

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
1998 Biennial Regulatory Review – Streamlined)	CC Docket No. 98-171
Contributor Reporting Requirements Associated)	
with Administration of Telecommunications Relay)	
Service, North American Numbering Plan, Local)	
Number Portability, and Universal Service Support)	
Mechanisms)	
)	
Telecommunications Services for Individuals with)	CC Docket No. 90-571
Hearing and Speech Disabilities, and the Americans)	
with Disabilities Act of 1990)	
)	
Administration of the North American Numbering)	CC Docket No. 92-237
Plan and North American Numbering Plan Cost)	NSD File No. L-00-72
Recovery Contribution Factor and Fund Size)	
)	
Number Resource Optimization)	CC Docket No. 99-200
)	
Telephone Number Portability)	CC Docket No. 95-116

REPLY COMMENTS OF VERIZON¹

If there is any doubt in the Commission's mind that a per-line assessment for universal service is unlawful, it need only examine the proposals of the long distance carriers. They would shift most, if not all, of the burden of contributing to the universal service fund from the interexchange carriers, who primarily provide interstate services, to the local exchange carriers, who primarily provide intrastate services. This would be directly contrary to section 254(d) of the

¹ The Verizon telephone companies ("Verizon") are the affiliated local telephone companies of Verizon Communications Corp. These companies are listed in Attachment A.

Act and the Fifth Circuit Court of Appeals' decision prohibiting assessments on intrastate services. In addition, as recognized by the Universal Service Administrative Company ("USAC"), it would make the universal service collection process administratively more difficult, not less. The Commission should reject this concept and continue to assess contributions based on a carrier's interstate and international revenues to ensure that "[e]very telecommunications carrier that provides interstate telecommunications services" contributes on an equitable and nondiscriminatory basis to the Commission's universal service fund. 47 U.S.C. §254(d).

The long distance carriers propose various methods for applying per-line assessments, but they all share the same objective – to make the local exchange carriers the primary contributors to the fund and to leave the long distance carriers with little or no obligation. *See* AT&T at 11-16; Sprint at 8-16; WorldCom at 22-25. Sprint's is the most open in its intent. It proposes that the local exchange carrier collect a per-line charge from the end user on "behalf" of both itself and the end user's presubscribed interexchange carrier. *See* Sprint at 14-16. Although the amount of total funding collected from wireline carriers would be based on factors representing the interstate revenues of local exchange carriers and interexchange carriers, contributions would be assessed solely on the local exchange carriers, and fixed individual customer assessments would be applied to each local line, with no regard to the amount of interstate services purchased. Sprint argues that this would comply with section 254(d), because "[t]he Commission has effectively interpreted §254(d) to require the *customers* of all providers to make an equitable and nondiscriminatory contribution to the fund." Sprint at 14.

The Commission did no such thing. Section 254(d) requires that all *carriers* who provide interstate telecommunications services contribute to the fund, and that is exactly what the current funding mechanism does. Requiring only the local exchange carriers to contribute clearly violates

section 254(d) and no characterization of them as billing agents for the long distance carriers can hide that fact. Nor would the courts fail to grasp that the intent and the effect of a per-line assessment is to bring intrastate services into the interstate fund, which the Commission cannot do. *See Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999). The per-line assessment would be measured solely on the number of *intrastate* lines that a customer purchases, not on the amount of interstate services provided over those lines.

AT&T's proposal is unclear about whether the local exchange carrier or the presubscribed interexchange carrier will apply the per-line assessment, but it shares the same drawbacks as every other per-line plan. In the first "phase" of AT&T's plan, only residential, wireless, and switched voice business lines would pay a per-line assessment, with multi-line business customers paying a higher rate than residential lines. *See* AT&T at 14-16. Since the per-line rate would apply regardless of the amount (if any) of interstate services that are purchased over a line, it would be directly related to the customer's purchase of a local exchange service, in direct contravention of section 254(d). AT&T alludes (at 15) to the creation of "some sort of capacity charge" for broadband facilities in the "longer term," but such a charge again would have no relation to the amount of interstate services (if any) that a carrier provided over such facilities. As such, the per-line charges are fundamentally an assessment on the provision of a local service, i.e., the connection to the end user's premises.

WorldCom takes a shot at developing equivalency ratios to apply per-line charges to broadband services. *See* WorldCom at 23-24. For instance, a service using a 1.544 mbps facility, such as a PRI ISDN line or a DS-1 special access line, would pay 5 times the per-line charge for residential line, and a service using a 45 mbps facility, such as a DS-3 special access line, would pay 40 times the residential charge. However, this merely confirms the Commission's observation,

in previously rejecting the per-line approach, that such ratios are inherently arbitrary and not competitively neutral. *See Federal-State Joint Board on Universal Service, First Report and Order*, 12 FCC Rcd 8776 (1997), ¶ 852. As WorldCom notes, these ratios have no relationship to the amount of voice grade circuits that can be provided on a broadband service, thereby placing an unequal burden on services that compete with one another. For instance, a DS-1 special access line can handle 24 voice grade equivalents, and can be used by an interexchange carrier to provide a direct connection to long distance services that bypass the local exchange carrier's voice grade business lines. An interexchange carrier using such a line would have a cost advantage in competing with the local exchange carrier by paying approximately one fifth the universal service assessment on 24 of the local carrier's business lines. Even if such ratios were based on the ratios of the prices for DS-1 and DS-3 services compared to voice grade services, they would treat a local exchange service, which is predominantly intrastate, the same as a DS-1 service used predominantly or entirely for interstate services. This would violate the section 254(d) requirement for an "equitable and nondiscriminatory" assessment on the provision of *interstate* telecommunications services.

The proponents of per-line assessments argue that the contributions to the fund should be flat-rated because the benefits of the universal service fund apply equally to all customers and because the costs of universal service are nontraffic sensitive. *See, e.g.*, Sprint at 7; Ad Hoc at 7, 28-29. They cite the example of the carrier common line charge, which the Commission phased out because it recovered nontraffic sensitive costs through a traffic sensitive rate, causing high volume users to subsidize low volume users. This misses the entire point of the universal service fund. The purpose of the fund is to create a subsidy for universal service, but one that is explicit and equitable. By requiring only providers of interstate telecommunications carriers to contribute

to the fund, Congress unmistakably intended for interstate services to subsidize local exchange services in high cost areas and services to schools, libraries, health care providers, and low-income customers. The fact that the proponents of per-line charges make such arguments merely highlights their disagreement with the choice that Congress made, but which the Commission cannot ignore.

As pointed out by the commenters who oppose per-line assessments, that method has the perverse effect of requiring low volume customers, who tend to be low income as well, to subsidize high volume customers, since both groups would be assessed the same universal service contribution regardless of how much, if any, interstate services they purchased. *See, e.g.*, Texas Office of Public Utility Counsel, Consumer Federation of America, Consumers Union at 8-10; IDT Corporation at 4-5. For this and other reasons, a broad spectrum of state commissions, consumer groups, carriers, and trade associations opposes adoption of per-line assessments. *See, e.g.*, NTCA at 2-3; Iowa Utilities Board at 2; Home Telephone, Inc. at 5; Excel Communications at 4; ASCENT at 5; American Public Communications Council at 3; OPASTCO at 5; Rural Cellular Association at 6; USTA at 5; NECA at 5-6. This is in stark contrast to the narrow group of carriers that are promoting per-line assessments purely out of self interest, regardless of the negative impact on end users in general or low-income customers in particular.

The interexchange carriers argue that a per-line assessment would be easier to administer, but this is contradicted by USAC, which would have to develop new billing and collection systems and implement new audit systems to change from the current revenue-based assessment to an entirely new per-line assessment. *See* USAC at 16-17; *see also* EPIK at 3. USAC points out that per-line assessments would raise questions about which types of carriers are responsible for contributions and for which lines. In addition, carriers without “lines” in the traditional sense

may need to be identified, and shifts in lines from one carrier to another would likely require some type of pro-rata allocation. Verification of line counts by USAC would be difficult, and carriers would have an incentive to manipulate the manner in which they classify themselves in order to obtain the most preferential universal service assessments. As a result, USAC foresees no reduction in administrative costs from a per-line assessment.

In fact, per-line assessments would not be so simple as the interexchange carriers suggest. Unless the assessments were limited to a subset of the industry, as some interexchange carriers have suggested, there would be no simple way of counting every “line” provided by every type of carrier. For example, DSL carriers can provide a combination of business lines and data lines on a single loop. Would such services be counted as one “line” or several lines? When competitive local exchange carriers purchase unbundled network elements, would a DS-1 loop be counted as one “line,” or would it depend on the type of services that are provided, and whether they go through a circuit switch, a packet switch, or a dedicated network? If the Commission limited the assessment only to local exchange carriers providing traditional switched telephone service, as suggested by some of the carriers, it would simplify the administrative process but violate the section 254(d) requirement that the assessment be applied on an equitable and nondiscriminatory basis. It would also inflate the per-line fee and unfairly burden a limited segment of end user customers. Aside from the clear violation of the statutory mandate, it would be bad policy to shrink the assessment base in this manner.

Conclusion

For all of these reasons, the Commission should reject the self-serving requests of the interexchange carriers for a per-line assessment.

Respectfully submitted,

By: _____

Joseph DiBella

1320 North Court House Road, Eighth Floor

Arlington, VA 22201

(703) 974-6350

joseph.dibella@verizon.com

Attorney for the Verizon

telephone companies

Of Counsel
Michael E. Glover
Edward Shakin

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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.

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of July, 2001, copies of the foregoing “Reply Comments of Verizon” were filed electronically using the Commission’s Electronic Comment Filing System (“ECFS”).

Eric Fitzgerald Reed