

ATTORNEY GENERAL OF THE STATE OF NEW YORK  
ENVIRONMENTAL PROTECTION BUREAU

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In the Matter of  
**Investigation by LETITIA JAMES, Attorney  
General of the State of New York, of**

Assurance No. 22-001

VERIZON NEW YORK INC.,

Respondent.

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**ASSURANCE OF DISCONTINUANCE**

The Office of the Attorney General of the State of New York (OAG) commenced an investigation under Executive Law § 63(12) into compliance by Verizon New York Inc. (Verizon) with the laws of the State of New York (State) and the City of New York (City) regulating the environmental safety of cooling towers including the State Sanitary Code, 10 NYCRR Subpart 4-1; the City's Local Law 77, ACCNY §§ 17-194.1, 28-317.1 *et seq.*; and regulations issued by the City's Department of Health and Mental Hygiene (City DOH), 24 RCNY §§ 8-01 *et seq.* (collectively, the New York Cooling Tower Laws). Part I of this Assurance of Discontinuance (Assurance) sets forth OAG's findings and Part II of the Assurance contains the agreement between OAG and Verizon (together, the Parties) to resolve OAG's investigation.

**I. OAG'S FINDINGS**

1. The New York Cooling Tower Laws were enacted to prevent the growth and spread of bacteria that cause Legionnaires' disease—an often deadly

form of pneumonia—by rooftop cooling towers that are part of some buildings' cooling systems.

2. Verizon owns approximately 75 cooling towers in New York, and OAG's investigation has identified approximately 225 alleged violations of the New York Cooling Tower Laws at these locations since 2017.

## **BACKGROUND**

### **Legionnaires' Disease and Cooling Towers**

3. Legionnaires' disease is a serious type of pneumonia (lung inflammation) resulting from infection by a group of bacteria in the genus *Legionella*. People may contract Legionnaires' disease when *Legionella* enter the respiratory tract, primarily by breathing in mist or droplets from a source that has been contaminated with the bacteria.

4. Individuals at greater risk of infection include the elderly and those with respiratory illness and/or compromised immune systems. The Centers for Disease Control and Prevention estimate that one in ten individuals who contract Legionnaires' disease will die of the illness.

5. Public health experts consider rooftop cooling towers to be among the most common sources of *Legionella* exposure, particularly if the towers are not properly monitored and maintained. Cooling towers are large, usually rectangular devices that sit on the rooftops of some commercial, industrial, and residential buildings as a component of cooling systems for indoor air, industrial processes, or energy production.

6. Cooling towers operate by circulating water and air in a heat exchange process that cools a building or facility and, as a byproduct, emits a mist out the top of the tower. The warm water inside a cooling tower can provide a hospitable environment for *Legionella* to grow. Moreover, because cooling towers spray mist into the outdoor air, they can—if contaminated with *Legionella*—broadcast airborne bacteria into the surrounding area. People in nearby proximity can then be exposed to *Legionella* by breathing in contaminated droplets and this exposure can lead to infection.

7. Approximately 200 to 800 cases of Legionnaires' disease are recorded in New York each year, with additional cases believed to be undiagnosed or unreported. These cases have often occurred in concentrated outbreaks—particularly within New York City, with higher incidence in lower income areas. In the summer of 2015, an outbreak centered in the South Bronx resulted in 138 known cases of Legionnaires' disease and 16 deaths.

### **Regulation of Cooling Towers in New York**

8. Proper maintenance and monitoring of a cooling tower reduces the risk of *Legionella* growth and mitigates the risk of Legionnaires' disease presented to the neighboring community.

9. In response to outbreaks of Legionnaires' disease in New York, including the 2015 Bronx outbreak, the State and the City established the New York Cooling Tower Laws to govern the safety, maintenance, and monitoring of cooling towers. State-level requirements were first issued as emergency regulations in August 2015 by the State Public Health and Health Planning Council and were

subsequently codified in the State Sanitary Code, effective in July 2016. *See* 10 NYCRR Subpart 4-1. Within New York City, Local Law 77 supplements the State's requirements for cooling towers. *See* ACCNY §§ 17-194.1, 28-317.1 *et seq.* City DOH regulations implement Local Law 77 and the State Sanitary Code requirements in New York City. *See* 24 RCNY § 8-01 *et seq.*

10. Among other provisions, the State Sanitary Code requires cooling tower owners to:

- perform periodic testing for *Legionella* and other bacteria, 10 NYCRR § 4-1.4(b)(1)–(2);
- take corrective action in response to positive results for *Legionella* and other bacteria, if detected above threshold levels, *id.* § 4-1.4(b)(4);
- perform pre-season cleaning and disinfection of cooling towers, *id.* § 4-1.4(b)(8); and
- complete periodic inspections of cooling towers, *id.* § 4-1.8(a).

11. Violations of the State Sanitary Code's cooling tower regulations are subject to civil penalties, with each day considered a separate violation when a violation continues. *Id.* § 4-1.10. Violations of New York State health regulations are generally subject to civil penalties of up to \$2,000 per violation. Public Health Law § 12(1).

12. Similar to the State Sanitary Code, the City DOH's cooling tower regulations include a comprehensive set of safety, maintenance, and monitoring obligations. *See* 24 RCNY § 8-05(f)(2)–(3) (periodic testing for *Legionella* and other bacteria); *id.* § 8-05(f)(5) (corrective action in response to positive results); *id.* §§ 8-04(d), 8-06(b) (cleaning and disinfection); *id.* § 8-04(b) (periodic inspections).

13. The City DOH is authorized to enforce the City cooling tower regulations and conducts annual inspections of cooling towers in New York City. Where inspectors note potential violations for a particular cooling tower, the owner receives notice and opportunity to cure certain violations (e.g., through submittal of missing documentation). For any violations not cured to the City DOH's satisfaction, the City DOH is authorized to hold administrative hearings for final adjudication.

#### **OAG's Investigatory Authority**

14. Executive Law § 63(12) authorizes the Attorney General to investigate and take legal action against repeated illegal acts in the carrying on, conducting, or transaction of business. Illegal acts under Section 63(12) include the violation of any state, federal, or local law or regulation.

### **OAG'S INVESTIGATION**

#### **Verizon's Cooling Towers**

15. Verizon is a New York subsidiary of Verizon Communications Inc., a major telecommunications company.

16. Verizon owns commercial properties across New York State, including buildings equipped with cooling towers subject to the New York Cooling Tower Laws. In New York State, Verizon owns approximately 51 buildings with one or more cooling towers, including approximately 25 cooling towers located within New York City, at 23 locations.

17. Verizon maintains and manages its cooling towers within the state of New York through vendors, including property managers employed by Cushman &

Wakefield, Inc. (Cushman). Cushman coordinates the maintenance and cleaning of the cooling towers on behalf of Verizon, including compliance with the New York Cooling Tower Laws. To implement these activities, Cushman works with water quality vendors who service and monitor the cooling towers.

### **Verizon's Alleged Violations**

18. OAG's investigation focused on the period beginning in 2017. The investigation included review of documents produced by Verizon relating to its cooling towers around New York State, analysis of City DOH enforcement data, and oral examination of a Cushman employee responsible for coordinating compliance with the New York Cooling Tower Laws for Verizon's cooling towers in New York.

19. Enforcement data from the City DOH show that it has imposed penalties on Verizon for approximately 107 alleged violations of City cooling tower regulations since 2017. These undisputed violations are listed in Attachment A to this Assurance. OAG has found that Verizon's violations are among the highest of any cooling tower owner in New York City during this period.

20. Documents produced by Verizon show that, since 2017, there have been approximately 118 alleged violations of the State Sanitary Code for Verizon cooling towers outside New York City. These alleged violations are listed in Attachment B to this Assurance.

21. Verizon's alleged violations include: alleged failures to test water samples for *Legionella* and other bacteria; alleged failures to properly take corrective action in response to positive test results; and alleged failures to complete cleaning, disinfection, and inspection of cooling towers. OAG has found that these

violations occurred at various cooling tower locations in New York State, as referenced in Attachments A and B.

22. OAG asserts that there are multiple causes of Verizon's alleged violations listed in Attachments A and B, including: disjointed accountability structures; insufficient resource commitment including communication and tracking failures; and lack of central policies and procedures. OAG's investigation finds that since passage of the New York Cooling Tower Laws in 2016, Verizon's compliance policies and procedures have improved and include retention of water quality vendors who provide comprehensive maintenance, safety and monitoring services.

## **II. RESOLUTION BY THE PARTIES**

23. Solely for the purpose of resolving the OAG's investigation as set forth herein, Verizon neither admits nor denies the OAG's findings set forth in Part I above and Attachments A and B and agrees to this Assurance in settlement of the alleged violations described above and to avoid the burden of litigation. Verizon agrees not to take any action or to make or permit to be made any public statement asserting that the Assurance is without legal or factual basis.

24. OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. Therefore, OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding under Executive Law § 63(12) for repeated violations of the New York Cooling Tower Laws based on the conduct described above.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

**RELIEF**

25. Verizon shall comply with all applicable laws and regulations concerning the safety, maintenance, and monitoring of its cooling towers in New York, including the State Sanitary Code, 10 NYCRR Subpart 4-1; Local Law 77, ACCNY §§ 17-194.1, 28-317.1 *et seq.*; and City DOH regulations, 24 RCNY §§ 8-01 *et seq.*

**Programmatic Relief**

26. Verizon has begun to prepare, and shall finalize, establish, and maintain, corporate policies and procedures to govern its compliance with the New York Cooling Tower Laws with respect to its cooling towers in New York State, including the following elements:

- a. For each cooling tower, applicable regulatory requirements and a list of personnel responsible to meet each respective requirement.
- b. Descriptions and policies showing the personnel and organizational structure relevant to cooling tower compliance, including a chain of responsibility that makes building managers accountable to environmental compliance personnel with regard to cooling tower compliance responsibilities.
- c. Policies and procedures for training personnel who have cooling tower compliance responsibilities.
- d. Ongoing maintenance of a centralized tracking system for cooling tower compliance deadlines—including corrective action deadlines as they may arise—with a method for responsible personnel to input records of completion of respective tasks. Provision for responsible Verizon building manager(s) to be automatically notified when any deadline passes without record of completion.
- e. Notification of the Health and Safety Officer for Verizon New York Inc. when: (a) any notice of violation is received for a cooling tower;

(b) any laboratory report is received for *Legionella* test results above 100 colony forming units per milliliter (cfu/mL) or for any bacteriological test results above 100,000 cfu/mL; and (c) corrective action is completed as necessary to respond to the foregoing *Legionella* or bacteriological test results.

- f. Applicability of these policies and procedures to all Verizon employees, agents, contractors, and vendors.
- g. Provision for an annual audit to be conducted for compliance with these policies and procedures.

27. Within 90 days of the effective date of this Assurance, Verizon shall certify to OAG that it has completed and established the above-required policies and procedures.

28. OAG intends the above policies and procedures to maintain and augment recent improvements Verizon has made to its cooling tower compliance program in New York State in light of alleged past violations.

### **Oversight and Monitoring**

29. By January 31st of calendar years 2023, 2024, and 2025, Verizon shall provide an annual report to OAG that includes the following information for Verizon cooling towers in New York during the preceding calendar year:

- a. Dates of all inspections, *Legionella* sampling, cleaning, and disinfection.
- b. Copies of all laboratory reports received with *Legionella* test results above 100 cfu/mL or bacteriological test results above 100,000.
- c. Documentation of all corrective action taken in response to the *Legionella* or bacteriological test results referenced in the preceding subparagraph.
- d. Copies of all notices of violation received from the State Department of Health, the City DOH, or any other local health department in New York.

- e. A copy of the most recent annual audit report required by ¶ 26(g) above.

**Civil Penalty**

30. To resolve the OAG’s investigation, Verizon shall pay \$118,000 to OAG, which OAG intends to use to prevent, abate, mitigate, or control air pollution or its health impacts, which may include actions to monitor or measure air pollution or its health impacts. OAG’s assessment of that penalty amount takes into consideration Verizon’s alleged past violations of the Cooling Tower Laws and recognizes that Verizon has already paid penalties to the City in connection with Notices of Violation issued by the City DOH regarding Verizon cooling towers within New York City. The payment also considers recent improvements made in Verizon’s cooling tower compliance record and Verizon’s cooperation with this investigation.

31. The payment required by ¶ 30 shall be made by wire transfer to OAG within 20 days of the effective date of this Assurance. OAG will provide Verizon with wiring instructions within 5 days of the effective date of this Assurance.

**MISCELLANEOUS**

**Subsequent Proceedings**

32. Verizon expressly agrees and acknowledges that OAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to ¶ 41, and agrees and acknowledges that in such event:

- a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance;
- b. OAG may use statements, documents, or other materials produced or provided by Verizon prior to or after the effective date of this Assurance;
- c. any civil action or proceeding must be adjudicated by the courts of the State of New York, and Verizon irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue;
- d. violation of this Assurance shall be deemed a violation of the State Sanitary Code's cooling tower regulations and subject to penalties as provided therein; and
- e. evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

33. If a court of competent jurisdiction determines that Verizon has violated the Assurance, Verizon shall pay to OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

34. Notwithstanding any other provision of this Assurance, the State reserves the right to institute proceedings against Verizon if, after the effective date of this Assurance, the State discovers material information that was previously unknown to the State which, together with any other relevant information,

demonstrates that Verizon committed violations of the New York Cooling Tower Laws as of September 30, 2019 beyond the violations alleged in Attachments A and B of this Assurance.

**Effects of Assurance**

35. Subject to ¶ 34 above, the relief set forth in ¶¶ 25 to 31 above shall be in full satisfaction of claims that OAG may bring under Executive Law § 63(12) and the New York Cooling Tower Laws for any alleged violation of the Cooling Tower Laws through the date of September 30, 2019.

36. This Assurance is not intended for use by any third party in any other proceeding.

37. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of Verizon. Verizon shall include in any such successor, assignment, or transfer agreement a provision that binds the successor, assignee, or transferee to the terms of the Assurance. Verizon may not assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of OAG. Provided that Verizon has complied with Paragraphs 25 through 31 of this Assurance, it shall terminate on February 1, 2025.

38. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

39. Any failure by OAG to insist upon the strict performance by Verizon of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and OAG, notwithstanding that failure, shall have the right

thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by Verizon.

### **Communications**

40. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 22-001, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail addressed as follows:

- If to Verizon, to: Health and Safety Officer, Verizon New York Inc. at One Verizon Way, Basking Ridge, NJ 07920, or in his/her absence, to the person holding the title of VP, Global Real Estate, One Verizon Way, Basking Ridge, NJ 07920; with a copy to Whiteman Osterman & Hanna LLP, One Commerce Plaza, Albany, New York 12260 Attn: Philip H. Gitlen.
- If to OAG, to: Channing Wistar-Jones at 28 Liberty Street, 19th Floor, New York NY 10005 or channing.jones@ag.ny.gov, or in his absence, to the person holding the title of Bureau Chief, Environmental Protection Bureau.

### **Representations and Warranties**

41. OAG has agreed to the terms of this Assurance based on, among other things, the representations made to OAG by Verizon and its agents and counsel, and OAG's own factual investigation set forth above. Verizon represents and warrants that neither it nor its agents or counsel have made any material

representations to OAG that are inaccurate or misleading. If any material representations by Verizon or its agents or counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

42. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by Verizon in agreeing to this Assurance.

43. Verizon represents and warrants, through its signature below, that the terms and conditions of this Assurance are duly approved.

44. Verizon further represents and warrants that Pam Cox, as the signatory to this AOD, is a duly authorized to sign this Assurance on behalf of Verizon.

### **General Principles**

45. Unless a term limit for compliance is otherwise specified within this Assurance, Verizon's obligations under this Assurance are enduring. Nothing in this Agreement shall relieve Verizon of other obligations imposed by any applicable state, local, or federal law or regulation or other applicable law.

46. Nothing contained herein shall be construed to limit the remedies available to OAG in the event that Verizon violates the Assurance or the New York Cooling Tower Laws after the effective date of the Assurance.

47. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.

48. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be

invalid, illegal, or unenforceable in any respect, in the sole discretion of OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

49. Verizon acknowledges that it has entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

50. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

51. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

52. This Assurance may be executed in multiple counterparts by the Parties hereto. All counterparts so executed shall constitute one agreement binding upon both Parties, notwithstanding that both Parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Assurance, all of which shall constitute one agreement to be valid as of the effective date of this Assurance. For purposes of this Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned, and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Assurance and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

53. The effective date of this Assurance shall be the date as of which it has been executed by both Parties.

LETITIA JAMES  
Attorney General of the State of New York

Dated: May 31, 2022

By:   
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Channing Wistar-Jones  
Assistant Attorney General  
Environmental Protection Bureau  
28 Liberty Street, 19th Floor  
New York, NY 10005



## Attachment A

For Verizon cooling tower locations within New York City, Department of Health and Mental Hygiene records show the following violations of Title 24, Chapter 8 of the Rules of the City of New York (RCNY) Chapter 8 and related provisions of City law from 2017–2019:

- Maintenance program and plan incomplete or missing in violation of 24 RCNY § 8-03:
  - 50 Varick Street, Manhattan (2018 – 2 violations)
  - 117 East 167th Street, Bronx (2018)
  - 118-15 115th Avenue, Queens (2017, 2018)
  - 208 East 79th Street, Manhattan (2017)
  - 212 West 18th Street, Manhattan (2018)
  - 228 East 56th Street, Manhattan (2017)
  - 230 West 36th Street, Manhattan (2017 – 2 violations)
  - 370 East 150th Street, Bronx (2017)
  - 3001 Kingsbridge Avenue, Bronx (2017, 2018)
  
- Failure to conduct/document routine monitoring in violation of 24 RCNY § 8-04(a):
  - 50 Varick Street, Manhattan (2018, 2019)
  - 55 Meserole Street, Brooklyn (2018)
  - 118-15 115th Avenue, Queens (2018)
  - 193 Manhattan Avenue, Manhattan (2018)
  - 204 2nd Avenue, Manhattan (2018)
  - 212 West 18th Street, Manhattan (2018)
  - 228 East 56th Street, Manhattan (2017, 2018)
  - 230 West 36th Street, Manhattan (2017, 2019 – 2 violations)
  - 370 East 150th Street, Bronx (2017)
  - 1106 Hoe Avenue, Bronx (2019)
  - 1775 Grand Concourse, Bronx (2018)
  - 2411 Tratman Avenue, Bronx (2019)
  - 3001 Kingsbridge Avenue, Bronx (2017)
  
- Failure to perform/document compliance inspections every ninety days in violation of 24 RCNY § 8-04(b):
  - 50 Varick Street, Manhattan (2018)
  - 228 East 56th Street, Manhattan (2017)
  - 230 West 36th Street, Manhattan (2019 – 2 violations)
  - 1106 Hoe Avenue, Bronx (2019)
  - 2411 Tratman Avenue, Bronx (2019)

- Failure to perform biannual or other required cleaning in violation of 24 RCNY § 8-04(d):
  - 50 Varick Street, Manhattan (2018)
  - 118-15 115th Avenue, Queens (2019)
  - 2411 Tratman Avenue, Bronx (2019)
  
- Failure to maintain required records of chemicals/biocides added in violation of 24 RCNY § 8-05(c)(3):
  - 50 Varick Street, Manhattan (2018)
  - 118-15 115th Avenue, Queens (2017, 2018, 2019)
  - 125 West 73rd Street, Manhattan (2018)
  - 204 2nd Avenue, Manhattan (2018)
  - 208 East 79th Street, Manhattan (2017)
  - 212 West 18th Street, Manhattan (2018)
  - 228 East 56th Street, Manhattan (2017)
  - 230 West 36th Street, Manhattan (2017 – 2 violations, 2019 – 2 violations)
  - 370 East 150th Street, Bronx (2017, 2018)
  - 1106 Hoe Avenue, Bronx (2019)
  - 1775 Grand Concourse, Bronx (2018)
  - 2411 Tratman Avenue, Bronx (2019)
  - 3001 Kingsbridge Avenue, Bronx (2017)
  
- Failure to collect/analyze weekly biological process control indicators in violation of 24 RCNY § 8-05(f)(2):
  - 55 Meserole Street, Brooklyn (2017)
  - 118-15 115th Avenue, Queens (2018)
  - 200 Liberty Street, Manhattan (2017)
  - 204 2nd Avenue, Manhattan (2018)
  - 208 East 79th Street, Manhattan (2017)
  - 212 West 18th Street, Manhattan (2018)
  - 228 East 56th Street, Manhattan (2017)
  - 230 West 36th Street, Manhattan (2017, 2019 – 2 violations)
  - 370 East 150th Street, Bronx (2017)
  - 1106 Hoe Avenue, Bronx (2019)
  - 2411 Tratman Avenue, Bronx (2017, 2019)
  - 3001 Kingsbridge Avenue, Bronx (2017)
  - 3050 Cruger Avenue, Bronx (2017)

- Failure to collect/analyze legionella samples every 90 days (and/or results not recorded/reported to DOHMH when required) in violation of 24 RCNY § 8-05(f)(3):
  - 50 Varick Street, Manhattan (2018 – 2 violations)
  - 55 Meserole Street, Brooklyn (2017)
  - 118-15 115th Avenue, Queens (2017)
  - 125 West 73rd Street, Manhattan (2017)
  - 208 East 79th Street, Manhattan (2017)
  - 212 West 18th Street, Manhattan (2018)
  - 228 East 56th Street, Manhattan (2017)
  - 230 West 36th Street, Manhattan (2017 – 2 violations, 2019)
  - 2411 Tratman Avenue, Bronx (2019)
  
- Failure to monitor and sample from representative locations and times in violation of 24 RCNY § 8-05(f)(4):
  - 55 Meserole Street, Brooklyn (2017)
  - 118-15 115th Avenue, Queens (2017, 2018)
  - 208 East 79th Street, Manhattan (2017)
  - 212 West 18th Street, Manhattan (2018)
  - 228 East 56th Street, Manhattan (2017)
  - 230 West 36th Street, Manhattan (2017)
  - 370 East 150th Street, Bronx (2017)
  - 3001 Kingsbridge Avenue, Bronx (2017)
  - 3050 Cruger Avenue, Bronx (2017)
  
- Failure to take required corrective action in violation of 24 RCNY § 8-05(f)(5):
  - 208 East 79th Street, Manhattan (2017)
  - 230 West 36th Street, Manhattan (2019)
  - 2411 Tratman Avenue, Bronx (2017)
  
- Inadequate or improper start-up procedures in violation of 24 RCNY § 8-06(b):
  - 50 Varick Street, Manhattan (2018)
  - 125 West 73rd Street, Manhattan (2017)
  - 240 East 38th Street, Manhattan (2017)
  - 2411 Tratman Avenue, Bronx (2019)

- Failure to comply with Commissioner's order in violation of New York City Health Code § 3.05:
  - 430 West 51st Street, Manhattan (2017)

## Attachment B

For cooling tower locations within New York State but outside New York City, documents produced by Verizon show the following violations of the New York State Sanitary Code, 10 NYCRR Subpart 4-1, from 2017–2019:

- Failure to perform bacteriological tests every thirty days in violation of 10 NYCRR § 4-1.4(b)(1):
  - Bacteriological sampling information missing for the following locations (17+ violations<sup>1</sup>):
    - 111 Main Street, White Plains
    - 120 Hicksville Road, Massapequa
    - 19 Central Avenue, Tarrytown
    - 199 Fulton Avenue, Hempstead
    - 201 South State Street, Syracuse
    - 239 West Route 59, Spring Valley
    - 3313 Hempstead Turnpike, Levittown
    - 473 North Barry Avenue, Mamaroneck
    - 5 Franklin Avenue, Larchmont
    - 50 Broad Street, Port Chester
    - 545 Sawmill River Road, Elmsford
    - 60 Main Street, Mineola
    - 64 Henry Street, Binghamton
    - 65 Franklin Street, Buffalo (2018)
    - 7 Washington Avenue, Lynbrook
    - 741 Zeckendorf Boulevard, Garden City
    - 999 Nepperhan Avenue, Yonkers
- Failure to perform legionella tests at seasonal start-up or every 90 days in violation of 10 NYCRR § 4-1.4(b)(2):
  - 108 West Gray Street, Elmira: No record of legionella testing in 2019 (1+ violations<sup>2</sup>).
  - 120 Hicksville Road, Massapequa: No record of legionella testing at seasonal start-up in 2019 (1 violation).

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<sup>1</sup> This total attributes one violation to each location with missing biological sampling records. This represents a significant underestimate of actual violations, as each failure to conduct and document bacteriological sampling is a separate violation.

<sup>2</sup> Verizon produced documents responsive to the Office of the Attorney General's subpoena in late 2019 (in relevant part). Where documentation of completing a given regulatory requirement was missing for 2019, we conservatively attributed just one violation (although greater than one violation was possible).

- 199 Fulton Avenue, Hempstead: Gaps in legionella testing between May 22, 2017 and September 19, 2017, and between May 1, 2017 and August 30, 2018 (2 violations).
  - 201 South State Street, Syracuse: No record of legionella testing at seasonal start-up in 2019 (1 violation).
  - 239 West Route 59, Spring Valley: No record of legionella testing in 2017 between May 25 and September 20 (1 violation).
  - 3313 Hempstead Turnpike, Levittown: No record of legionella testing in 2018 before November 6 (2 violations).
  - 473 North Barry Avenue, Mamaroneck: No record of legionella testing at seasonal start-up in 2018 (1 violation).
  - 5 Franklin Avenue, Larchmont: No record of legionella testing at seasonal start-up in 2018 (1 violation).
  - 50 Broad Street, Port Chester: No record of legionella testing in 2018 except June 11, or in 2019 except July 15 (2+ violations).
  - 545 Sawmill River Road, Elmsford: No record of legionella testing at seasonal start-up in 2018 or 2019 (2 violations).
  - 60 Main Street, Mineola: No record of legionella testing in 2017 after May 22, or in 2018 between May 15 and August 29 (2 violations).
  - 6360 Thompson Road, Syracuse: No record of legionella testing in 2019 (1+ violations).
  - 64 Henry Street, Binghamton: No record of legionella testing in 2019 (1+ violations).
  - 65 Franklin Street, Buffalo: No record of legionella testing in 2018 (2+ violations).
- Failure to perform required corrective action in violation of 10 NYCRR §4-1.4(b)(4):
    - 168 Stone Street, Watertown: Missing documentation of proper corrective action for bacteriological result from April 25, 2017 (1 violation).
    - 201 South State Street, Syracuse: Missing documentation of proper corrective action for legionella results from July 20, 2017 and August 15, 2017, and for bacteriological results from April 24, 2017, June 12, 2017, and April 19, 2019 (5 violations).
    - 473 North Barry Avenue, Mamaroneck: Missing documentation of proper corrective action for legionella result from July 15, 2019 (1 violation).
    - 5 Franklin Avenue, Larchmont: Missing documentation of proper corrective action for legionella result from July 15, 2019 (1 violation).

- 6360 Thompson Road, Syracuse: Missing documentation of proper corrective action for legionella results from June 8, 2017 and July 19, 2017 (2 violations).
  - 64 Henry Street, Binghamton: Missing documentation of proper corrective action for legionella results from July 20, 2017, August 18, 2017, and July 17, 2018 (3 violations).
  - 94 4th Street, Troy: Missing documentation of proper corrective action for bacteriological result from June 9, 2017 (1 violation).
- Failure to perform pre-season cleaning or disinfection in violation of 10 NYCRR § 4-1.4(b)(8):
    - 111 Main Street, White Plains: No record of 2019 pre-season disinfection (1 violation).
    - 158 State Street, Albany: No record of 2019 pre-season cleaning or disinfection (2 violations).
    - 2000 Corporate Drive, Orangeburg: No record of 2017–2018 pre-season disinfections (2 violations).
    - 201 South State Street, Syracuse: No record of 2019 pre-season cleaning or disinfection (2 violations).
    - 239 West Route 59, Spring Valley: No record of 2017 pre-season disinfection or 2017–2018 pre-season cleaning (3 violations).
    - 2743 Main Street, Buffalo: No record of 2019 pre-season cleaning or disinfection (2 violations).
    - 50 Broad Street, Port Chester: No record of 2019 pre-season cleaning or disinfection (2 violations).
    - 545 Sawmill River Road, Elmsford: No record of 2019 pre-season cleaning or disinfection (2 violations).
    - 65 Franklin Street, Buffalo: No record of 2018 pre-season cleaning or disinfection (2 violations).
    - 7 Washington Avenue, Lynbrook: No record of 2019 pre-season cleaning or disinfection (2 violations).
    - 741 Zeckendorf Boulevard, Garden City: No record of 2017–2019 pre-season cleanings or disinfections (6 violations).
    - 999 Nepperhan Avenue, Yonkers: No record of 2018 pre-season cleaning or disinfection (2 violations).
- Failure to perform inspections before seasonal start-up or every ninety days in violation of 10 NYCRR § 4-1.8(a):
    - 120 Hicksville Road, Massapequa: No record of inspections in 2019 (1+ violations).
    - 131 North Washington Street, Rome: No record of inspections in 2018–2019 (3+ violations).

- 158 State Street, Albany: No record of inspections in 2017 except June 1 (2+ violations).
- 168 Stone Street, Watertown: No record of inspections in 2018–2019 (3+ violations).
- 199 Fulton Avenue, Hempstead: No record of inspections in 2019 (1+ violations).
- 2000 Corporate Drive, Orangeburg: No record of inspections in 2018 except December 4, 2018, or in 2019 between February 11 and July 8 (3+ violations).
- 201 South State Street, Syracuse: No record of inspection in 2018 between May 16 and October 10, or of inspections in 2019 (2+ violations).
- 239 West Route 59, Spring Valley: No record of inspections in 2018 (2+ violations).
- 280 Genesee Street, Utica: No record of inspections in 2017–2019 except July 6, 2018 (4+ violations).
- 3313 Hempstead Turnpike, Levittown: No record of inspections in 2019 (1+ violations).
- 449 Broadway, Kingston: No record of inspection in 2017 after June 1 (1 violation).
- 473 North Barry Avenue, Mamaroneck: No record of inspection in 2018 before September 6 (2+ violations).
- 5 Franklin Avenue, Larchmont: No record of inspection before seasonal start-up in 2018 (1 violation).
- 50 Broad Street, Port Chester: No record of inspection before seasonal start-up in 2018, or at all in 2019 (2+ violations).
- 60 Main Street, Mineola: No record of inspections in 2019 (1+ violations).
- 6360 Thompson Road, Syracuse: No record of inspections in 2018–2019 (3+ violations).
- 64 Henry Street, Binghamton: No record of inspections in 2018 except May 11, or at all in 2019 (2+ violations).
- 65 Franklin Street, Buffalo: No record of inspections in 2018 (2+ violations).
- 7 Washington Avenue, Lynbrook: No record of inspections in 2019 (1+ violations).
- 741 Zeckendorf Boulevard, Garden City: No record of inspections in 2018 after April 10, or in 2019 (2+ violations).