Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of Federal-State Joint Board on Universal Service	CC Docket No. 96-45

COMMENTS OF VERIZON[1]

The Commission struck the right balance in its initial order defining the "core" services that are eligible for universal service support. This definition has met the goals of the Telecommunications Act of 1996 by making quality basic telephone service affordable in all areas of the country. Adding new services would undermine these efforts by increasing the size of the fund assessments, making telephone service less affordable for all customers. While there is an important public interest in promoting advanced services, this should be done through removal of regulatory roadblocks and measures that would encourage investment, rather than through subsidies that would raise telephone rates.

In the *First Report and Order*,[2] the Commission defined the following services as being eligible for universal service support; (1) voice grade access to the public switched network; (2) dual tone multifrequency signaling or its functional equivalent; (3) single party service; (4)

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

[2] *Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776 (1997) ("*First Report and Order*").

access to emergency services; (5) access to operator services; (6) access to interexchange services; (7) access to directory assistance; and (8) toll limitation services for qualifying low-income consumers. ***See*** id., ¶ 22. While the Commission is required to reexamine the definition of universal service on a periodic basis (***see*** 47 U.S.C. § 254(c)(1)), it should not add or remove a service from the definition unless it is necessary to meet the statutory criteria, *i.e.*, whether the service is (1) essential to education, public health, or public safety; (2) subscribed to voluntarily by a majority of residential customers; (3) deployed in public telecommunications carriers' networks; and (4) consistent with the public interest. ***See*** id. Although a service need not necessarily meet all four tests for inclusion in the list of core services, the Joint Board and the Commission must consider all four. If a service does not meet all of the criteria, the evaluation must show why the public interest to include the service is so overwhelming that not all of the criteria need to be met.

The current list of core services satisfies the statutory criteria and it should not be modified. The definition provides a basket of services that are affordable and that are subscribed to by a substantial majority of customers. Telephone service continues to be affordable, with an average monthly residential rate of $20.78. ***See*** Statistics of Common Carriers 2000/2001 Edition, Table 5.6 – Average Residential Rates for local service in urban areas (rel. Oct. 15, 2000). Telephone service expenditures are about 2.3 percent of household expenditures, a figure that has remained stable for the last four years. ***See*** Trends in Telephone Service, Table 3.1 (rel. Aug. 2001). Latest telephone penetration rates have achieved 94.1 percent, or 100.2 million households. ***See*** id., Table 17.1. These data show that the definition has promoted universal service by supporting a funding mechanism that has made telephone service widely available at affordable rates.

The Commission correctly found in the *First Report and Order* that the universal service programs should not be predicated on an overly expansive definition of universal service, which could adversely affect the interests of all consumers by increasing the expense of universal service and, in turn, the cost of basic service for all subscribers. ***See*** *First Report and Order*, ¶ 64. The current universal service programs support a fund of roughly $5.4 billion and an assessment of 6.9 percent on interstate end user revenues. ***See*** Public Notice, Proposed Fourth Quarter 2001 Universal Service Contribution Factor, DA 01-2083 (rel. Sep. 12, 2001) (data were annualized). The Cambridge Strategic Management Group has estimated that the fund will grow to approximately $6.6 billion over the next five years, resulting in an assessment factor of about 7.8 percent. ***See*** CC Docket No. 96-45, Letter to Magalie R. Salas, Secretary, FCC, from W. Scott Randolph (filed Oct. 26, 2001). Given the magnitude of the assessment and the uncertainty as to how the size of the fund will be affected by the remand of the universal service and CALLS orders, the Commission should not adopt an expanded definition of universal service that would put new pressure on the funding mechanism. ***See*** *Texas Office of Public Utility Counsel v. FCC*, 2001 U.S. App. LEXIS 19974 (5th Cir., rel. Sep. 10, 2001) (remanding the creation of a $650 million universal service fund to replace the implicit subsidies in access charges of non-rural carriers); *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001) (remanding the use of a 135 percent benchmark for funding for non-rural carriers).

The Public Notice asks for comments on four possible areas for expansion of the universal service definition; (1) a network transmission component beyond the existing definition of voice grade service; (2) advanced or high-speed services; (3) "soft dial tone" or "warm line" services; and (4) intrastate or interstate toll services, expanded area service, or prepaid calling plans. None of these should be added to the list of core service.

The first two proposals are aimed at expanding the availability of advanced services, which the Chairman has characterized as "the central communications policy objective today." Chairman Michael K. Powell, Press Conference (Oct. 23, 2001). However, pursuing it through subsidies that would burden all telephone users is the wrong approach. This assumes a monopoly environment where the government must intervene to remedy a failure of the market to meet consumer needs. There is no monopoly and no market failure in the advanced services market. Cable companies provide twice as much broadband service to the home as telephone companies, and satellite-based companies have now introduced two-way broadband services that are available nationwide and that no longer use the telephone network for the return path. The Cable Services Bureau has observed that there are a number of existing and potential competitors in this market, including cable, telephone, wireless, and satellite companies, and that competition among them will give "consumers . . . a wide selection of broadband features, capabilities, and pricing from which to choose."[3] The Chairman has recognized that the way to encourage deployment of broadband services is to "limit regulatory costs and uncertainty" and that "broadband should exist in a minimally regulated space." Remarks of Chairman Michael K. Powell at the National Summit on Broadband Deployment, Washington, DC (Oct. 25, 2001). As Professor Alfred Kahn has pointed out, asymmetrical regulatory constraints such as regulating telephone company-provided broadband service while like services of other providers such as cable companies are completely unregulated "would fatally attenuate the incentives of incumbents to develop new and innovative services." Alfred E. Kahn, *Letting Go: Deregulating the Process of Deregulation* at 58 (1998). Deregulation of advanced services offered by

[3] Deborah A. Lathen, *Broadband Today: A Staff Report to William E. Kennard on Industry Monitoring Sessions Convened by the Cable Services Bureau*, Report No. CS99-14 at 47 (Oct. 1999).

telephone companies, not new subsidy programs, is the best way to encourage the carriers to invest in technologies that will make advanced services available to customers throughout the country.

Voice Grade Access. In its *Fourth Order on Reconsideration*, the Commission defined "voice grade access" to include a minimum bandwidth of 300 Hertz to 3,000 Hertz. ***See*** Federal-State Joint Board on Universal Service, 13 FCC Rcd 5318, ¶ 16 (1997). The Commission found that this was consistent with industry standards and that a broader bandwidth requirement could make a significant number of otherwise eligible carriers unable to qualify for universal service support. Broadening the frequency range would do nothing to increase the quality of voice grade service, and the costs of upgrading the nationwide network to achieve a greater frequency range would far exceed the alleged benefit in terms of faster analog modem speeds. An increase in the bandwidth standard would require removal of loading coils and other equipment and upgrades to outside plant, such as the use of digital loop carrier. These costs would fall heavily on local exchange carriers that provide service in rural areas, where they have employed loading coils and other equipment that improve the delivery of voice grade service over long loop lengths, but that may reduce the speed at which data can be transmitted. The costs of these modifications would ultimately flow through to telephone customers, either in the cost of basic service or in the recovery of universal service fund assessments, making telephone service less affordable.

As the Public Notice notes (at 3), an increase in the bandwidth standard would be designed to increase access to the Internet rather than to improve the quality of voice grade telephone service. However, a wider bandwidth standard would require substantial nationwide investment to achieve only a modest increase in modem speeds. Dial-up access to the Internet is a low-cost alternative for customers that do not need, or do not want to pay for, high-speed

access through DSL, cable modem, satellite, or other service alternatives. The Commission should not impose costs on the network that would make basic telephone service as well as dial-up access to the Internet more costly and less accessible to low income customers and to customers in high cost areas.

Advanced or High-Speed Services. The Commission should not add advanced or high-speed services to the definition of universal service. These services are not "essential to the education, public health, or public safety." 47 U.S.C. § 254(c)(1)(A). While the number of customers subscribing to advanced and high speed services such as DSL is still growing, it is far from meeting the statutory criterion of being "subscribed to by a substantial majority of residential customers." 47 U.S.C. § 254(c)(1)(B). Currently, 1.8 million residential and small business customers subscribe to DSL services out of approximately 114 million total residential access lines and over 44 million single-line business access lines, a penetration rate of about 1 percent. ***See*** FCC Report, *High Speed Service for Internet Access* (rel. Aug. 2001); Statistics of Communications Common Carriers, Tables 2.4, 4.10 (rel. Sep. 2001). Moreover, the cost of upgrading the telephone network to provide advanced and high-speed access services would more than triple the size of the universal service fund. The National Exchange Carrier Association estimates that the 65 percent of rural lines will be capable of providing advanced services by 2002, but that the cost of upgrading the remaining 3.3 million rural lines would be almost $10.9 billion. ***See*** NECA Comments, CC Docket No. 98-146 (filed Sep. 24, 2001). Passing along these costs to subscribers in the form of a much larger universal service fund assessment would make telephone service less affordable and jeopardize the Act's universal service goals.

Moreover, there are competitive alternatives for broadband services. In addition to deployment of advanced services by rural telephone carriers, cable companies will offer broadband services to 90 percent of their potential subscriber base by year-end 2000. ***See*** CC Docket No. 98-146, Comments of NCTA at 8. More than half of the Zip codes in the United States today are served by two or more broadband service providers. ***See*** 2001 Broadband Report at Table 8. In sparsely-populated areas, wireless technologies (satellite and fixed) rather than wireline facilities may be the most cost-effective way of delivering broadband services to individual homes. Indeed, the nationwide availability of two-way satellite services provides a meaningful alternative to customers in rural areas that no longer relies on the telephone network for a portion of the service. Deregulation of all competing technologies is the best way to encourage carriers to make investments that will deliver broadband services to customers in rural and high cost areas.

Soft Dial Tone or Warm Line. "Soft dial tone" and "warm line" are terms used to describe when a line that has been disconnected is nonetheless capable of being used to contact emergency services (911 or E911) and/or the local telephone company's business office. These are not "telecommunications services" within the meaning of section 254(c)(1), as they are not "the offering of telecommunications for a fee." ***See*** 47 U.S.C. § 153(46). They are capabilities that some carriers leave in place after a line has been disconnected and for which they do not charge. Nor are they "subscribed to" within the meaning of section 254(c)(1)(B). These capabilities are provided on lines to persons who are *not* subscribers to the company's telecommunications service because their service has been disconnected.

Support for these capabilities is not needed, and may be counterproductive, in a competitive market. Customers today have alternatives to the incumbent local exchange

company's services, including competitive local exchange carriers, cable telephony, and wireless services. Treating the incumbent's landline connection as the only source of access to emergency services is a monopoly concept that ignores these alternatives and skews the market. Moreover, a service by which the resident is connected only to the landline carrier's business office to activate the line is not one that should be subsidized in a competitive market. A carrier may have its own reasons for implementing this capability in its network (and many do), but it is not a function that should be required as a condition of eligibility for universal service fund support.

Intrastate or Interstate Toll Services, Expanded Area Service, or Prepaid Calling Cards. These services also should not be added to the list of core services for universal service support. They are highly competitive, with numerous carriers offering toll services, local calling and calling cards in almost every market. Providing support only for carriers designated as "eligible carriers" under section 214 of the Act would tilt the market toward the landline carrier and discourage competition. Moreover, in determining the scope of expanded local calling areas and toll calling areas, the state commissions address various public interest issues, including making local calling areas affordable while promoting competition for measured services. The Commission should allow the state commissions to continue to deal with these issues through the state rate-setting process.

Conclusion

For the foregoing reasons, the Commission should neither add to, nor subtract from, the current list of core services in the definition of universal service.

Respectfully submitted,

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ATTACHMENT A

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.