Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Assessment and Collection	)	MD Docket No. 02-64
Of Regulatory Fees for Fiscal Year 2002	)	

REPLY COMMENTS OF VERIZON[1]

AT&T's comments on the 2002 Regulatory Fees NPRM argue that due to a purported "death spiral" in interstate revenues, the Commission should "conform" the regulatory fees assessment to the per-connection regime AT&T has proposed for universal service contribution. AT&T Comments, 6-7. Because AT&T does not give any details on how its "per-connection" proposal would work in the regulatory fees context, it is unclear if it is proposing that the Commission apply a "per-connection" methodology to all industry segments, or just to those fees charged to the interstate telecommunications service providers. In either case, the proposal suggests a complicated and unnecessary "solution" to a problem that does not exist. Interstate revenues are not used to allocate fees between different industry segments, so any purported "death spiral" in interstate revenues will have no effect on how the fees are divided among those segments. There is also no potential problem using interstate revenues to allocate fees among members of the interstate telecommunications service providers (the industry segment that includes long distance providers and local exchange carriers (LECs)), because any potential decline in interstate revenues will not decrease

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1 The Verizon telephone companies ("Verizon") are the local exchange carriers affiliated with Verizon Communications Inc., and are listed in Attachment A.

the overall funding base. AT&T's per-connection proposal should be rejected out of hand, as it is both misguided and premature.

AT&T's argument appears to be based on a fundamental misunderstanding of the way regulatory fees are assessed. Congress sets an amount that the Commission must collect through regulatory fees – this year, $218,757,000 – in order to recover costs the Commission incurs for the fiscal year. NPRM, ¶ 2. The Commission must then determine how to allocate that total amount between different industry segments (*e.g.*, mass media, cable, wireless, common carrier, etc.). *See* NPRM ¶¶ 4-16 & Attachments B & C. However, the Commission does *not* use interstate revenues to determine what portion of the overall funding requirement will come from each segment. Rather, that determination is based on annual adjustments to a formula the Commission established in 1995. Neither the annual adjustments, nor the original formula, are based on determinations of "interstate revenues."[2] Whether interstate revenues stay the same, rise, or fall, will have no impact on the total amount of fees that will be recovered from "interstate telecommunications service providers" – the segment defined to include long distance providers and local exchange carriers, among others. Thus, moving to a per-

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[2] For the original formula, the Commission determined the number of full-time equivalent employees (FTEs) associated with regulatory activities, and "then determine[d] the amount to be recovered from each fee category by estimating the number of FTEs assigned to each category." *Assessment and Collection of Regulatory Fees for Fiscal Year 1995*, Report and Order, 10 FCC Rcd 13512, ¶¶ 4, 11-12 (1995) ("1995 Order"). The FTE requirement was superseded by using a cost accounting system to identify regulatory costs. *See Assessment and Collection of Regulatory Fees for Fiscal Year 1998*, Report and Order, 13 FCC Rcd 19820, ¶¶ 8-14 (1998). "Mandatory Amendments" are made each year to readjust the amounts, on a pro-rata basis between different fee categories, based on new fiscal year totals. *See* NPRM, ¶¶ 5, 10. The Commission also can make "Permitted Amendments," if it determines appropriate, "taking into account factors that are in the public interest, as well as issues that are reasonably related to the payer of the fee." NPRM, ¶ 6.

connection assessment would do nothing to reduce the assessment charged to interstate telecommunications service providers.[3] Indeed, a "per-connection" approach applied to all industry segments would be nonsensical, as many of the services provided by those other segments (such as radio services and mass media services) do not have "connections."

Once it is determined what portion of the overall fund will come from the segment comprised of interstate telecommunications service providers, interstate (and international) end-user revenues *are* used to allocate that fee among different members of the industry segment. *See* NPRM, Attachment F, ¶ 33 & Attachments B & C. However, in that situation too, there is no problem that would result from a purported "death spiral" in interstate revenues. That is because any concerns about declining interstate revenues that the Commission has raised in the universal service context simply are inapplicable here. The only potential problem with declining interstate revenues occurs if there is a "leakage" of services from interstate telecommunications providers to intermodal competition – and thus a shrinking of the revenue base. That concern does not exist in this case, because many of the providers of services that provide intermodal competition (including wireless providers and providers of paging services), are contributing to regulatory fees through different segments, based on calculations that are not centered on

[3] In fact, the most vocal opponents of the current regulatory fees assessment NPRM are the providers of paging services, who claim they are facing a 60% increase based on a *per-connection* assessment, which they argue is disproportionately higher than the increase in regulatory fees charged to long distance providers. *See, e.g.*, Comments of the Allied Personal Communications Industries Association of California, at 1-3. Those commenters argue that the overcharge is due to the fact that the Commission has miscalculated the number of units (*i.e.*, "connections") that exist, and that a per unit (*i.e.*, per connection) charge is unreliable and "inherently unequal." *Id.* at 3; *see also* Comments of American Association of Paging Carriers.

"interstate revenues." *See* NPRM, Attachments B, C, F. Because the "interstate revenue" calculation is only used to apportion the fee among providers of interstate services, and not to set the ceiling for the contribution base, declines in interstate revenue should have no effect on the total assessment of regulatory fees, or the portion of the assessment that is attributed to interstate telecommunications service providers.[4]

While AT&T laments the fact that the assessment factor for regulatory fees applied to interstate telecommunications service providers "increased for fiscal year 2002 by nearly 16% even though the Commission's revenue requirement increased by 9.3%," AT&T Comments at 7, that argument is nothing more than a numbers game. The 9.3% increase in total funds requested (from roughly $200 million to $218 million) was prorated among all fee segments, so all providers – including interstate telecommunications service providers – would pay a 9.3% increase in total contributions. NPRM, ¶ 9. Thus, the expected fiscal year revenue to be acquired from interstate telecommunications service providers for 2002 ($102,072,402) is *exactly 9.3% greater* than the amount the Commission expected to recover in 2001 ($93,387,376).[5] That the "assessment factor" (*i.e.*, the *multiple*) used to reach that 9.3% number increased more

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[4] For example, if interstate revenues declined next year in an amount that was proportional among all service providers, and the funding requirements stayed the same, each provider would pay the same amount it did this year. While that amount will constitute a larger proportion of the provider's interstate revenues, the overall dollar amount each provider pays will remain unchanged. If long distance providers' interstate revenues declined and LECs' increased, the LECs would pay a greater share (and the long distance providers a smaller one), but the overall industry total for regulatory fees would remain the same.

[5] $93,387,376 * 1.093 = $102,072,402. *See* NPRM, Attachment C (revenues expected for 2002); *Assessment and Collection of Regulatory Fees for Fiscal Year 2001*, Report and Order, 16 FCC Rcd 13525, Attachment C (2001) (revenues expected for 2001).

("nearly 16%") is nothing more than a mathematical statistic. It has nothing to do with the overall dollar charge to the segment of the industry. Moreover, as stated above, the amount charged to the industry segment is set by Congress and the Commission, based on factors other than "interstate revenues," and thus will not vary whether the charge is apportioned among those carriers on a per-revenue or per-connection basis.

The only thing that would change if the Commission accepted a per-connection system for allocating fees among interstate telecommunications service providers is that, instead of distributing the assessment equitably among different carriers in that category (per revenue), it would require LECs to shoulder the majority of the burden for those fees, in order to dramatically decrease the fees paid by long distance carriers, who have fewer "connections" to end users.[6] Indeed, AT&T's laments about the revenue-based system come only a few years after AT&T forcefully argued that the Commission *should* use a "revenue-based allocator," as opposed to a per-unit charge, as it would "result in a more equitable distribution of the fees among entities within a given industry (as Congress intended) . . . will permit fees to be assessed in as competitively neutral a fashion as possible and will readily capture bulk-billed services (for example, high capacity and broadband) without having to rely on assumptions and projections."[7] The

[6] Indeed, the proportional burden shifting to LECs would be even greater in the regulatory fee context than in universal service. That is because in calculating regulatory fees, the industry segment that includes the long distance providers and the LECs does not include some of the other "connection" providers that AT&T has argued would shoulder much of the burden in universal service – *i.e.*, wireless carriers or providers of paging services. *See* NPRM, ¶ 33. Thus, the local exchange carriers would pay almost 100% of the industry segment's portion, in order to allow long distance providers, providers of prepaid card services, and others in that segment, who have fewer, if any, "connections," to pay very little.

[7] *See* AT&T Comments, MD Docket No. 95-3, at 1-2 (filed Feb. 28, 1995).

truth is that the reason for AT&T's proposal to change to a per-connection method for regulatory fees has nothing to do with a purported "death spiral" in interstate revenues, and everything to do with AT&T's effort to decrease its share of contribution to regulatory fees. This thinly veiled ploy is one the Commission should flatly reject.

Even without these fatal flaws, AT&T's proposal is premature (and incredibly overconfident) in appearing to *assume* the Commission will accept AT&T's per-connection proposal for universal service assessment.[8] This brash assumption flies in the face of the fact that, other than AT&T and its allies in the Coalition, almost none of the more than four dozen commenters in the universal service assessment proceeding supported the per-connection approach advocated by AT&T. And for good reason. As Verizon pointed out in its initial comments in that proceeding, the per-connection system proposed by AT&T does not improve upon the current revenue-based system. The true advantage to the proposal from AT&T's perspective is that it would shift AT&T's share of regulatory burdens to LECs and wireless providers. *See* Verizon Comments to Universal Service Assessment NPRM, located at Attachment B hereto.[9] The per-

[8] Indeed, AT&T's proposal is doubly premature, for it also appears to argue that the assumed outcome from the USF proceeding then could be applied, without opportunity for further comment or additional Commission rulemaking proceedings, to an assessment for regulatory fees.

[9] Verizon was certainly not alone in its criticism of the AT&T/Coalition plan. In fact, the majority of initial comments in that proceeding supported keeping a revenue-based system for universal service assessment. And several commenters (including those who considered a per-connection approach) pointed out serious flaws in the proposal. Indeed, no fewer than 19 separate commenters in the universal service contribution proceeding pointed out that the proposal was either patently invalid, or at least of doubtful validity, under the Act. *See, e.g.*, Comments of NASUCA, CC Docket No. 96-45, at 12 (filed April 22, 2002); Comments of NRTA & OPASTCO, CC Docket No. 96-45, at iii (filed April 22, 2002).

connection methodology suggested by AT&T is inadvisable in the context of universal service assessment, and is simply nonsensical when applied to the assessment of regulatory fees.

Conclusion

The Commission should reject AT&T's blatant attempt to shift regulatory fee burdens from long distance providers to the local exchange carriers.

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.