Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Petition for Emergency Declaratory and Other Relief	)	**WC Docket No. 02-202**
	)	

COMMENTS OPPOSING VERIZON'S PETITION FOR EMERGENCY DECLARATORY AND OTHER RELIEF

Evercom Systems, Inc., ("Evercom") is a State of Delaware corporation organized to provide telecommunications services, principally to inmates at various types of confinement facilities. Evercom submits these comments in opposition to Verizon's "Petition for Emergency Declaratory and Other Relief" ("Petition") to the extent that the relief requested will negatively impact small businesses in competitive sectors of the telecommunications industry, including inmate telephone service. In order to mitigate the impact of Verizon's proposals on small businesses, Evercom urges the Commission to deny Verizon's petition regarding deposits and advance payments, and let existing tariff provisions and contractual arrangements prevail. In the alternative, if the Commission grants Verizon relief with respect to deposits and advance payments, Evercom suggests that the Commission adopt the Small Business Administration's definition of "small business" and specifically exempt small businesses from Verizon's proposed tariff revisions.

Evercom opposes Verizon's request to modify its tariffs to impose additional security deposits or advance payment requirements on its customers. Verizon itself acknowledges that carriers such as Evercom, which resell Verizon's lines in order to provide its own end-user services, are also Verizon's customers. Consequently, any imposition of new fees in the form of security deposits or advance payments will negatively impact the cash flow of other carriers, many of which are small businesses. Verizon's actions will only serve to damage small businesses that otherwise may be able to pay its debts as they become due. In some cases, these fees may make the difference between solvency and insolvency. This, in turn, will further destabilize the already ailing telecommunications industry and negatively impact competition. Clearly, such a result is contrary to the public interest.

Evercom specifically opposes Verizon's proposal to require a security deposit if a customer's account balance has "fallen in arrears in any two months out of any consecutive twelve month period."[2] Late payment is not necessarily related to the financial health of the customer. It is not unusual for companies to adjust the payment schedules for accounts payable to reflect cash flows in an economic downturn. Such action is not remotely equivalent to

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"While competitors in the telecommunications industry have always been both suppliers and customers of each others' services, the 1996 Act mandated an even closer financial nexus between carriers." Verizon Petition at 1-2.

[2] See Verizon Tariff Transmittal No. 226, dated July 25, 2002.

insolvency; nor does it mean Verizon will not receive full payment. Presumably Verizon collects interest on delinquent accounts, and is adequately compensated for the risk of such late payments. Consequently, the Commission should not allow Verizon to unilaterally change existing payment controls. The proposal is also problematic because Verizon did not limit itself to delinquencies that occurred in the most recent twelve month period. Thus, Verizon has unlimited ability to impose new fees based on outdated information. Since such fees would further exacerbate existing cash flow shortages for small businesses, approval of such relief is not in the public interest. Similarly, Verizon's proposal to base decisions on a company's bond rating bears no rational relationship to whether a company can or will pay its bills. Given the significant hardship such requirements would be to small businesses, the Commission should reject these bases for assessing additional fees as contrary to the public interest.

Moreover, imposing these fees on small businesses will not significantly impact Verizon's bottom line. For example, Evercom's total annual revenues are far less than the debt that Worldcom accrued with the ILECs in a period of a two months prior to its bankruptcy. Evercom urges the Commission to reject Verizon's imposition of new deposits and advance payments as contrary to the public interest because such charges would severely impact small businesses, but not significantly contribute to the financial stability of the ILECs. If, however, the Commission allows such deposits and advance payments, Evercom requests that the Commission adopt the Small Business Administration definition of "small business" (i.e., those with less than 1,500 employees) and specifically exempt small businesses from the new Verizon tariff requirements.

Evercom also opposes Verizon's proposed dramatically shortened notice periods -- seven days for advance payments and to terminate service. For small businesses, any unexpected bill that is required to be paid immediately can cause hardship. Since termination of service would dramatically impact small telecommunications carriers, the shortened notice provisions only add more pressure to file for bankruptcy protection in order to avoid termination of service. The option of using a letter of credit does not ease the burden on small business carriers. Letters of credit are costly and more difficult to negotiate in the current economic climate. Thus, they involve the same detrimental impact on small businesses as requiring a cash deposit.

The Telecommunications Act of 1996 promised a pro-competitive, reduced barriers to entry framework. The provision of payphone service, including inmate payphone service, is one area of telecommunications where the promise of competition is being fulfilled. The Commission's recent CPNI Order notes that the Commission's most recent data shows that 936 companies reported that they were engaged in the provision of pay telephone services, and 710 were engaged in resale of telecommunications service.[3] All of these carriers would potentially be affected if ILECS like Verizon were permitted to impose additional deposit or advance payment requirements. ILECs imposing onerous new cash requirements when the industry has seen

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[3] Third Report and Order, and Third Further Notice of Proposed Rulemaking, CC Docket No. 96-115, FCC 02-214, released July 25, 2002 at Appendix C at 9, 10. The Commission could not discern, from existing data, which of these 936 companies would qualify as small businesses.

unprecedented retreat of investor dollars and devaluation of stock and other investments, would severely impact those companies' ability to compete. To the extent that the entities involved are small businesses, allowing new onerous requirements is contrary to the Commission's directive and actions to remove barriers to entry under Section 257 of the Act.

For the foregoing reasons, Evercom requests that the Commission deny the relief requested in Verizon's petition relating to security deposits and advance billing.

Respectfully submitted,

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