



City of New York

OFFICE OF THE COMPTROLLER

Brad Lander

COMPTROLLER



FINANCIAL AUDIT

Maura Hayes-Chaffe

Deputy Comptroller for Audit

Audit Report on Verizon New York,
Inc.'s Compliance with New York City's
Enhanced 911 Surcharge Regulations

FN21-082A

June 30, 2022

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
BRAD LANDER

June 30, 2022

To the Residents of the City of New York:

My office has conducted an audit to determine whether Verizon New York, Inc. (Verizon)—the largest telecommunication provider within the City—complied with regulations relating to the billing, collecting, remitting, and reporting of the 911 surcharge, which is used to pay for the costs associated with providing the City an enhanced 911 emergency system; and whether Verizon provided DOF with an annual report for the billing and collection of 911 surcharges and monthly lists of customers who did not pay the 911 surcharge. We audit City agencies and private entities doing business with the City as a means of increasing accountability and ensuring that City resources are used effectively, efficiently, and in the best interest of the public.

Although the audit found that Verizon promptly remitted monthly 911 surcharges to DOF, the auditors were unable to determine whether Verizon billed and collected the 911 surcharge from all customers required to pay the surcharge, or whether Verizon paid all 911 surcharge revenues that it collected from customers to DOF. This is because Verizon did not provide requested access to relevant information and staff. As a result, the auditors were unable to determine the accuracy and completeness of Verizon's data and obtain sufficient evidence to verify that Verizon properly billed, collected, and remitted the correct 911 surcharge amounts.

In addition, Verizon did not submit the required annual report and monthly lists of non-paying customers to DOF. As a result, there is no assurance that Verizon complied with the requirements set forth in the NYC Administrative Code.

The audit makes four recommendations to Verizon and DOF including that Verizon should ensure that the 911 surcharge amounts reported to DOF are fully supported by the underlying data and that its billing and payment information is readily available for review; and that it submits all required reports to DOF timely, including the annual reports and monthly lists of non-paying customers with amounts owed to DOF, as required by the NYC Administrative Code. In addition, DOF should request that Verizon submit the underlying data to support the amounts reported on the E-911 Surcharge Tax returns and ensure that Verizon submits all required reports, including the annual reports and monthly lists of non-paying customers with amounts owed to DOF, as required.

The results of the audit have been discussed with Verizon and DOF officials, and their comments have been considered in the preparation of this report. Verizon's and DOF's complete written responses are attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Lander".

Brad Lander
New York City Comptroller

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on Verizon New York, Inc.'s Compliance with New York City's Enhanced 911 Surcharge Regulations

FN21-082A

EXECUTIVE SUMMARY

The New York City Administrative Code (NYC Administrative Code), Title 11, Chapter 23-A-Enhanced 911 Telephone Surcharge requires telecommunication providers (Service Providers) to impose a monthly surcharge of \$1, known as the 911 surcharge, on each telephone line (landline and VoIP).¹ The surcharge is capped at \$75 per location. The 911 surcharge is used to pay for the costs associated with obtaining, operating, and maintaining telecommunication equipment and telephone services needed to provide an enhanced 911 emergency system serving the City of New York (the City). The 911 surcharges are remitted to the Department of Finance (DOF) every month, less a 2% administrative fee retained by Service Providers. The NYC Administrative Code also requires Service Providers to submit an annual accounting of billed and collected 911 surcharge amounts, and a monthly listing of customers who did not pay the 911 surcharge.

This audit was conducted to determine whether the largest provider within the City—Verizon New York, Inc. (Verizon)—complied with the regulations related to billing, collection, remitting, and reporting of 911 surcharges. For Calendar Year 2020, Verizon remitted approximately \$10.3 million in 911 surcharges to DOF.

Audit Findings and Conclusion

Although Verizon promptly remitted monthly 911 surcharges to DOF, the auditors were unable to determine whether Verizon billed and collected the 911 surcharge from all customers required to pay the surcharge, or whether Verizon paid all 911 surcharge revenues that it collected from customers to DOF. This is because Verizon did not provide requested access to relevant information and staff. As a result, the auditors were unable to determine the accuracy and completeness of Verizon's data and obtain sufficient evidence to verify that Verizon properly billed, collected, and remitted the correct 911 surcharge amounts.

¹ VoIP stands for Voice over Internet Protocol.

In addition, Verizon did not submit the required annual report and monthly lists of non-paying customers to DOF. As a result, there was no assurance that Verizon complied with the requirements set forth in the NYC Administrative Code.

Audit Recommendations

To address these issues, the audit makes 4 recommendations, including that:

Verizon should:

- Ensure that the 911 surcharge amounts reported to DOF are fully supported by the underlying data, and that its billing and payment information is readily available for review.
- Ensure that all required reports are submitted to DOF timely, including the annual reports and monthly lists of non-paying customers with amounts owed to DOF, as required by the NYC Administrative Code.

DOF should:

- Request that Verizon submit the underlying data to support the amounts reported on the E-911 Surcharge Tax returns.
- Ensure that Verizon submits all required reports, including the annual reports and monthly lists of non-paying customers with amounts owed to DOF, as required by the NYC Administrative Code.

Agency Response

In its response, Verizon generally disagreed with the report's findings and stated that "no action needs to be taken by Verizon" to comply with the two recommendations that were addressed to it. In DOF's response, the agency agreed to take steps to try to implement the two recommendations that were addressed to it.

AUDIT REPORT

Background

The NYC Administrative Code requires Service Providers to remit 911 surcharges, less the 2% administrative fee, to DOF on a monthly basis. Service Providers are also required to submit an annual accounting of billed and collected 911 surcharge amounts, and a monthly listing of customers who did not pay the 911 surcharge.

A previous New York City Office of the Comptroller audit of DOF's oversight over collection of the 911 surcharge found that DOF lacked monitoring procedures to verify the accuracy of the surcharge information submitted by the Service Providers.² Therefore, the auditors initiated this audit to determine whether Verizon complied with the regulations relating to the billing, collection, remitting, and reporting.

For Calendar Year 2020, Verizon remitted approximately \$10.3 million in 911 surcharges to DOF.

Objectives

The objectives of this audit were to determine whether Verizon:

- billed, collected, and remitted the appropriate 911 surcharge amounts to DOF on time; and
- provided DOF with an annual report for the billing and collection of 911 surcharges and monthly lists of customers who did not pay the 911 surcharge.

Scope and Methodology Statement

This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter. Because of the significance of the departures from the requirements, the auditors were unable to and did not conduct the engagement in accordance with Generally Accepted Government Auditing Standards.

This audit covered Calendar Year 2020. Please refer to the Detailed Scope and Methodology at the end of this report for the specific procedures and tests conducted.

Discussion of Audit Results

The matters covered in this report were discussed with Verizon and DOF officials during and at the conclusion of this audit. A preliminary draft report was sent to Verizon and DOF on May 11, 2022 and May 19, 2022, respectively, and discussed with Verizon and DOF officials at an exit conference held on May 27, 2022. On June 7, 2022, we submitted a draft report to Verizon and

² *Audit Report on the New York City Department of Finance's Oversight over the Collection of 911 Surcharges*, Audit # FN20-107A, issued November 17, 2021.

DOF with a request for written comments. We received written responses from Verizon and DOF on June 22, 2022.

In its response, Verizon generally disagreed with the audit's findings and stated that "no action needs to be taken by Verizon" to comply with the two recommendations that were addressed to it. In DOF's response, the agency agreed with the report's recommendations and, noting that it "does not have enforcement authority under the E-911 surcharge law to compel Verizon to comply with these information requests," outlined the steps it will take toward implementation.

Where relevant, footnotes have been added to provide additional information. The full text of the Verizon and DOF responses are included as addenda to this report.

FINDINGS AND RECOMMENDATIONS

Although Verizon promptly remitted monthly 911 surcharges to DOF, the auditors were unable to determine whether Verizon billed and collected the 911 surcharge from all customers required to pay the surcharge, or whether Verizon paid all 911 surcharge revenues that it collected from customers to DOF. This is because Verizon did not provide requested access to information and staff. As a result, the auditors were unable to obtain sufficient evidence to demonstrate that Verizon properly billed, collected, and remitted the correct 911 surcharge amounts.

Verizon also did not submit the required annual report and monthly lists of non-paying customers to DOF. As a result, there was no assurance that Verizon complied with the requirements set forth in the NYC Administrative Code.

Unable to Determine the Accuracy and Completeness of Verizon's Data

Although Verizon provided May and June 2020 customer billing data for the auditors to review, Verizon officials acknowledged that the information they provided only included customers who were billed for the 911 surcharge. In addition, the auditors could not obtain reasonable assurance that the computer-processed data files were accurate, reliable, and complete.

The following issues were found:

- Verizon did not provide billing data for exempt individuals or entities that are not required to pay the 911 surcharge. In addition, Verizon did not allow the auditors to directly communicate with the personnel who handled the data extraction to obtain a better understanding of the data extraction process.
- Verizon did not provide the number of telephone lines being billed for each service location, so the auditors were unable to determine whether Verizon accurately billed its customers.
- Verizon's computer-processed data included several wireless communication customers who should not have been included as part of the population of customers billed under Chapter 23-A of the NYC Administrative Code.
- Verizon charged 11 government entity accounts for the 911 surcharge. These accounts are exempt per the NYC Administrative Code.
- One of the 55 sampled customer accounts could not be found in either May or June 2020 billing data files provided despite several attempts by Verizon officials to provide complete data in response to requests from the auditors.

Verizon did not allow the auditors to observe the operation of its billing and collection system and did not provide the customer payment information requested by the auditors.³ As a result, the

³ In its response, Verizon disagreed with the audit's finding and stated that its audit staff was cooperative with the auditors and provided them "considerable information" during the course of the audit. Verizon stated it did not understand the auditors' requests to observe Verizon's billing system and "did not accommodate the City's auditors' unusual request to directly interview Verizon's operational, billing or information-technology personnel." However, a request to interview the day-to-day staff is a normal audit practice, not an unusual one, and is in line with Section 8.38 of Generally Accepted Government Auditing Standards (GAGAS). Additionally, while the auditors agree that Verizon

auditors were unable to obtain a sufficient understanding of how payments are recorded in customers' accounts or to determine the accuracy of the amounts reported on its E-911 Surcharge Tax returns. Ultimately, the auditors were unable to determine whether amounts collected matched the amounts billed and whether Verizon remitted the correct 911 surcharge amounts to DOF.

Verizon Did Not Submit Required Reports to DOF

According to Section 11-2325(d) of the NYC Administrative Code, "The service supplier shall annually provide to the commissioner of finance an accounting of the surcharge amounts billed and collected." In addition, Section 11-2326(b) states that "whenever the service supplier remits the funds collected as the surcharge to the city, it shall also provide the city with the name and address of any customer refusing or failing to pay the surcharge imposed ... and shall state the amount of such surcharge remaining unpaid." Verizon officials stated that "Compliance is not aware of any other reports remitted outside the return." The information provided in the return does not meet the reporting requirements of Sections 11-2325(d) and 11-2326(b).⁴

As a result, DOF lacks the means to determine whether Verizon accurately reported and remitted the 911 surcharge in accordance with the NYC Administrative Code.

Recommendations

Verizon should:

1. Ensure that the 911 surcharge amounts reported to DOF are fully supported by the underlying data, and that its billing and payment information is readily available for review.

Verizon Response: "No action needs to be taken by Verizon to comply with this recommendation. The 911 surcharge amounts that Verizon reports to the Department are fully supported by the underlying data."

Auditor Comment: As discussed with Verizon officials during the audit, the underlying data provided to support the sample months requested did not match the totals reported in the tax returns. Specifically, the underlying data included several wireless communication customers who should not have been included as part of the population of customers and government entity accounts that were charged despite their exemption under the NYC Administrative Code. The data was also missing

provided "considerable information," upon reviewing the underlying data provided, it was found that the data did not match the amounts reported and remitted to the City. Further, Verizon was unable to provide information for the customers' service location, customers who were exempt from the 911 surcharge, and customer payments, which was subpoenaed in August 2021; therefore, the auditors decided to conclude the audit.

⁴ In its response, Verizon stated that no action needs to be taken because it "provided the only 'accounting' reports that are currently required" by DOF and that, in relation to monthly lists of non-paying customers, "no such lists are required to be reported by Verizon to the Department." However, Verizon's response contradicts the requirements of Sections 11-2325(d) and 11-2326(b) of the NYC Administrative Code, both of which are cited in the report. Additionally, Verizon's response indicates that it did not properly report the 911 surcharges to the City because the NYC E-911 Surcharge form clearly states that "[r]eturns are due on or before the 25th day of each month, covering surcharge monies **collected for the preceding calendar month.**" [Emphasis added.]

information for a customer Verizon claimed was an internal customer that should not have been included, even though the customer was billed the 911 surcharge during May and June 2020. For these reasons, the auditors deemed the underlying data inaccurate and incomplete.

2. Ensure that all required reports are submitted to DOF timely, including the annual reports and monthly lists of non-paying customers with amounts owed to DOF, as required by the NYC Administrative Code.

Verizon Response: “No action needs to be taken to comply with this recommendation . . . And, with respect to the ‘monthly lists of non-paying customers,’ no such lists are required to be reported by Verizon to the Department.”

Auditor Comment: Under Section 11-2325(d) of the NYC Administrative Code, providers such as Verizon are required to submit an annual accounting of the surcharge amounts billed to the Commissioner of Finance. Additionally, Section 11-2326(b) states that the provider must also provide the City with the name and address of any customer refusing or failing to pay the surcharge imposed. Verizon is required to fully comply with the NYC Administrative Code.

DOF should:

3. Request that Verizon submit the underlying data to support the amounts reported on the E-911 Surcharge Tax returns.

DOF Response: DOF agreed with the recommendation, noting that the agency does not have enforcement authority to “compel Verizon to comply with these information requests,” and outlined steps it will take toward implementation.

4. Ensure that Verizon submits all required reports, including the annual reports and monthly lists of non-paying customers with amounts owed to DOF, as required by the NYC Administrative Code.

DOF Response: DOF agreed with the recommendation and, for the same reason noted above, outlined steps it will take toward implementation.

DETAILED SCOPE AND METHODOLOGY

This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter. Because of the significance of the departures from the requirements, the auditors were unable to and did not conduct this performance audit in accordance with Generally Accepted Government Auditing Standards. Specifically, the auditors were unable to:

- Obtain a sufficient understanding of the operation of Verizon's billing system because Verizon did not allow auditors to interview the staff who handle the day-to-day billing operation and did not provide a detailed overview of the billing system's function and the complete data dictionary for the system;
- Obtain a sufficient understanding of the data extraction process for reporting the monthly 911 surcharge amounts to DOF because Verizon did not allow auditors to interview the staff responsible for extracting the data from the Verizon system and did not provide the script for review;
- Determine whether the computer-processed data Verizon provided was accurate and reliable because of incomplete customer information and other issues found in the various versions of the sampled months in the data files; and
- Determine the accuracy of Verizon's billing of the 911 surcharge because Verizon did not provide the number of telephone lines for each location being billed.⁵

The scope of this audit was Calendar Year 2020. To gain an understanding of the requirements and to accomplish the audit objectives, the auditors reviewed Title 11, Chapter 23-A – Enhanced 911 Telephone Surcharge of the NYC Administrative Code, Local Law No. 16 of the City of New York for the Year 2002, and Local Law No. 30 of the City of New York for the Year 2010.

To gain an understanding of Verizon's billing and collecting procedures, the auditors reviewed Verizon's Overview of 911 Surcharge Billing and Compliance Process. To determine whether Verizon was compliant with the NYC Administrative Code, the auditors requested all the reports submitted to DOF, including the lists of the customers who did not pay the 911 surcharge, annual report for the amount billed and collected, and E-911 Surcharge Tax returns. The auditors also requested copies of the canceled checks for the monthly 911 surcharge remitted to DOF. In addition, the auditors conducted walk-through meetings with Verizon's Senior Tax Manager regarding the procedures on how Verizon bills its customers and records the payments collected in its system.

To determine whether Verizon properly calculated and remitted the 911 surcharge to DOF, the auditors recalculated the monthly surcharge amount and deducted the 2% administrative fee based on number of telephone lines reported on E-911 Surcharge Tax returns. To determine the timeliness of the remittance, the auditors compared the dates of the checks to the due date of the E-911 Surcharge Tax returns. To determine whether Verizon accurately reported the 911

⁵ In its response, Verizon stated that the auditors did not seek clarifications from Verizon staff regarding the scope limitations, but this is disingenuous. During the weekly meetings with Verizon, the audit team constantly brought up issues found and discussed them with the Verizon staff. However, the responses from Verizon staff were usually vague or did not resolve the auditors' concerns.

surcharge to DOF, the auditors judgmentally selected May 2020, the month with the highest decrease in service lines (specifically landline and VoIP), and June 2020, the subsequent month, and obtained the underlying data that supported the May and June 2020 E-911 Surcharge Tax returns. The auditors first compared the total 911 surcharge amounts to the data files that the third-party vendor used to file the E-911 Surcharge Tax returns on behalf of Verizon and then compared the total 911 surcharge amounts from data files to amounts reported in the E-911 Surcharge Tax returns.

To determine the accuracy and completeness of the May and June 2020 data Verizon provided, the auditors analyzed the data files and selected a total of 38 samples from the following categories for customer accounts whose 911 surcharges were \$25 or more:

- All 10 customer accounts that were only reported in the May 2020 data file;
- All 8 customer accounts that were only reported in the June 2020 data file; and
- Randomly selected 20 of 425 customer accounts that were reported in both May and June 2020 data files.

For the customers whose 911 surcharges were less than \$25, the auditors randomly selected 12 of the 16,687 customer accounts that were reported only in either May or June 2020 as their samples and requested that Verizon provide May and June invoices for all 50 (38 + 12) selected customer accounts. The auditors also requested that Verizon provide one random sample invoice for each of the following groups: (1) exempted individuals (i.e., lifeline customers); (2) exempted local government entities; (3) residential customers with 2 or more telephone lines; (4) commercial customers that had less than 75 telephone lines at the same location; and (5) commercial customers that had 75 or more telephone lines at the same location. The auditors then reviewed the invoices that Verizon provided and traced all 911 surcharges billed from the invoices to the data files.

Although the results of the sampling tests were not projectable to their respective populations, these results, together with the results of the other audit procedures and tests, provided a reasonable basis for the audit team to evaluate and to support the findings and conclusions within the context of the audit objectives.



Department of Finance

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Preston Niblack
Commissioner

VIA EMAIL: mhayes1@comptroller.nyc.gov

June 21, 2022

Maura Hayes-Chaffe
Deputy Comptroller for Audit
Office of the New York City Comptroller
1 Centre Street, Room 1100
New York, NY 10007

Re: Audit Report on Verizon New York, Inc.'s Compliance with New York City's Enhanced 911 Surcharge Regulations

Dear Deputy Comptroller Hayes-Chaffe,

The Department of Finance (DOF) has reviewed the draft report referenced above. Our response is enclosed.

If you have questions or require additional information, please contact Sam Mayer, Assistant Commissioner for Internal Audit, at (212) 291-2536 or mayers@finance.nyc.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Preston Niblack'.

Preston Niblack, Commissioner

cc: Michael Hyman, First Deputy Commissioner
Jeffrey Shear, Deputy Commissioner for Treasury and Payment Services
Diana Beinart, Deputy Commissioner for Legal Affairs
Sam Mayer, Assistant Commissioner for Internal Audit
Leslie Zimmerman, Assistant Commissioner for Payment Operations
Kenisha Kidd-Albright, Director, Process Integration & Automation Program

Recommendations to New York City Department of Finance

- Request that Verizon submit the underlying data to support the amount reported on the E-911 Surcharge Tax Returns.
- Ensure that Verizon submits all required reports, including annual reports and monthly lists of non-paying customers with amounts owed to DOF, as required by the NYC Administrative Code.

DOF Response. DOF agrees with the recommendations but notes it does not have enforcement authority under the E-911 surcharge law to compel Verizon to comply with these information requests. DOF will do the following:

- a) Request that Verizon submit annually to DOF an accounting of E-911 surcharge amounts billed and collected.
 - 1) DOF will shortly send a letter notifying Verizon of Section 11-2325(d) of the NYC Administrative Code, which requires Verizon to submit to the Commissioner of Finance an accounting of the surcharge amounts billed and collected, and request that Verizon send this accounting for calendar year 2021. If Verizon's report is not received within 60 calendar days DOF will send a subsequent follow-up notifying Verizon that failure to provide the required report will put them in violation of Section 11-2325(d) of the NYC Administrative Code.
 - 2) DOF will begin work on promulgating a rule pursuant to 11-2325(d) of the NYC Administrative Code specifying that the annual accounting of surcharge accounts billed and collected will cover calendar years and that this report must be submitted to DOF no later than two and one-half months after the close of a calendar year. This will clarify to Verizon and other providers when the reports are expected.
- b) Request that Verizon submit monthly to DOF a list of the names and addresses of customers who refused or failed to pay the surcharges imposed, including the amounts of the unpaid surcharges.
 - 1) DOF will shortly send a letter notifying Verizon of Section 11-2326(b) of the NYC Administrative Code requiring the provider to submit a monthly list of customers, to include both name and address, who refused or failed to pay the surcharge imposed by the Verizon. In the letter, DOF will request this information for the months of January through June of 2022. If the reports are not received within 60 calendar days DOF will send a subsequent follow-up notifying Verizon that failure to provide the required report will put Verizon in violation of Section 11-2326(b) of the NYC Administrative Code. The letter will also inform Verizon that DOF expects this monthly report to be submitted to DOF along with its monthly filing and payment by the 30th day of each month, beginning with July 2022.
 - 2) Going forward, DOF will send a letter to Verizon if it does not receive this monthly report within 30 days of its due date.

Draft of Audit Report on Verizon New York Inc.'s Compliance
with New York City's Enhanced 911 Surcharge Regulations
(Audit No. FN21-082A)

Comments of Verizon New York Inc.

June 22, 2022

The following responses of Verizon New York Inc. ("Verizon") to the above-captioned draft report (the "Draft Report") are being provided by Verizon to the City of New York's designated contact, Maura Hayes-Chaffe, Deputy Comptroller for Audit in the City's Office of the Comptroller.

Verizon's General Response

Verizon and its affiliates are responsible for billing, collecting, reporting, and remitting a multitude of taxes, fees and surcharges that are imposed on its customers by federal, state, and local governmental authorities across the United States. Verizon takes these responsibilities seriously and expends considerable time, cost, and effort to carefully comply with the myriad of requirements that are associated with these impositions. As a consequence of its important role as a legally mandated collector of these governmental payment obligations, Verizon is regularly called upon by governmental authorities to participate in audits with respect to these impositions, and these audit engagements are handled within Verizon by an experienced internal Verizon staff of accounting and legal professionals. These professionals manage all communications and other interactions with governmental auditing personnel, are responsible for responding to information and other requests from these personnel, and are responsible for working with internal Verizon resources—including billing, compliance, legal, and information-technology resources—to obtain and produce information in response to requests from governmental auditors. Verizon's audit staff is also responsible for explaining to governmental auditors how Verizon's business works, and how Verizon fulfills its legal obligations to bill, collect, report, and remit governmental taxes, fees, and surcharges.

In February 2021, the City Comptroller's office initiated an audit of Verizon's compliance with its obligations to bill, collect, report, and remit the City's 911 surcharge. Between February 2021 and May 2022, Verizon's auditing staff worked with the City's auditors, which included regular meetings, email communications, and provision of considerable information to the City's auditors, in response to their detailed requests. After expending considerable time and effort to satisfy the demands of the City's auditors, it was both surprising and disappointing for Verizon to learn that—according to the Draft Report—the City's audit staff had been unable to develop and execute an audit plan that achieved the City's basic objectives.

While the Draft Report asserts that these failures occurred "because Verizon did not provide requested access to relevant information and staff," Draft Report at 1, that claim is neither fair nor accurate. For example, one of the purported instances of access not being

provided is that “Verizon did not allow the auditors to observe the operation of its billing and collection system” *Id.* at 4. While it is correct that the City’s auditors never “observed” Verizon’s billing system, neither the Draft Report, nor the City’s auditors during their many conversations with Verizon’s audit staff, ever explained what this request meant—that is, what the City’s auditors wanted to “observe”—or what information the City’s auditors could possibly derive from ‘observing’ Verizon’s billing and collection system. This system is, in essence, a series of distributed computers and computerized resources, and computers do not engage in observable activity. Similarly, while Verizon did not accommodate the City’s auditors’ unusual requests to directly interview Verizon’s operational, billing, or information-technology personnel, Verizon’s audit staff provided—in accordance with standard, time-tested auditing practices and standards—a regular, effective means for the City’s auditors to request information, ask questions, and follow up with respect to all of the extensive information that Verizon provided to the City’s auditors during the course of the audit.

Despite claiming that Verizon failed to cooperate fully with the City’s auditors, the Draft Report does explain—in detail—key features of the specific plan that the City’s auditors developed, which showed that the auditors were able to review extensive amounts of Verizon billing and remittance information, and that based on this review the City’s auditors were successfully able to trace and verify the information provided. For instance, (as described in pages 6-7 of the Draft Report):

- Verizon provided a “Overview of 911 Surcharge Billing and Compliance Process”—a document that was created by Verizon’s audit staff for the benefit of the City’s auditors, to enable them to understand Verizon’s processes and inform their audit plan;
- Verizon’s audit staff conducted walk-through meetings with the City’s auditors “regarding the procedures on how Verizon bills its customers and records the payments collected in its system,” Draft Report at 6; and
- Verizon provided to the City’s auditors:
 - copies of the monthly 911 surcharge returns it had filed with the City;
 - copies of the data files that Verizon had generated from its billing system and provided to Verizon’s third-party return preparation company, which this company used to prepare Verizon’s monthly 911 surcharge returns filed with the City;
 - copies of checks that evidenced Verizon’s payment to the City of the amounts reported on Verizon’s monthly 911 surcharge returns;
 - for two sample months selected by the City (May and June 2020), “the underlying data that supported the May and June 2020 E-911 Surcharge Tax returns,” *id.* at 6;
 - 10 customer accounts from the May 2020 data file;
 - 8 customer accounts from the June 2020 data file;
 - 20 randomly selected customer accounts from 425 customer accounts that were reported in the May and June data files;

- from a customer group consisting of customers with less than \$25 of 911 surcharges, 12 randomly selected customer accounts from 16,687 customer accounts that were reported only in either May or June; and
- one randomly selected customer invoice from each of the following groups:
 - individual customers exempt from the 911 surcharge (that is, lifeline customers);
 - exempt local government customers;
 - residential customers with two or more telephone lines;
 - commercial customers with less than 75 telephone lines at the same location; and
 - commercial customers with 75 or more telephone lines at the same location.

According to the Draft Report, Verizon provided the requested sample invoices. Draft Report at 7. Furthermore, “[t]he auditors . . . traced all 911 surcharges billed from the invoices to the data files.” *Id.*

In addition to the extensive information that was requested by the City’s auditors, and which Verizon provided, there was other information, also requested by the City’s auditors, that was still in the process of being gathered by Verizon’s audit staff when the audit was unexpectedly terminated by the City in May 2022. This information included:

- a report requested by the City’s auditors showing line counts by location; and
- a report requested by the City’s auditors providing details with respect to customers that are exempt from the 911 surcharge.

It is unclear why the audit was terminated before this information could be gathered and produced to the City’s auditors.

It is neither fair nor accurate to attribute to Verizon the failure of the City’s audit to achieve its basic objectives. The audit plan was designed by the City’s auditors, and Verizon’s audit staff responded to the City’s requests using the same methods and procedures that have been used to successfully handle hundreds of audits over many years, conducted by federal, state, and local taxing and regulatory authorities. A few unorthodox, unprecedented requests—e.g., to “observe” the billing system and to “interview” billing and other operational staff—were not accommodated, but these requests, as explained above, would not have advanced the goals of the audit. The sampling and other data requested by the City’s auditors was either (i) provided to the City’s auditors or (ii) was in the process of being gathered when the City’s auditors decided, unilaterally and without notice, to prematurely terminate the audit.

Verizon’s Specific Responses to Identified Issues

In addition to Verizon’s general responses, above, Verizon is also providing the following responses to specific issues that are described in the Draft Report, in the order presented therein:

Draft Report: *Verizon did not provide billing data for exempt individuals or entities that are not required to pay the 911 surcharge.*

Response 1: As noted above, Verizon’s audit staff was working with internal resources to provide the requested information with respect to customers that are exempt from paying the City’s 911 surcharge, and the City’s auditors prematurely terminated the audit, without notice or explanation, before this information could be provided.

Draft Report: *Verizon did not allow the auditors to directly communicate with the personnel who handled the data extraction to obtain a better understanding of the data extraction process.*

Response 2: As a matter of Verizon policy, tax and regulatory audits are handled by Verizon’s experienced, dedicated tax and regulatory audit teams, who are responsible for obtaining and providing the information that is reasonably requested by federal, state, and local tax and regulatory authorities in the course of an audit. In this case, Verizon’s audit staff provided oral and written overviews of the relevant processes, and engaged in numerous discussions with the City’s auditors, including regularly scheduled calls. If the City’s auditors had unanswered questions, or determined at any point that they required a “better understanding” of Verizon’s data extraction or other relevant processes, they had multiple opportunities during the course of the audit to raise their questions and describe any perceived knowledge gaps to Verizon’s audit staff, and should have taken advantage of their multiple opportunities to do so. It would have been inappropriate in the context of a governmental tax or regulatory-imposition compliance audit for the City’s auditors “to directly communicate” with Verizon’s operational, billing, or information-technology personnel—and the City auditors’ requests to engage in such direct communications were properly denied by Verizon.

Draft Report: *Verizon did not provide the number of telephone lines being billed for each service location, so the auditors were unable to determine whether Verizon accurately billed its customers.*

Response 3: As noted above, Verizon’s audit staff was working with internal resources to provide the requested information with respect to line counts, and the City’s auditors prematurely terminated the audit, without notice or explanation, before this information could be provided.

Draft Report: *Verizon’s computer-processed data include several wireless communication customers who should not have been included as part of the population of customers billed under Chapter 23-A of the NYC Administrative Code.*

Response 4: The customers in question were not in fact billed under Chapter 23-A. These were a relatively small number of customers that purchased a wireless service known as “Voice Connect” that is offered by Verizon. These customers were billed for two New York State 911 taxes that apply to wireless service: a \$1.20 surcharge pursuant to NY Tax Law § 186-f, and a \$0.30 surcharge pursuant to NY Tax Law § 186-g. These surcharges were reported and remitted by Verizon to the New York State Department of Taxation, as required by law, rather than to the City. They are separate and distinct from the Chapter 23-A surcharges.

Draft Report: *Verizon charged 11 government entity accounts for the 911 surcharge. These accounts are exempt per the NYC Administrative Code.*

Response 5: Per Verizon’s records, none of the identified accounts had provided tax-exemption certifications or other documentation to Verizon to establish an exemption from the City’s 911 surcharge. Now that these accounts have been identified as exempt by the City, Verizon will work to implement exempt status for these accounts with respect to the City’s 911 surcharge on a prospective basis.

Draft Report: *One of the 55 sampled customer accounts could not be found in either May or June 2020 billing data files provided despite several attempts by Verizon officials to provide complete data in response to requests from the auditors.*

Response 6: The circumstances with respect to this single customer account were discussed with the City’s auditors during at least one of the regular, weekly meetings between the City’s auditors and Verizon’s audit staff. As discussed at that time, this account was for an internal Verizon customer, and should not have been included in the sample.

Draft Report: *Verizon did not allow the auditors to observe the operation of its billing and collection system*

Response 7: As explained above, while it is correct that the City’s auditors never “observed” Verizon’s billing and collection system, neither the Draft Report, nor the City’s auditors during their regular conversations with Verizon’s audit staff, ever explained what this request meant—that is, what the City’s auditors wanted to “observe”—or what information the City’s auditors could possibly derive from ‘observing’ Verizon’s system. Verizon’s system is, in essence, a series of distributed computers and computerized resources, and computers do not engage in observable activity.

Draft Report: *Verizon . . . did not provide the customer payment information requested by the auditors.*

Response 8: It is unclear what “customer payment information” was “requested by the auditors” and not provided by Verizon. Other than the reports with respect to exempt customers and line counts, which were in process when the audit was

prematurely terminated by the City’s auditors, Verizon is unaware of any unfulfilled, outstanding information requests from the City’s auditors.

Draft Report: *Verizon Did Not Submit Required Reports to DOF*

The Draft Report identifies two “Required Reports” that Verizon allegedly did not submit to the Department.

Response 9: The claim regarding the first “required report” is based on the following provision of the NYC Administrative Code:

The service supplier shall annually provide to the commissioner of finance an accounting of the surcharge amounts billed and collected.

NYC Administrative Code § 11-2325(d). Verizon complied with this requirement by filing monthly surcharge returns that collectively constituted a full “accounting” for each calendar year. This is consistent with the advice provided by the Department on its 911-surcharge web page. See NYC Department of Finance, *E-911 Surcharge for Telecommunications Services* (checked June 20, 2022).¹ The only reporting obligation referred to on that page is the obligation to file monthly reports.

This 911-surcharge webpage of the Department links to a PDF page, also published by the Department, of “frequently asked questions” about the City’s 911 surcharge, which says nothing about any annual accounting or other annual reporting requirement. See NYC Department of Finance, *Answers to the Most Frequently Asked Questions About E-911 Surcharge for Voice Over Internet Providers (VOIP)* (checked June 20, 2022, revised March 28, 2011).²

The Department’s 911-surcharge webpage³ also, under a heading labeled “Forms and Reports,” links solely to “Forms”—not “Reports”—and thereby connects to a webpage that provides a link to the Department’s monthly 911 surcharge reporting form, NYC-E-911, but not to any other required 911 surcharge forms or reports. See NYC Department of Finance, *Current Additional Business Tax Forms* (checked June 20, 2022).⁴ In fact, the only annual report listed on this Department webpage is NYC-FP, an Annual Report of Fire Premiums Tax Upon Foreign and Alien Insurers—which obviously has no application to Verizon or its reporting of the City’s 911 surcharge.

¹ <https://www1.nyc.gov/site/finance/taxes/business-e911-surcharge-for-telecommunications-services.page#>.

² https://www1.nyc.gov/assets/finance/downloads/pdf/10pdf/voip_faq.pdf.

³ Cited at note 1, above.

⁴ <https://www1.nyc.gov/site/finance/taxes/business-forms/business-forms-additional.page>.

Thus, there is no question that by filing its required monthly reports, on Form NYC-E-911, Verizon has satisfied the only existing requirement for reporting to the Department with respect to 911 surcharges.

If the Department intends that any additional 911 surcharge reporting requirement beyond the monthly report be put into effect under NYC Administrative Code § 11-2325(d), then Verizon respectfully suggests that the Department should post a form to be used for that purpose or, at a minimum, specify the content that is required to be provided in the report, as well as when and how that report is required to be filed with the Department. Pending such clarification, there is no basis to conclude that Verizon has failed to file any required “accounting” under NYC Administrative Code § 11-2325(d).

Response 10: The claim regarding a second “required report” is based on the following provision of the NYC Administrative Code:

The service supplier shall have no obligation to take any legal action to enforce the collection of any surcharge. However, whenever the service supplier remits the funds collected as the surcharge to the city, it shall also provide the city with the name and address of any customer refusing or failing to pay the surcharge imposed by this chapter and shall state the amount of such surcharge remaining unpaid.

NYC Administrative Code § 11-2326(b).

There are at least three reasons why Verizon is not required to provide any report to the Department under this provision.

First, this purported reporting “requirement” is inapplicable given Verizon’s practices for billing and remitting the City’s 911 surcharge. As was explained to the City’s auditors during the course of the audit, Verizon reports and remits the City’s 911 surcharge to the Department based on the amounts of the 911 surcharge that are billed to its customers during a month, without waiting to confirm that these billed amounts were actually collected from customers. That is, once a 911 surcharge amount is billed to a customer by Verizon during a month, the amount of the billed surcharge is reported and paid to the Department by Verizon within the 30-day time period set by NYC Administrative Code § 11-2325(a). Thus, there are no unpaid 911 surcharges, and there are no nonpaying customers to be identified to the Department with respect to unpaid 911 surcharges.

Second, even if Verizon was obligated to identify customers who specifically refuse to pay the 911 surcharges that are billed to those customers, Verizon is unaware of any customers who specifically fail to pay 911 surcharges but pay their other billed charges. That is, when a customer fails to pay 911 surcharges,

this would, to Verizon’s knowledge, always be just one facet of a larger failure by a customer to pay all or a portion of their Verizon bill. Thus, applying the reasonable assumption that the purpose of the reporting requirement is to identify customers who specifically fail to pay 911 surcharges, there appear to be no such customers to be reported.

Finally, even if this “required report” would serve any legitimate purpose of the Department, there are serious questions as to whether Verizon is legally permitted to provide such a report to the Department without potentially falling afoul of federal privacy requirements with respect to customer information. Specifically, the federal Stored Communications Act limits the ability of a “provider of electronic communication service,” such as Verizon, to disclose to a “governmental entity,” such as the City, “information pertaining to a subscriber,” such as their names and addresses, unless the City provides an administrative subpoena, or other specified means of authorizing such disclosure under the Act. *See* 18 U.S.C. §§ 2702(a)(3) & (c), 2703(c)(2). The City’s auditors are, or should be, aware that these federal requirements are why Verizon provided unredacted customer invoices to the City’s auditors *in this audit* only after the City issued to Verizon an administrative subpoena, as requested by Verizon, that authorized such production in clear conformance with Stored Communications Act requirements.

Draft Report: *[T]he auditors were unable to . . . [o]btain a sufficient understanding of the operation of Verizon’s billing system because Verizon did not allow auditors to interview the staff who handle the day-to-day billing operation . . .*

Response 11: As described in Response 2, above, tax and regulatory audits are handled by Verizon’s experienced, dedicated tax and regulatory audit teams, who are responsible for obtaining and providing the information that is reasonably requested by federal, state, and local tax and regulatory authorities in the course of an audit. In this case, Verizon’s audit staff provided oral and written overviews of the relevant processes, and engaged in numerous discussions with the City’s audit staff, including regularly scheduled calls.

Draft Report: *[T]he auditors were unable to . . . [o]btain a sufficient understanding of the operation of Verizon’s billing system because Verizon . . . did not provide a detailed overview of the billing system’s function . . .*

Response 12: This finding is specifically contradicted by the Draft Report itself, which described the information that Verizon provided as including the following:

- the “Overview of 911 Surcharge Billing and Compliance Process”—a document that was created by Verizon’s audit staff for the benefit of the City’s auditors, to enable them to understand Verizon’s processes and inform their audit plan; and

- the walk-through meetings conducted by Verizon’s audit staff with the City’s auditors “regarding the procedures on how Verizon bills its customers and records the payments collected in its system,” Draft Report at 6.

The City’s auditors had many opportunities, through numerous scheduled discussions with Verizon’s audit staff, to clarify any questions that they had, and their apparent failure to engage with Verizon’s audit staff to obtain any missing answers or clarification cannot be attributed to Verizon.

Draft Report: *[T]he auditors were unable to . . . [o]btain a sufficient understanding of the operation of Verizon’s billing system because Verizon . . . did not provide . . . the complete data dictionary for the system*

Response 13: As explained by Verizon’s audit staff to the City’s auditors, there is no such document as a “data dictionary” for Verizon’s billing system. Although no “data dictionary” exists, in June 2021, Verizon’s audit staff provided the City’s auditors with complete header descriptions for the information fields that were used in the detailed, monthly reports that Verizon produced in its regular compliance process and which were used as the basis for the monthly returns that were filed by Verizon with the Department on Form NYC-E-911.

As explained in Response 12, above, if the City’s auditors had unanswered questions, or required clarification with respect to the header descriptions, or any other aspects of Verizon’s billing system or processes, the regular, scheduled conversations with Verizon’s audit staff provided multiple opportunities to obtain answers to such questions, as well as any required or desired clarification.

Draft Report: *[T]he auditors were unable to . . . [o]btain a sufficient understanding of the data extraction process for reporting the monthly 911 surcharge amounts to DOF because Verizon did not allow auditors to interview the staff responsible for extracting the data from the Verizon system*

Response 14: Please refer to Response 2 and Response 11, above.

Draft Report: *[T]he auditors were unable to . . . [o]btain a sufficient understanding of the data extraction process for reporting the monthly 911 surcharge amounts to DOF because Verizon . . . did not provide the script for review*

Response 15: This finding appears to reflect a basic misunderstanding of the nature of Verizon’s billing system. The system is not a simple relational database or other conventional system that can be queried by the execution of a simple SQL or similar script. There is therefore no reviewable, meaningful “script” that could have been provided by Verizon to the City’s auditors for review.

Draft Report: *[T]he auditors were unable to . . . [d]etermine whether the computer-processed data Verizon provided was accurate and reliable because of incomplete customer*

information and other issues found in the various versions of the sampled months in the data files

Response 16: Verizon cannot provide any specific response to this “finding” because it is not clear what “incomplete customer information” or “other issues” are being referred to. The City’s auditors had multiple opportunities to raise any issues with respect to any information provided by Verizon and with respect to any “other issues” that arose during the audit, whether with respect to the comprehensive, voluminous information that Verizon provided in response to the City auditors’ requests, or otherwise.

Draft Report: *[T]he auditors were unable to . . . [d]etermine the accuracy of Verizon’s billing of the 911 surcharge because Verizon did not provide the number of telephone lines for each location being billed.*

Response 17: Please refer to Response 3, above.

Responses to Audit Recommendations

The first recommendation that the Draft Report addresses to Verizon is that it should:

- Ensure that the 911 surcharge amounts reported to DOF are fully supported by the underlying data, and that its billing and payment information is readily available for review.

No action needs to be taken by Verizon to comply with this recommendation. The 911 surcharge amounts that Verizon reports to the Department are fully supported by the underlying data. All payment information with respect to 911 surcharge amounts reported by Verizon to the Department is readily available for review, and was in fact reviewed by the City’s auditors, to the extent requested. Billing information is also available, and in fact all of the billing information that was requested was either provided, or was in process to be provided to the City’s auditors—until the City’s auditors unexpectedly and without notice terminated the audit before this information could be produced.

The second recommendation that the Draft Report addresses to Verizon is that it should:

- Ensure that all required reports are submitted to DOF timely, including the annual reports and monthly lists of non-paying customers with amounts owed to DOF, as required by the NYC Administrative Code.

No action needs to be taken to comply with this recommendation. As described in Response 9, above, Verizon has provided the only “accounting” reports that are currently required by the Department, which are monthly reports on Form NYC-E-911. And, with respect to the “monthly lists of non-paying customers,” no such lists are required to be reported by Verizon to the Department for the reasons described in Response 10, above.

Conclusion

Thank you for your attention to Verizon's comments on the Draft Report. Please address any questions or concerns to the same Verizon personnel who handled the audit, and whose contact information you have.