State Plaza, Albany, New York, 12223-1350. All comments submitted to the Secretary will be posted on the Commission's Web site and become part of the official case record.

Comments are invited on the Staff Assessment of Telecommunications Services and on the list of general questions attached to this Notice, as well as the petition filed by the Connect New York Coalition. The comment due date is August 24, 2015, 60 days from the date of issuance of this Notice.

Notice of public information and input forums will be established in a separate Notice.

(SIGNED) KATHLEEN H. BURGESS
Secretary

Attachment

[3] How to Register with DMM, http://www.dps.ny.gov/e-file/registration.html.

Case 14-C-0370: In the Matter of a Study on the State of Telecommunications in New York State

General Questions

The Commission has historically supported competition to foster investment, innovation and consumer interests. Against the backdrop of expanding technology, the Commission is again examining core telecommunication interests in its current proceeding studying the telecommunications market in New York.

Maintaining Core Public Interests

As the market evolves in all segments of the telecommunications industry and customers adopt new services and technologies, the Commission's ability to maintain core regulatory interests such as universal service, adequate service quality standards, network reliability, just and reasonable prices and consumer protections must again be examined.

1. **Universal Service** - Currently, the Commission's focus is ensuring access to affordable voice services. Are current Lifeline programs adequate to provide this access? Due to the migration from wireline to wireless services, and the increasing importance of broadband in our society and the documented digital divide, and recognizing the FCC's apparent interest in expanding Lifeline to embrace broadband, should the scope of universal service oversight be broadened to include wireless and broadband services? What if any modification of Commission policy is warranted?
2. **Network reliability and resiliency** – Given the significant consumer migration to communications services provided over Internet Protocol (IP) and wireless networks, is the current regime for ensuring network resiliency, emergency restoration and recovery adequate?
3. **Just and reasonable rates** – Is the current competitive environment producing just and reasonable wireline voice prices?
4. **Service quality** – The Commission collects voice service quality data from all incumbent carriers and Time Warner Cable.
    a. Standards for measuring service quality are not uniform across industry measure segments; would the public interest be advanced by developing uniform metrics for all segments?
    b. The Commission's current emphasis is on protecting Verizon's "core" customers (those with special needs, Lifeline customer, or with no competitive choice) who purchase plain old telephone service (POTs). Should that emphasis be reconsidered to include all customers and services?

c. Existing Commission regulations are designed to ensure reliable access to E911 via the wireline telephone network (i.e., trunking routes, redundancy and location information). The FCC is also examining the reliability of 911 service for wireless and IP networks. What should be the Commission's role in ensuring adequate routing and reliability for NG911?

5. **Consumer protections** – Are existing consumer protections (i.e., privacy, consumer advocacy and complaint process, etc.) adequate?

Telecommunications Transitional Issues

Telephone companies in New York are replacing aging copper cables with fiber optic cabling to offer more advanced services (i.e., video and broadband) and improve reliability. However, the build-out of competitive fiber networks by traditional telephone companies is not expected to reach a significant portion of the population or geography. Some aging copper networks are struggling to provide adequate service. The Study seeks to explore what policies/technologies will serve these customers efficiently and reliably and assess the State's role to ensure access to high-quality advanced services during the transition to IP-based networks.

6. What is the future of copper based networks and traditional telephone services? Should Commission policies provide an incentive for modern network investment? Does the State have an interest in maintaining high-cost legacy networks and services if investment is inadequate?

7. The State Universal Service Fund (SUSF) is due to sunset on December 31, 2016. The fund currently supports seven small telephone companies that cumulatively provide service to approximately 10,000 customers. Should the SUSF sunset as scheduled? If so, will adequate telecommunications services continue to be available for those consumers currently subscribed to services provided by one of these five small companies?

State Regulatory Oversight and Jurisdictional Gaps

As the telecommunications market continues to evolve to meet consumer demands in many areas of the State, the challenge facing the Commission going forward will be balancing the State's interest to cultivate investment and competition within the telecommunications industry, while ensuring equitable access to advanced services for all citizens.

8. What should be the Commission's role in promoting broadband deployment, access and affordability?

Case 14-C-0370: In the Matter of a Study on the State of Telecommunications in New York State

9. What regulatory barriers could be streamlined to facilitate broadband expansion and competition?
10. There has been widespread consumer adoption of wireless, VoIP and broadband services, however, the Commission does not currently regulate these services. Are these regulatory gaps impeding the maintenance of core public interests?
11. What aspects of State laws/regulations should be changed, streamlined, or expanded to adapt to consumer preferences and the current state of technology and the current federal legal regime?