

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Price Cap Performance Review for Local Exchange Carriers	)	CC Docket No. 94-1
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Low-Volume Long Distance Users	)	CC Docket No. 99-249
	)	
Access Charge Reform	)	CC Docket No. 96-262

**REPLY COMMENTS OF QWEST CORPORATION**

Qwest Corporation (“Qwest”) hereby submits its Reply Comments in response to the Federal Communications Commission’s (“Commission” or “FCC”) *Public Notice* seeking comment on the remand of the \$650 million interstate access support amount established in the *CALLS Order*.<sup>1</sup>

In its initial Comments, Qwest explained how the \$650 million support mechanism is insufficient to replace the support that was implicit in interstate access charges prior to the implementation of the *CALLS Order*, and therefore fails to comply with the requirement that the Commission replace implicit subsidies with universal service support that is “specific,

---

<sup>1</sup> See Common Carrier Bureau Seeks Comment on Remand of \$650 Million Support Amount under Interstate Access Support Mechanism for Price Cap Carriers, Pleading Cycle Established, *Public Notice*, CC Docket Nos. 96-262, 94-1, 99-249, 96-45, DA 01-2817 (Dec. 4, 2001); *Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, CC Docket Nos. 96-262 and 94-1, Sixth Report and Order, *Low-Volume Long-Distance Users*, CC Docket No. 99-249, Report and Order, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Eleventh Report and Order, 15 FCC Rcd 12962 (“*CALLS Order*”), *aff’d in part, rev’d in part, and remanded in part, Texas Office of Public Util. Counsel v. FCC*, 265 F.3d 313 (5<sup>th</sup> Cir. 2001) (“*TOPUC II*”), *pet. for cert.* filed Dec. 10, 2001.

predictable and sufficient.”<sup>2</sup> In addition, Qwest used the Commission’s Synthesis Model to demonstrate that the support mechanism adopted in the *CALLS Order* should be increased to at least \$950 million.

The record evidence compiled on remand is fully consistent with these conclusions. Indeed, supporters of the existing fund size have provided no new evidence to show that this amount is reasonable, and the analysis previously submitted by AT&T is based on arbitrary assumptions that understate the cost of providing service in low-density, high-cost areas. For the reasons discussed below and in Qwest’s initial Comments, the Commission should increase the support mechanism to at least \$950 million.

I. THE CURRENT \$650 MILLION SUPPORT MECHANISM IS NOT SUFFICIENT

Of the parties filing initial comments, only AT&T suggests that the current \$650 million support mechanism is sufficient to replace the implicit universal service support that was present in interstate access charges when the *CALLS Order* was adopted. However, AT&T provides no additional evidence to support this contention, beyond the flawed cost analysis it submitted prior to the *CALLS Order*. AT&T’s claims, moreover, are expressly contradicted by the concessions of two other members of the *CALLS* coalition that the support mechanism does not replace all of the implicit subsidies in interstate access charges.

AT&T again asserts that its cost analysis supports the adoption of the \$650 million fund. While AT&T attempts to justify the use of the Synthesis Model in its analysis, it fails to provide any justification for the *manner* in which it uses the outputs of the model to justify the \$650 million support mechanism. As Qwest discussed in its initial Comments, AT&T’s methodology inappropriately combines high-cost, low-density areas with urban and suburban areas in a way

---

<sup>2</sup> 47 U.S.C. § 254(b)(5).

that dramatically underestimates the amount of universal service support needed in very high-cost, low-density areas.<sup>3</sup> Moreover, as members of the CALLS coalition have acknowledged, the \$650 million amount was the product of bargaining, as opposed to any cost analysis.<sup>4</sup> As a result, the Commission should give no weight to AT&T's cost analysis, which essentially backs into the \$650 million amount through an arbitrary and unprincipled manipulation of the results of the Synthesis Model.

Significantly, none of the other members of the CALLS coalition have supported AT&T's cost analysis. In fact, both Verizon and SBC have acknowledged that the current support mechanism does not fully recover the implicit support present in interstate access charges prior to the *CALLS Order*. Verizon asserts that the \$650 million fund recovers somewhat more than 70 percent of the "gap" between capped subscriber line charges ("SLC") and permitted common line, marketing and transport interconnection charge (collectively "CMT") revenues, which represents the actual implicit support for universal service.<sup>5</sup> Similarly, SBC maintains that "significant implicit subsidies remain in the interstate access charge system even with the \$650 million of support."<sup>6</sup> Section 254 requires that all implicit support in interstate access charges prior to the *CALLS Order* be replaced with support that is sufficient to preserve and advance universal service.<sup>7</sup>

In addition, CenturyTel points out that the insufficiency of the current support mechanism may be exacerbated as carriers make investments in their network infrastructure and

---

<sup>3</sup> Qwest Comments at 5-6.

<sup>4</sup> *See id.* at 4-6.

<sup>5</sup> Verizon Comments at 5.

<sup>6</sup> SBC Comments at 4.

<sup>7</sup> 47 U.S.C. § 254(e)(5).

new price cap carriers become eligible for interstate access universal service support.

CenturyTel asserts that, as long as CALLS support is capped, the Commission cannot ensure that this support is sufficient, as required by Section 254(e) of the Communications Act of 1934, as amended. In particular, the inclusion of new price cap exchanges results in less support for preexisting exchanges.<sup>8</sup> As a result, the current \$650 million cap precludes the Commission from ensuring the existence of sufficient interstate access support. Thus, if the Commission maintains the current methodology for determining interstate access support, it should, at a minimum, remove the cap on that support.

The Commission should also reject suggestions that the current \$650 million mechanism is reasonable merely because it is “interim” or “transitional.” In a recent ex parte filing, which is incorporated in its initial Comments, the CALLS coalition suggested that the Commission’s sizing of the support mechanism at \$650 million “is justified by the interim nature of the proposal,” and by the difficulty of projecting a “sufficient” level of support.<sup>9</sup> These statements apparently refer to the Commission’s commitment to reevaluate the size of the fund at the end of five years.<sup>10</sup> Regardless of whether its five-year term makes the CALLS plan an “interim” plan, the Commission is still required to ensure that the universal service support provided by the plan satisfies the sufficiency requirements of Section 254. Moreover, taken to its logical extent, the CALLS coalition’s reasoning would allow the Commission to avoid compliance with the 1996 Act’s requirements by adopting a series of “interim” regulatory regimes. This clearly is not the result intended by Congress. Now, more than five years since the passage of the 1996 Act, the

---

<sup>8</sup> CenturyTel Comments at 2-7.

<sup>9</sup> Letter from John T. Nakahata, Counsel to the CALLS Coalition, to Magalie Roman Salas (Dec. 19, 2001). *See also* SBC Comments at 2.

<sup>10</sup> *CALLS Order*, 15 FCC Rcd at 13047 ¶ 203.

Commission has direction and guidance from the Fifth Circuit and must ensure that the fund size is sufficient, predictable, and specific as required by Section 254. Moreover, as described below, the difficulty of determining a “sufficient” level of support also provides no basis for failing to comply with the statutory requirements, because the Commission’s own Synthesis Model shows that the support mechanism should be more than \$950 million.

## II. THE COMMISSION SHOULD INCREASE THE SUPPORT MECHANISM TO AT LEAST \$950 MILLION

As Qwest showed in its initial Comments, the Commission’s own Synthesis Model indicates that the support mechanism should be approximately \$978 million, based on the latest publicly-available data. Given the Synthesis Model’s tendency to underestimate the cost of providing service in high-cost areas,<sup>11</sup> Qwest believes that this estimate significantly underestimates the appropriate size of the support mechanism. In light of this conservative estimate, the Commission should increase the fund size to no less than \$950 million in order to ensure the sufficiency of its universal service support.<sup>12</sup>

There is no merit to AT&T’s assertion that by opting into the CALLS plan, Qwest has “effectively abandoned” the cost analysis it submitted prior to the issuance of the *CALLS Order*. *First*, Qwest opted into the CALLS plan to avoid the uncertainty necessitated by further review of a cost study. Qwest was not required to, and did not, waive its contention that the CALLS plan fails to provide sufficient universal service support. *Second*, the Commission has specifically requested comment on the use of the Synthesis Model to identify the appropriate

---

<sup>11</sup> As Qwest noted in its initial Comments (at 7 n.25), Qwest’s use of the Synthesis Model in this proceeding should not be interpreted as suggesting that the Model, in its current form, accurately estimates the costs of providing service in Qwest’s territory. Qwest continues to believe that the Synthesis Model significantly understates such costs.

amount available under the interstate access support mechanism.<sup>13</sup> Qwest's analysis is responsive to that request.

AT&T's other criticisms of Qwest's cost analysis are similarly misplaced. Qwest has modified its cost analysis to address the *CALLS Order's* sole criticism of Qwest's analysis regarding the multi-line business SLC rate; Qwest's current estimate of \$978 million assumes a SLC rate of \$9.20 for multi-line business users. AT&T also erroneously asserts that Qwest "has arbitrarily chosen a small area (*i.e.*, two high-cost/low-density zones) for averaging costs, notwithstanding the fact that the Commission's Synthesis Model is not designed to measure accurately costs in such small areas."<sup>14</sup> AT&T's statement is wrong on two counts. *First*, contrary to AT&T's claims, Qwest's analysis is *not* based on two "arbitrarily chosen" high-cost/low-density zones. Qwest started with the nine density zones defined in the Commission's Synthesis Model, but used only the two lowest-density zones in its analysis, because it believed that the model-computed costs in the other higher-density zones would generally fall below the relevant SLC caps and therefore generate no additional support.<sup>15</sup> *Second*, AT&T mischaracterizes the Commission's analysis in the *Ninth Report and Order*. In that *Order*, the Commission's decision to base universal service high-cost support on statewide average costs, rather than costs averaged over a smaller area, resulted from the Commission's view that it was

---

<sup>12</sup> It should be noted that this amount is close to the \$800 to \$900 million "gap" that Verizon calculated between the SLC caps and CMT revenues at the time the *CALLS* plan was first implemented. *See Verizon Comments* at 6.

<sup>13</sup> *See Common Carrier Bureau Seeks Comment on Remand of \$650 Million Support Amount Under Interstate Access Support Mechanism for Price Cap Carriers, Pleading Cycle Established, Public Notice*, CC Docket Nos. 96-262, 94-1, 99-249, 96-45, DA 01-2817, at 2 (Dec. 4, 2001).

<sup>14</sup> AT&T Comments at 7-8 (citing *Federal-State Joint Board on Universal Service, Ninth Report and Order and Eighteenth Order on Reconsideration*, 14 FCC Rcd 20432, 20456-62 ¶¶ 43-52 (1999) ("*Ninth Report and Order*"), *reversed and remanded in part, Qwest Corp. v. FCC*, 258 F.3d 1191 (10<sup>th</sup> Cir. 2001) ("*Qwest Corp.*").

responsible only for ensuring reasonable comparability of rates among states,<sup>16</sup> and not from a determination that the Model could not accurately estimate density zone costs. Moreover, the Commission apparently believes that the Synthesis Model is sufficiently accurate at least at the wire center level, since it uses the Model's estimates of wire center costs to target support to high-cost wire centers.<sup>17</sup> In sum, AT&T fails to call into question the reasonableness of Qwest's analysis.

### III. CONCLUSION

For the reasons discussed above and in Qwest's initial Comments, the current \$650 million is insufficient and fails to comply with the requirements of Section 254 of the 1996 Act. Based on the record evidence, the Commission should increase the size of the support mechanism adopted in the *CALLS Order* to at least \$950 million.

Respectfully submitted,

QWEST CORPORATION

By: Craig J. Brown  
Sharon J. Devine  
Craig J. Brown  
Suite 700  
1020 19th Street, N.W.  
Washington, DC 20036  
(303) 672-2799

February 4, 2002

Its Attorneys

---

<sup>15</sup> Qwest Comments at 7-8 and n.26.

<sup>16</sup> This conclusion that has since been reversed and remanded by the Tenth Circuit. *See Qwest Corp.*, 258 F.3d at 1204.

<sup>17</sup> *Ninth Report and Order*, 14 FCC Rcd at 20471 ¶ 70. The Commission also established a procedure for waiver of the Commission's rules in order to target federal support to geographic areas either larger or smaller than a wire center. *Id.* at 20473 ¶ 76.

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **REPLY COMMENTS OF QWEST CORPORATION** to be filed with the FCC via its Electronic Comment Filing System, and a copy of the **REPLY COMMENTS** to be served, via email, on all parties listed below.

Richard Grozier  
Richard Grozier

February 4, 2002

AT&T Corp.

Judy Sello

jsello@lga.att.com

CenturyTel, Inc.

John F. Jones

john.jones@centurytel.com

Harris, Wiltshire & Grannis LLP (CALLS)

John T. Nakahata

jnakahata@harriswiltshire.com

Hogan & Hartson LLP (Competitive Universal Service Corporation)

David L. Sieradzki

dlsieradzki@hhlaw.com

Latham & Watkins (CenturyTel)

Karen Brinkmann

karen.brinkmann@lw.com

SBC Communications Inc.

Jeffrey A. Brueggeman

jbruegg@corp.sbc.com

Sidley Austin Brown & Wood (AT&T Corp.)

David L. Lawson

dlawson@sidley.com

Christopher T. Shenk

cshenk@sidley.com

Verizon Telephone Companies

Joseph DiBella

joseph.dibella@verizon.com