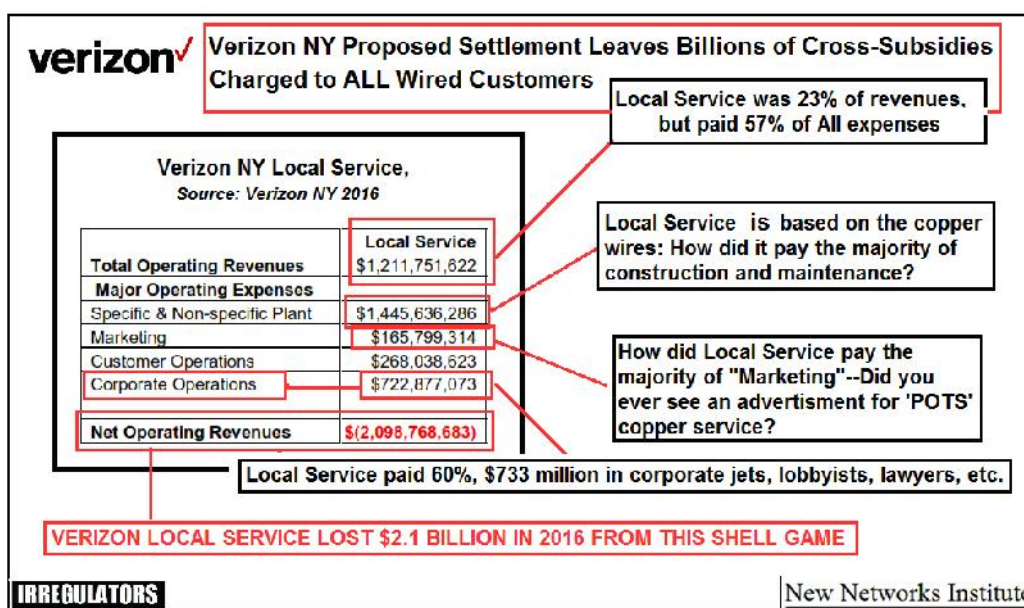


MEMORANDUM

Cuomo-Verizon-Charter?  
 NY State’s Fiber Optic Broadband Future Requires the  
 Investigation of Verizon NY to Continue.



*This is an excerpt of the "Local Service" (selected revenues and expenses) from the Verizon NY 2016 Annual Report; published June 2017.*

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MAY 15<sup>th</sup>, 2018

## Summary

*The reason why most communities in New York State were not properly upgraded to very high-speed, fiber optic-based broadband to homes and offices is because...*

On March 2<sup>nd</sup> 2018, a proposed settlement was announced between Verizon NY and the NY Public Service Commission (NYPSC) and parties.

This has been based on a multi-year two track investigation: **Track 1** detailed the deterioration of the state utility infrastructure and a lack of maintenance and upgrades. **Track 2** found massive financial cross-subsidies from Verizon NY to Verizon Wireless and other subsidiaries, and this caused losses of over \$1 billion a year annually. It also helped to inflate rates and diverted billions from upgrading or finishing the cities.

However, this proposed settlement has abandoned the multi-billion dollar financial cross subsidy investigation and Governor Cuomo appears to be responsible. While the Governor has been banging his chest about the Charter-Spectrum obligations, (which is important) he has not only helped to erase this investigation, but at the same time gifted Verizon \$85 million in government grants, and attempted to slip a plagiarized piece of telco-created legislation into the state budget to help Verizon Wireless. And all of this is to cover over the holes in the failed 100Mbps broadband plan for NY.

**This Memorandum** lays out why this investigation of Verizon New York is important and should be continued and expanded, as well as highlights the issues and questions about Cuomo's broadband plan and interference with the settlement.

**Our Request:** On April 16<sup>th</sup>, 2018, New Networks Institute & the IRREGULATORS [filed a request](#) with the NYPSC.<sup>1</sup> Our research helped to trigger the original investigation as we uncovered the massive, multi-billion dollar shell game, based on Verizon NY's financial annual reports and other data.

- We requested an extension of the Comments period as the new Verizon 2017 Financial Annual Report is due May 31, 2018. The comments period ended on April 16<sup>th</sup>, 2018 with little public notice and thus little public participation.
- We are calling to halt this proposed settlement and continue the investigation with new questions and discovery.

## Needed: A More In-Depth Investigation

- 1) **Verizon NY diverted billions of dollars in construction budgets** to build out the Verizon wireless networks. From just 2010-2012, it appears that Verizon NY diverted \$2.8 billion for the wireless networks instead of wiring cities with fiber optics or doing proper maintenance of the existing infrastructure.

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<sup>1</sup> <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7b117A4382-605D-45F5-8AB4-E9795671ABF4%7d>

- 2) **Local Phone customers paid billions of dollars to do upgrades for "massive deployment of fiber optics" and "losses"**. Starting in 2005, there were a series of rate increases on basic phone service to pay for FTTP, "fiber to the home" services. By 2010, this money was used for wireless. Customers paid \$1000.00 or more per line extra in rate increases, about \$4.5 billion in extra fees, 2005-2015.
- 3) **This is built into rates and has been charged to all customers, including low income families and rural areas.**
- 4) **Verizon NY has lost over \$1 billion annually**—and has not paid most taxes; the "losses" were not created by Local Service. In fact, Verizon NY lost \$15.7 billion from 2010-2016, with \$7.2 billion in tax benefits (excluding extraordinary items).
- 5) **The opening chart shows the financial shell game. Verizon NY paid billions of dollars in unwarranted expenses, making Local Service look unprofitable.** In just 2016, Verizon NY Local Service had \$1.2 billion in revenue but was charged \$723 million in "Corporate Operations" expenses (for lawyers, lobbyists and the corporate jets) and \$1.4 billion in construction. Where did all this money go?

**The Plan:** Verizon has announced it is a wireless-only entertainment company and the plan, working with the FCC, is to dismantle the state utilities, shut off the copper wires and force customers onto wireless – and make the fiber optic wires private property—for the wireless company, or FiOS – which will be a wireless service in the future.

### Questions about Governor Cuomo's Involvement

- Did Governor Cuomo kill off the investigation of the financial cross-subsidies between Verizon NY and Verizon's subsidiaries, especially Verizon Wireless?
- Why did Cuomo attempt to place a piece of plagiarized, industry-created wireless legislation into the state budget?
- Why did Cuomo give Verizon New York \$85 million in broadband when Verizon was paid via multiple rate increases to deploy fiber optic broadband?
- What role did Leecia Roberta Eve play with these deals, if any? She is Verizon's VP in charge of New York, New Jersey and Connecticut, and "she previously served as the chief economic development adviser to Governor Cuomo", and is a potential for being the next NY Attorney General.
- The Spectrum-Charter commitments are important, but not compared to the billions in Verizon cross-subsidies, the expense dumping, or the lack of tax payments.
- Verizon should have upgraded some areas that Spectrum is now asked to complete.
- The Cuomo 100 Mbps broadband plan hasn't happened. Where's the investigation?

### We suggest reading the report and stories about the proposed settlement and project:

- [Halt the proposed settlement](#) with Verizon NY.<sup>2</sup>
- [Verizon's Proposed Settlement in NY](#) accounting scandal cover-up.<sup>3</sup>
- [Part 1: Cuomo's ties to this investigation](#) and Verizon<sup>4</sup>

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<sup>2</sup> <https://bit.ly/2HWj7sU>

<sup>3</sup> <https://bit.ly/2HPJZXY>

- [Summary of the 8 year project](#) tied to the investigation<sup>5</sup>
- [Our work](#), focusing on Verizon New York<sup>6</sup>

**About Us:** New Networks Institute, and our new addition, the IRREGULATORS, are an independent consortium of senior telecom experts, analysts, forensic auditors, and lawyers who are former senior staffers from the FCC, state advocate and Attorneys General Office experts and lawyers, and telecom consultants. Members of the group have been working together, in different configurations, since 1999.

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<sup>4</sup> <https://bit.ly/2JxNymt>

<sup>5</sup> <https://bit.ly/2HPJZXY>

<sup>6</sup> <https://newnetworks.com/ny-related-filings/>

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- 11) Verizon announced it was no longer doing FiOS fiber optic services in 2010—and continued to say that to cities in New York over and over.
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- 13) Questions Remain
- 14) ADDED: Collusion and Negligence with the FCC.

APPENDIX 1: Our Filings and Reports, 2010-2018

APPENDIX 2: Rate Increases for “Massive Deployment of Fiber Optics” & “Losses”

APPENDIX 3: 80% of NY Municipalities are Not being Served by Verizon NY's FiOS.

## The Story and Details

### 1) The Proposed Settlement of Verizon NY with the NYPSC Et Al.

[Governor Cuomo:](#)<sup>7</sup>

"Whether it's a utility company or a cable company, just because you're a big company it doesn't mean there's a different set of rules... On behalf of the State of New York, we're not going to be intimidated by large, powerful corporations."

Except for Verizon, it would seem.

On March 2<sup>nd</sup> 2018, a proposed settlement was announced between Verizon NY and the NY State Public Service Commission (NYPSC) and parties, including CWA and PULP.

The primary investigation started in 2015, and there were 2 tracks;

- **Track 1** detailed the deterioration of the networks and a lack of maintenance and upgrades, and
- **Track 2** detailed that there were massive financial incentives to the wireless company, that Verizon NY was losing \$1 billion a year annually, and that the plan was to 'shut off the copper' and go wireless.

Track 2 was, in fact, designed from our research. We have filed comments, testified at meetings, and created a series of reports to detail what we uncovered. Track 2 was a pale image of the issues that needed immediate attention and investigation—but it was a start.

The proposed settlement left out Track 2 entirely. We filed:

- We have requested an extension of the Comments period as the Verizon 2017 Annual Report is due May 31, 2018.
  - We are calling to halt this proposed settlement and continue the investigations with new questions and discovery.
- 2) **The Settlement removes the entire investigation pertaining to the cross-subsidies of the Verizon New York, the state utility, and Verizon's other businesses, including Verizon Wireless.**

We found and documented a massive financial cross-subsidy scheme to overcharge customers and make them into defacto investors of Verizon's other subsidiaries, especially wireless.

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<sup>7</sup> <http://news.wbfo.org/post/governor-defends-pscs-legal-actions-against-charter-communications>

Over the last 8 years New Networks Institute (NNI) and the IRREGULATORS have [uncovered a massive financial accounting shell game](#)<sup>8</sup> where billions of dollars have been charged to local phone customers, making the state utility networks a cash machine to fund all of the other Verizon businesses, including the wireless networks. These cross-subsidies cost customers thousands of dollars extra and diverted billions in construction to roll out the wireless networks instead of upgrading cities, among other harms. In fact, our work helped to initiate these investigations.

**Basic Facts.** [See 4 FACTS 2 Pager](#) (See Bibliography, Appendix 1)<sup>9</sup>

Above all else, in June 2009, the [NYPSC issued a press release](#) stating the rate increase was being done due to a “massive deployment of fiber optics”.<sup>10</sup>

“We are always concerned about the impacts on ratepayers of any rate increase, especially in times of economic stress,” said Commission Chairman Garry Brown. “Nevertheless, there are certain increases in Verizon’s costs that have to be recognized. This is especially important given the magnitude of the company’s capital investment program, including its **massive deployment of fiber optics** in New York. We encourage Verizon to make appropriate investments in New York, and these minor rate increases will allow those investments to continue.” (Emphasis added).

### **Verizon Was Paid Billions to Deploy Broadband in the State (See Appendix 2)**

- Verizon New York was granted multiple rate increases on basic phone service starting in 2005 for “**massive deployment of fiber optics**” and losses; 84% by 2009 for basic service; 50-250% on add on services.
- These increases overcharged basic utility phone customers \$1,000-\$1,500.00 per line, from 2005-2015, including low income families and rural customers.
- Verizon made over \$4.3 billion on just basic local service and one added charge, brought the total to \$5.6 billion customer overpaid. (counting taxes).
- **The Massive Deployment:** In 2005, Verizon announced FiOS, and the state allowed it to be classified as Title II and part of the state utility so that this broadband, cable, internet service could be charged to the wireline business.
- **The Massive Deployment Bait-and-Switch:** In 2010, Verizon announced it was stopping FiOS deployment and instead, as we tracked, moved the construction budgets (and many CWA staff) to build the wires to the cell sites.
- Cities were not upgraded as the construction budgets were diverted to the wireless company’s needs.

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<sup>8</sup> <https://newnetworks.com/ny-related-filings/>

<sup>9</sup> <https://medium.com/@kushnickbruce/4-facts-the-verizon-ny-proposed-settlement-with-the-state-of-new-york-eliminates-investigations-9aeb4c7c73e7>

<sup>10</sup> <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7b3c0d0fc7-606a-4cd3-b360-ea19179d2008%7d>

- **Massive financial manipulation of expenses** made Local Service appear unprofitable. Verizon New York's Local Service pays 60+% of all expenses, from Corporate Operations expense (the costs of lawyers, lobbyists, and executive pay) and even construction budgets, into Local Service.
- **This made Local Service look unprofitable on paper** and has been used to create rate increases but also policies, including not upgrading rural areas.
- **Worse, local prices should have been in steep decline** as the direct expenses for the 'copper networks' have been slashed. Local service should cost \$10-\$20 a month and is profitable if the other subsidiaries paid market prices and the 'common costs'.

#### **And then there is this: Tax Savings**

- Verizon NY lost \$15.7 billion from 2010-2016; had \$7.2 billion in tax benefits (excluding extraordinary items).

### **3) Why Is this Critically Important Now?**

Verizon and AT&T announced that they are "wireless-first" companies. The plan is to shut off the existing copper wires, claiming they are no longer profitable, then privatize all of the fiber that has been put in and turn it over to the wireless company for 'private use'.

This is one of the largest accounting scandals in telecommunications history and it is going under-reported. We have created a library of research and analysis, with the primary source material being Verizon NY's Annual Reports. The research has also been used in an appeal of the FCC's Business Data Services decision.

### **4) Net Neutrality: Verizon Used Title II for Investment, Contradicting the FCC.**

The "massive deployment of fiber optics" previously discussed as a reason for multiple rate increases shows that these networks were built via local phone customers as part of the existing state utility.

One part that is most important: these fiber deployments have been done as "Title II", common carrier-based, utility networks.

[A Verizon FiOS franchise](#) (same language in most Verizon franchises)<sup>11</sup>

"As more fully described...Verizon NY constructed its Fiber to the Premises (FTTP) network pursuant to its authority as a common carrier under Title II of the Communications Act of 1934, as amended,"

"On June 15, 2005, the New York Public Service Commission ("NY PSC") "declared that Verizon NY's FTTP upgrade is authorized under its existing

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<sup>11</sup> <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7b6E9A2E9B-776D-4282-BC58-A3647F3037BA%7d>



state telephone rights because the upgrade furthers the deployment of telecommunications and broadband services, and is consistent with state and federal law and in the public interest.”

This use of Title II as the investment mechanism and customers as the defacto investors directly contradicts the FCC’s Internet Freedom (Net Neutrality) decision. The details are part of the Verizon NY investigation.

#### **5) Governor Cuomo’s Broadband Plan has Major Holes and Flaws.**

Governor Cuomo’s [“Broadband for ALL”](#) plan claims:<sup>12</sup>

“In 2015, Governor Cuomo made the largest and most ambitious state broadband investment in the nation, \$500 million, to achieve statewide broadband access by 2018. Governor Cuomo has now secured high-speed Internet upgrades for approximately 2.42 million locations statewide, which means 99.9 percent of New Yorkers will have access to broadband.”

“The program called for applications for funding to provide access to broadband at speeds of at least 100 megabits per second (Mbps) (download) in most places, and 25 Mbps (download) in the most remote, unserved parts of the State.”

#### **6) The numbers presented have been thrown around to make anyone’s head spin.**

In July 2017, a report by the [NY State Association of Counties](#) claimed that we were still far from the goal in New York State.<sup>13</sup> With 19.8 million in New York, 35% of the population is still in the slow lane.

“Today, there are still seven million New Yorkers and 113,000 businesses that do not have access to broadband Internet connections at 100 megabits per second (Mbps), according to the Governor’s Office. This speed has been identified by economic developers as the minimum speed needed to attract businesses. Over 70 percent of Upstate New York falls below this Internet speed threshold right now.”

Moreover, New York [City filed a lawsuit against Verizon](#) in March 2017 for failing to have 100% of the city completed with a fiber optic cable service, FiOS, by July 2014. The City found over 1 million residential customers still did not have access to FiOS.<sup>14</sup>

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<sup>12</sup> <https://www.ny.gov/programs/broadband-all>

<sup>13</sup> <https://www.governor.ny.gov/news/2015-opportunity-agenda-restoring-economic-opportunity-1>

<sup>14</sup> <https://arstechnica.com/tech-policy/2017/03/nyc-sues-verizon-alleges-failure-to-complete-citywide-fiber-rollout/>

To make matters worse, the accounting by the State uses “census tracts”, which has been proven to inflate all broadband coverage as to availability.

On top of this, [Stop the Cap](#) writes: “[N.Y. Governor Reneges on 100% Broadband Promise, Offers Satellite to 72k New Yorkers Instead](#)”<sup>15</sup>

“Tucked in among the grant award winners is a \$14,889,249 grant to Hughes Network Systems, LLC, targeting 72,163 rural New Yorkers, more than half of the total number of customers to be reached in the third round. Hughes operates the HughesNet satellite internet service, a technology derisively known as “satellite fraudband” for routinely failing to meet its advertised speed claims. It’s also known as “last resort internet” because it is slow, expensive, and heavily data capped.”

Stop the Cap quoted one user in January 2018

*“I averaged 3 Mbps download when advertised 25 Mbps. I canceled when they couldn’t answer why I used 20 GB of data in less than 24 hours. I am a 55 year old average internet user. No streaming. No music. No videos (YouTube).”*

And the original Guidelines stated:

“Despite [the] urgent need for broadband, approximately 2.5 million Housing Units (HU’s) in New York State have either limited or no access to high-speed Internet, creating a digital divide between those communities with the ability to participate in the global economy, and those communities without such access. It is for this reason that Governor Andrew M Cuomo, with legislative support, established the \$500 million New NY Broadband Program...”

With all these numbers, it is impossible to even figure out where the 2.42 million homes Cuomo claims were ‘secured’ for broadband are.

Second, and more important, while one might applaud the Governor for bold statements, giving hundreds of millions of dollars to companies, especially to Verizon, instead of investigating the billions of dollars that have been cross-subsidized to fund other businesses or were charged to customers for “massive deployment of fiber optics”, (with nothing to show for it), makes it clear that Cuomo has not succeeded, and in fact, through sweetheart deals, has hurt NY State’s citizens and cities.

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<sup>15</sup> <http://stopthecap.com/2018/01/31/n-y-governor-reneges-100-broadband-promise-offers-satellite-72k-new-yorkers-instead/>

### 7) Governor Cuomo appears to have taken the lead to kill the investigation in Verizon NY.

As discussed, (and documented), there have been billions of dollars charged to local phone customers in the name of “massive deployment of fiber optics”, and losses. Moreover, the financial reports tied to Verizon NY’s own statements shows that at least \$2.8 billion in construction expenditures were probably diverted to build the wireless networks instead of wiring cities. This, and the other massive cross-subsidies, shows that the losses incurred were also artificial and manipulated.

One has only to examine the Verizon NY annual reports (or glance at the opening graphic) to see massive financial shenanigans are working here.

And yet, Governor Cuomo’s Phase III of his state broadband plan gave Verizon \$85 million in government grants as well as federal CAF funding. More to the point, it is clear this is part of this sweetheart deal to eliminate any investigation of the cross-subsidies. Verizon had refused to take Federal funds from the CAF, Connect America Fund.

[“The Communications Workers of America \(CWA\) union](#), which has been engaged in a contentious union contract negotiation process with Verizon, said that the telco is putting its rural customers at a disadvantage.

"Verizon's track record is clear," said Bob Master, assistant to the vice president of District One of the CWA, in a statement. ‘Even while raking in a billion dollars per month in profits, Verizon is turning its back on underserved communities by refusing federal subsidies to expand high-speed internet access’."

The CAF funding was considered too burdensome for Verizon, but Cuomo could not have a state plan without Verizon, the primary state utility communications provider.

On March 1, 2018, one day before the announced proposed settlement, [the State writes](#):<sup>16</sup>

“The CAF funds were offered by the FCC directly to Verizon in 2015 to connect Unserved locations throughout NY....

“As a result of the Program’s competitive Round III process, Verizon will receive awards driving \$148 million in new statewide broadband investment, including \$85.3 million in State funding, \$18.5 million in CAF support and nearly \$45 million in private financing. These projects will deliver fiber networks to 18,314 locations across Upstate New York, including 7,767 in CAF-eligible territories...

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<sup>16</sup> <https://www.governor.ny.gov/news/governor-cuomo-announces-more-43-million-new-ny-broadband-program-round-iii-awards-capital>

“Although Verizon’s auction-winning bid for these additional homes was initially deemed too costly, NY State successfully negotiated with Verizon to award the project at a lower cost. These additional homes have been added to Verizon’s award and will now receive high-quality broadband service.”

It is important to note that the CAF requirements are for much slower speeds and can be either wireline or wireless. Thus, with this funding, Verizon may not wire homes or offices directly with fiber optics but build the networks, in region, to deliver wireless.

#### **8) Cuomo Cut a Deal and Plagiarized an ALEC Wireless Bill in the Budget.**

At the same time, the Governor placed a piece of ‘model’ legislation, most likely written by Verizon & AT&T and the American Legislative Exchange Council (ALEC), about 5G wireless in the budget that would block cities from having controls over their poles, rights of way, payments, etc.

This is very significant.

- First, this is part of the plan to ‘shut off the copper’ and no longer put in wired retail services, but use whatever ‘hype’ from FiOS to move the utility budgets to work for the wireless company.
- Second, why would Cuomo use a plagiarized piece of model legislation, which has been identified in multiple states as the work of AT&T and Verizon?
- Third, why would Cuomo use legislation designed to preempt cities from controlling their own territory?

[Newsday writes:](#)<sup>17</sup>

“Towns and cities are crying foul about a little-noticed provision tucked away in Gov. Andrew M. Cuomo’s state budget that would boost phone companies’ efforts to build a “5G” wireless network, saying it gives away public access at unfairly low prices and undermines their ability to regulate location and appearance of the new technology.

“Everybody wants more broadband, but this really usurps the authority of local governments,” said Gerry Geist, executive director of the New York Association of Towns and Villages. “This is really an industry bill.”...It is a towns versus telecoms fight that is taking place not only in New York but in a growing number of states.”

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<sup>17</sup> <https://www.newsday.com/news/region-state/towns-vs-telecoms-cuomo-pushes-to-expand-cells-faster-5g-network-1.17459847>

And just how ethically corrupt is this bill? This is Democracy at its worst. This excerpt from the Cuomo bill is identical to language we found in over 15 states we examined, including California, North Carolina, Illinois, Arizona, Delaware, Michigan, Missouri... (We didn't bother checking all states.)

Notice the term "six cubic feet" and "twenty-eight cubic feet"—A dead giveaway.

Governor [Cuomo's NY Wireless Bill](#)<sup>18</sup>

"Small wireless facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than **six cubic feet; and (ii) all other wireless equipment associated with the facility is cumulatively no more than twenty-eight cubic feet in volume.**"

The [NW News Network](#) writes about what's going on in Washington State.<sup>19</sup>

"According to The Wireless Association, **5G legislation is under consideration in some 30 states this year**, although it won't say where or provide details. The corporate-backed American Legislative Exchange Council, also known as ALEC, has also passed a resolution calling on states to "streamline" local permitting of small cell technology." (Emphasis added)

## 9) Spectrum Cable and Cuomo

As part of the merger of Time Warner Cable and Charter, the company agreed to deploy 145,000 lines of new broadband services by 2020, and there is a timeline. Cuomo made this one of the cornerstones of his broadband plan. At this point, Cuomo has announced legal actions against Spectrum.

[TimesUnion](#) writes, May 2nd, 2018<sup>20</sup>

"Gov. Andrew Cuomo announced Wednesday that the state Public Service Commission, which approved Charter's acquisition of Time Warner Cable's NY assets in 2016, is taking "legal action" against the company.

"The PSC subsequently ruled that Charter had until May 9, which is next week, to answer questions regarding its upstate and New York City expansions and other issues related to its New York City franchise.

<sup>18</sup> [http://statelink.stateside.com/Attachments/325235\\_Read%20Bill%20-%20SB%207508%20-%20Version%20A.pdf](http://statelink.stateside.com/Attachments/325235_Read%20Bill%20-%20SB%207508%20-%20Version%20A.pdf)

<sup>19</sup> <http://nwnewsnetwork.org/post/wireless-carriers-lobby-access-street-furniture-washington>

<sup>20</sup> <https://www.timesunion.com/business/article/State-taking-legal-action-against-Spectrum-12881698.php>

"The New York State Public Service Commission has commenced legal action against Spectrum Media Company for potential violations of its franchise agreement," Cuomo press secretary Dani Lever said in a statement Wednesday. "The state approved Spectrum's acquisition and its ability to operate in New York based on the fulfillment of certain obligations, including providing broadband access to underserved parts of the state and preserving a qualified workforce."

#### 10) The Ugly Part of Cuomo: Killing Off the Investigation into Cross-Subsidies

- Spectrum is the easy target. It is smaller than Verizon and historically customers hate the cable companies more than the phone companies. Spectrum is also doing the heavy lifting in the "total" homes that Cuomo is claiming will have coverage.
- Verizon is being paid government funding, even when their finances are in question about cross-subsidizing other businesses and NOT wiring cities.
- Cuomo can't go after the wireless cross-subsidies. His 5G play shows that he doesn't care that there is a state utility or understand the financial harms incurred.
- Verizon received billions from multiple rate increases of basic, state-utility phone services, known as "POTS", plain old telephone service to pay for broadband, but now Cuomo gives Verizon more money without any investigation into what was previously collected.
  
- Too cozy with Verizon? One can not help but wonder if all of this was put together by Governor and [Leecia Roberta Eve](#). "She is the vice president of state government affairs for Verizon (for New York, New Jersey and Connecticut, and with Verizon since 2013), and previously served as the chief economic development adviser to New York Governor Andrew M. Cuomo, who [appointed her to the Port Authority board](#) in 2017." And she is a potential to be the next Attorney General.

#### 11) Verizon announced it was no longer doing FiOS fiber optic services in 2010—and continued to say that to cities in NY over and over.

By 2015, nothing had changed. Verizon New York, in October 2015, still claimed it wasn't going to expand the FiOS network. Along side this, the company had been accused of 'redlining'. According to the *Times Union*:<sup>21</sup>

"Verizon not expanding FiOS, but says redlining claims false.

"Verizon told state regulators it has no plans to expand its FiOS fiber-optic network beyond its current locations while at the same time defending itself against claims of redlining.

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<sup>21</sup> <http://blog.timesunion.com/business/verizon-not-expanding-fios-but-says-redlining-claims-false/70000/>

“Verizon’s critics have accused the company of not deploying FiOS in lower income communities, but in a filing made Friday with the New York State Public Service Commission, the company says it has deployed FiOS in many low income areas, including Schenectady.”

And [there were letters from Mayors](#), politicians, hearings, which has ended up with this Settlement.<sup>22</sup>

“The outcry comes after the mayors of Syracuse and Kingston [joined](#) the Communications Workers of America (CWA) at the bargaining table in Rye, NY, while mayors from Utica and Rome, along with the Town Supervisor of Brookhaven, sent letters of support, urging Verizon to stop ignoring their communities’ need for high-speed internet and video service.

“Affordable, reliable, high speed internet access is critical to the future of our community and our country and we need to make sure all New Yorkers are given access to this vital commodity,” [said](#) Syracuse Mayor Stephanie Miner at the NYPSC hearing at Syracuse City Hall. “Quality telecom infrastructure is critical to ending the digital divide in our community, helping to grow jobs, and improve educational opportunity. The PSC needs to embrace their core mission, to help consumers have affordable access to these services.”

“Buffalo Mayor Byron Brown [said](#): “It is just simply wrong for Verizon not to build out FiOS in the City of Buffalo and other communities that are requesting it.”

I note that Buffalo, Utica, Rome, and Syracuse all asked Verizon to deploy FiOS – in 2015.

**12) Ironically, we find that these cities are now questioning Spectrum to deliver their service in 2018.**

The [Rome Sentinel](#) writes:<sup>23</sup>

“The state Public Service Commission’s (PSC) legal action against Spectrum Media Company for potential franchise agreement violations was supported Wednesday by Assemblyman Anthony Brindisi, D-119, Utica.

“Brindisi last week had called on the PSC and the Federal Trade Commission (FTC) to investigate continued price increases by Spectrum for cable TV and internet customers. He also has started an online petition drive asking the PSC and the FTC to investigate.

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<sup>22</sup> <https://speedmatters.org/blog/archive/elected-officials-communities-blast-verizon-for-failing-fios-buildout>

<sup>23</sup> <http://romesentinel.com/county/brindisi-hails-state-probe-of-spectrum/QBqreb!Ey8UwLITrxZltouuj6DuQ/>

Price increases? Ironically, the problem here is simple: There is no serious competition to lower prices because Verizon never showed up.

However, as of this writing, May 11, 2018, State Senator Rob Ortt has called for a formal investigation. [The Sun](#) writes:

“As the state nears the end of a four-year project to provide universal broadband access to all New York residents by the end of the year, a state senator is calling for a formal probe into how the Broadband Program Office (BPO) allocated \$670 million in state and federal funding.

“State Sen. Rob Ortt (R-North Tonawanda) on Wednesday formally called for the Senate Committee on Investigations and Government Operations to investigate the New NY Broadband Program, claiming the effort has fallen short of its goals.”

## **To Sum Up**

Governor Cuomo appears to be responsible for dropping a major investigation of Verizon NY, the state utility, where customers, via rate increases, have been funding Verizon's other lines of business, including Verizon Wireless' construction budgets, while neglecting whole areas of the State.

These cross-subsidies also made Local Service look unprofitable and ALL customers in the state with phone service were overcharged at least \$1000.00 or more. And instead of going after these billions of dollars, which would lower rates as well as supply money to finally have the state upgraded, Cuomo has decided to give Verizon grant money and drop any investigation.

Moreover, the data being presented about what was accomplished with this broadband plan is in question and we can't answer basic questions.

### **13) Questions Remain**

- Does Verizon have “unserved areas”?
- Where is all the cross-subsidy money going today?
- How many of the unserved areas should have been already upgraded?
- How many areas that Charter is supposed to be doing are in the Verizon territories?
- Where is the audit of the actual lines in service? NYC found massive holes in the deployment of FiOS in just New York City.
- Is Verizon NY really losing over \$1 billion annually? Where's the investigation?
- Did Verizon Wireless get a free ride and not pay billions back to Verizon New York for the construction?
- How much money that should have went to do upgrades of New York went to build out the wireless networks?



- How much money have customers paid, not only for “massive deployment of fiber optics”, that did not happen, but also expenses for all of the other Verizon lines of business?

#### 14) **ADDED: Collusion and Negligence of the FCC.**

Amazing, but true, all of these financial cross-subsidies are mainly the fault of the FCC’s cost accounting rules, which the FCC is currently in the process of ‘weed whacking’ to get rid of any final obligations.

In 2001, the FCC’s rules to allocate costs between the different lines of business that are using the state utility infrastructure were set for the year 2000, when Local Service was 65% of revenue and paid 65% of the expenses. Local Service is now 23% of revenue and still paying 60% of almost all expenses.

Had the FCC’s rules been adjusted based on revenues or had the expenses that Local Service incurred been properly calculated, Local Service is profitable and being overcharged \$1-3 billion dollars annually, and in just New York. And had the other Verizon affiliates paid their market prices, Wireless and the other companies would owe the local customers at least \$3 billion in construction and billions more for impairments for using the networks and other expenses put into Local Service.

We filed at the FCC detailing how the Verizon NY accounting manipulations are based on the FCC's accounting rules, which the FCC is erasing. The FCC claimed that they were previously 'forborne' and not being used or required -- New York shows that the rules are still being used and are harmful.

National Exchange Carrier Associations Washington Watch wrote:

<https://prodnet.www.neca.org/publicationsdocs/WWpdf/WW050118.pdf>

### Separations

Replies Filed on Separations Reform NPRM

Reply comments were filed on April 27, 2018, on the [NPRM](#) that proposed to adopt recommendations from the Federal-State Joint Board on Jurisdictional Separations and to amend the Part 36 jurisdictional separations rules to conform to reforms adopted in the [Part 32 Reform Order](#). The [New Networks Institute and the Irregulars](#) asserted the FCC should be investigating how its rules have harmed customers by making state intra-state services, like phone service, appear unprofitable, when the FCC’s own rules, including Part 36, caused massive cross-subsidies that the FCC has never examined.

The [Irregulars](#) claimed the separations freeze and the FCC’s accounting rules have distorted every aspect of telecom, asserting there has been no serious oversight for 16 years and the FCC has created a financial shell game that has gone hidden from view.

**APPENDIX 1**  
**Our Filings and Reports, 2010-2018**

- **[NY PSC Proposed Settlement](#) On April 16<sup>th</sup>, 2018, we filed requesting:<sup>24</sup>
  - We request an extension of the current comment period until July 15th, 2018 to examine the Verizon NY 2017 Annual Report to be published May 31, 2018.
  - We are calling for a halt to the proposed settlement between Verizon, NY, the NYPSC and parties, which eliminated all mention of the investigation of the cross-subsidies between Verizon NY and Verizon’s other lines of business.
  - We are calling for the NYPSC to continue to investigate the billions of dollars in cross-subsidies and the harms that have occurred between Verizon NY and Verizon’s subsidiaries, including wireless—then fix this ongoing shell game.
  - **[NNI & IRREGULATOR FILINGS, NYPSC: August 8<sup>th</sup>, 2017](#)**<sup>25</sup>**

We submitted 3 documents: Comment 1 has a short overview as well as a bibliography of our research, which is directly tied to this proceeding. It also gives a brief discussion of issues that have been overlooked or are missing and need to be part of the next steps the State should be implementing. Comment 2 is a more detailed view (that has been published in Huffington Post) of the current proceeding and a Verizon settlement. Comment 3 is a full report based on our analysis of the Verizon NY’s 2016 Annual Report.

- **[COMMENT 1: Overview and bibliography](#)**
- **[COMMENT 2: Huffington Post: Verizon NY in Multi-Billion Dollar Settlement Tangle, Underway in NY State, August 4th 2017](#)**
- **[COMMENT 3: Full Report: Verizon NY 2016 Annual Report: Follow the Money: Financial Analysis and Implications](#)**

### **FCC Filings & Appeals**

- **[FCC Business Data Services Appeal](#)**: This Verizon NY state analysis is being used in an appeal of the FCC’s Business Data Services decision, which is an amicus brief with Public Knowledge and Consumer Federation.
- **[FCC Filings on Cost Accounting Rule Erasure](#)**: We have filed with the FCC to start investigations of how its rules have impacted the state utilities and created these massive financial cross-subsidies making all “intra-state” networks and services fund the “interstate” and information services – i.e., “Local Service” (intra-state) funds all other services, most of which the FCC has oversight, but has done no audits.
- **[FCCfinal2.pdf](#)** – Comments and a call for an investigation
- **[HartmanMemorandumnov3FINAL.pdf](#)** - -The Hartman Memorandum

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<sup>24</sup> <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7b117A4382-605D-45F5-8AB4-E9795671ABF4%7d>

<sup>25</sup> <http://documents.dps.ny.gov/public/Common/ViewDoc.aspx?DocRefId=%7b81B70D07-101D-4A18-903F-C3A0425F4A0E%7d>

**APPENDIX 2**

**Local Service Rate Increases for “Massive Deployment of Fiber Optics” and “Losses”**

Verizon received billions from multiple rate increases of basic, state-utility phone services, known as “POTS”, plain old telephone service. In June 2009, the [NYPSC issued a press release](#) stating the rate increase was being done due to a ‘massive deployment of fiber optics’.

“We are always concerned about the impacts on ratepayers of any rate increase, especially in times of economic stress,” said Commission Chairman Garry Brown. “Nevertheless, there are certain increases in Verizon’s costs that have to be recognized. This is especially important given the magnitude of the company’s capital investment program, including its **massive deployment of fiber optics** in New York. We encourage Verizon to make appropriate investments in New York, and these minor rate increases will allow those investments to continue.” (Emphasis added).

This example uses a Verizon New York City ‘measured’ service (meaning that calls are billed per call or per minute vs ‘flat rate’, where there is unlimited local calling) for just the basic charge. We also counted the taxes, fees and surcharges, as some of them are pass-through taxes on Verizon that customers pay, or they can be even direct revenue back to the company, such as the “FCC Line Charge” or the “Access Recovery Charge”, which is an added local charge, thrown on the bill by the FCC.

- Customers paid about \$996.74 extra, counting taxes, fees and surcharges, since 2006 for the changes in state regulation.
- In 2015, that will be an extra \$140.80 for just basic service for one year.
- If the customer had inside wire maintenance, they paid an additional \$611.61
- If the customer had just basic service and inside wire maintenance (or any other add on featured), they would have been charged about \$1,608.35 extra since 2006.

**Verizon NY Increases in Local Service & Inside Wiring, 2006-2015**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
Untimed Message	\$ 1.24	\$ 5.24	\$ 5.24	\$ 7.19	\$ 7.19	\$ 7.19	\$ 7.19	\$ 7.19	\$ 7.19	\$ 7.19	\$744.80
FCC Line Charge	\$ 0.02	\$ 0.04	\$ 0.04	\$ 0.02	\$ 0.02	\$ 0.02	\$ 0.02	\$ 0.02	\$ 0.02	\$ 0.02	\$2.88
Access Recovery (ARC)	\$ -	\$ -	\$ -	\$ 0.47	\$ 0.47	\$ 0.47	\$ 0.47	\$ 0.47	\$ 0.47	\$ 2.00	\$48.66
Universal Service Charge	\$ 0.12	\$ 0.11	\$ 0.11	\$ 0.49	\$ 0.49	\$ 0.49	\$ 0.53	\$ 0.53	\$ 0.58	\$ 0.84	\$51.44
Taxes, Fees Surcharges	\$ 0.22	\$ 0.07	\$ 0.07	\$ 1.33	\$ 1.33	\$ 1.33	\$ 1.34	\$ 1.34	\$ 1.35	\$ 1.68	\$139.97
<b>Total Extra</b>	\$ 1.60	\$ 6.26	\$ 6.26	\$ 9.50	\$ 9.50	\$ 9.50	\$ 9.55	\$ 9.55	\$ 9.60	\$ 11.73	\$996.74
<b>Total</b>	<b>\$ 19.24</b>	<b>\$76.12</b>	<b>\$75.12</b>	<b>\$114.03</b>	<b>\$ 114.03</b>	<b>\$ 114.03</b>	<b>\$ 114.68</b>	<b>\$ 114.68</b>	<b>\$ 116.22</b>	<b>\$ 140.80</b>	
<b>Total Wire Maintenance</b>	\$ 1.20	\$ 2.95	\$ 2.95	\$ 5.27	\$ 5.27	\$ 5.27	\$ 5.27	\$ 5.27	\$ 7.59	\$ 9.92	\$611.61
<b>Total With Wire</b>	\$ 2.80	\$ 9.21	\$ 9.21	\$ 14.77	\$ 14.77	\$ 14.77	\$ 14.82	\$ 14.82	\$ 17.20	\$ 21.65	\$1,608.35

And on the revenue side, using Verizon NY’s own claimed decline in access lines and the rate increases, Verizon brought in over \$4.3 billion on just basic local service and one added charge, inside wire maintenance, which we used as a surrogate for other add-on services,

brought the total to \$5.6 billion (counting taxes). This is an estimate, considering the previous, highlighted additions and charges to local service costs.

**Verizon NY Revenues from Rate Increases in Local Service & Inside Wiring, 2006-2015**

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
POTS Access Lines <i>(In the Millions)</i>	7.90	7.20	6.50	5.90	5.30	4.10	3.50	3.08	2.73	2.85	
Basic Service	\$ 151,976,250	\$ 540,693,160	\$ 400,006,325	\$ 672,749,565	\$ 604,034,055	\$ 467,503,935	\$ 401,009,625	\$ 350,620,215	\$ 314,537,276	\$ 359,030,427	\$ 4,350,994,136
1/2 Second Feature	\$ 200,670,790	\$ 660,314,900	\$ 603,339,750	\$ 959,091,020	\$ 771,996,340	\$ 597,196,900	\$ 511,753,200	\$ 447,410,512	\$ 439,936,417	\$ 510,761,875	\$ 5,617,759,491

## APPENDIX 3

**80% of NY Municipalities are Not being Served by Verizon NY's FiOS.**

According to *Newsday*, January 31, 2014, Verizon spokesman John J. Bonomo stated that Verizon had commitments to deploy FiOS fiber optic services in 182 communities.

"Bonomo said the company is required to complete fiber-optic 'buildouts' in about 182 NY State communities where Verizon holds franchise contracts."<sup>26</sup>

In an interview on *WAMC* radio, November, 27, 2013, Bonomo claimed there are 183 municipalities in VNY's service territory that do or should be able to receive FiOS TV. VNY had no plans for expansion beyond these commitments.

"But right now we have commitments to 183 municipalities where we need to complete 100% of our network. So we want to make sure that we make good on those commitments before we reach out and get new commitments. Of franchises in other communities, namely like Albany."<sup>27</sup>

And in 2015, nothing has changed. Verizon New York, in October 2015, still claimed it wasn't going to expand the FiOS network. Along side this, the company has been accused of 'redlining'. According to the *Times Union*:<sup>28</sup>

"Verizon not expanding FiOS, but says redlining claims false. Verizon told state regulators it has no plans to expand its FiOS fiber-optic network beyond its current locations while at the same time defending itself against claims of redlining.

"Verizon's critics have accused the company of not deploying FiOS in lower income communities, but in a filing made Friday with the New York State Public Service Commission, the company says it has deployed FiOS in many low income areas, including Schenectady."

According to Wikipedia, there are a total of 996 towns and cities in New York State.

"This is a list of towns in NY. As of the 2010 U.S. population census, the 62 counties of NY State are subdivided into 932 towns and 62 cities."<sup>29</sup>

With an estimate of 90% of coverage of New York State households by Verizon New York, based on the FCC's access line accounting, this would mean that only 20% of towns have been or are being upgraded by Verizon New York for FiOS.

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<sup>26</sup> <http://www.newsday.com/long-island/towns/brookhaven-officials-want-fios-expansion-1.6919245>

<sup>27</sup> <http://wamc.org/post/mayor-elect-city-leaders-call-verizon-fios-albany>

<sup>28</sup> <http://blog.timesunion.com/business/verizon-not-expanding-fios-but-says-redlining-claims-false/70000/>

<sup>29</sup> [http://en.wikipedia.org/wiki/List\\_of\\_towns\\_in\\_New\\_York](http://en.wikipedia.org/wiki/List_of_towns_in_New_York)