

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of )  
 )  
Cost-Based Terminating Compensation ) CC Docket Nos. 95-185 and 96-98  
For CMRS Providers ) WT Docket No. 97-207

**REPLY OF VERIZON**<sup>1</sup>

Contrary to the claims of Sprint Spectrum and Mid-Missouri Cellular, SBC got it right and its Application for Review should be granted. The Joint Letter is not consistent in all respects with prior Commission orders and should be modified.

For example, in opposing SBC, Sprint Spectrum and Mid-Missouri Cellular fail even to address the policy points that SBC makes, where SBC demonstrates that certain provisions of the Joint Letter would result in asymmetric and discriminatory regulation of wireless and wireline carriers. They do not attempt to refute SBC's showing that if a CMRS provider may show additional traffic-sensitive costs to support a higher compensation level, a wireline carrier must have the same right, and that the Commission has previously denied wireline carriers that right. Otherwise, the Commission's policy "would not only be arbitrary, but grossly discriminatory and contrary to public policy." SBC at 5. Instead of providing legal or policy arguments to refute SBC's showing, Sprint Spectrum simply quotes back *dicta* from an earlier Notice of Proposed

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<sup>1</sup> The Verizon telephone companies ("Verizon") are the local exchange carriers affiliated with Verizon Communications Inc. identified in the attached list.

Rulemaking as if it were a final Commission order, which, as a rulemaking *proposal* it clearly is not, without addressing the policy or legal ramifications. *See* Sprint Spectrum at 3.<sup>2</sup>

The same is true with regard to SBC's functional equivalence analysis. SBC showed in detail that the facilities which Sprint Spectrum claims should enable it to increase its reciprocal compensation rate are not functionally equivalent to wireline facilities on which compensation rates are based, and therefore, CMRS providers are not entitled to increase their reciprocal compensation levels to recover their costs. *See* SBC at 6-10. Again, Sprint Spectrum quotes dicta in the same proposal as if it were a Commission finding to support its claim that "functional equivalence" relates to geography, not technical function, and does not even attempt to show any error in SBC's detailed showing of why the facilities are not functionally equivalent. *See* Sprint Spectrum at 3-4. The reason Sprint Spectrum does not address the merits of SBC's Application is clear – in both cases, SBC has shown that, as a matter of law as well as policy, the Joint Letter should be reviewed and modified by the Commission to be consistent with its prior orders.

The parties also assert that the Joint Letter is procedurally proper, even though it failed to address nearly all of the comments filed. They claim that the comments SBC cites in its Application for Review were not relevant to the legal issues addressed in the letter. *See id.* at 4-5, Mid-Missouri Cellular at 7-8. However, as SBC summarized, those comments addressed both the legal issues that SBC is asking the Commission to review, as well as policy considerations the Commission would need to consider in setting policy. *See* SBC at 10-11, which summarizes those arguments. As Qwest points out in its comments supporting SBC, the failure of the Joint

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<sup>2</sup> The language Sprint Spectrum quotes is dicta, because it is not integral to the rulemaking proposal. *See Developing a Unified Inter-carrier Compensation Regime, Notice of Proposed Rulemaking*, CC Docket No. 01-92, FCC 01-132, & 104 (rel. Apr. 27, 2001).

Letter to address those comments makes the letter, at best, a “non-binding pronouncement,”  
Qwest at 3, which is “not binding on any party or state commission.” *Id.* at 4.

Accordingly, the Commission should grant SBC’s Application for Review and ensure  
that CMRS providers are subject to the same rules regarding reciprocal compensation as are  
wireline carriers.

Respectfully submitted,

/S/

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## THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States  
GTE Midwest Incorporated d/b/a Verizon Midwest  
GTE Southwest Incorporated d/b/a Verizon Southwest  
The Micronesian Telecommunications Corporation  
Verizon California Inc.  
Verizon Delaware Inc.  
Verizon Florida Inc.  
Verizon Hawaii Inc.  
Verizon Maryland Inc.  
Verizon New England Inc.  
Verizon New Jersey Inc.  
Verizon New York Inc.  
Verizon North Inc.  
Verizon Northwest Inc.  
Verizon Pennsylvania Inc.  
Verizon South Inc.  
Verizon Virginia Inc.  
Verizon Washington, DC Inc.  
Verizon West Coast Inc.  
Verizon West Virginia Inc.