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October 3, 2002

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 - 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: *Notice of Ex Parte Presentation*
Universal Service Contribution Methodology (CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, and NSD File No. L-00-72)

Dear Ms. Dortch:

This is to advise you that, on October 2, 2002, Anne E. Hoskins, Regulatory Counsel, Verizon Wireless, and the undersigned, met with James Schlichting, Deputy Chief, Wireless Telecommunications Bureau; Jeffrey Steinberg, Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau; Wayne Leighton, Senior Economist, Wireless Telecommunications Bureau; and Diane Law Hsu, Acting Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau.

The topic of the meeting was the above-referenced universal service contribution methodology proceeding. Verizon Wireless continues to maintain that a revenue-based contribution methodology is fairer and more consistent with the statute than any proposed connection-based mechanism. Verizon Wireless noted the recent filing by the Cellular Telecommunications and Internet Association (CTIA) of data from six wireless carriers, which shows that wireless carriers' percentage of interstate revenues is in a range between 10% - 28.5%. These data demonstrate that a revenue-based system is workable. While Verizon Wireless would support a re-calibration of the safe harbor to reflect market changes, these data show that a proposed assessment level of $1 or more per wireless handset would represent an inequitable and illegal increase in wireless carriers' assessments.

Verizon Wireless also showed that implementation of the per-connection proposal is far riskier to the fund's sustainability than retention of the existing system. Even carriers that advocate the per-connection approach, such as AT&T and Sprint, have warned that they may not be able to implement it by March 2003, although they have been proposing it for over a year. It would indeed be unfair to expect carriers such as wireless carriers, who have opposed per-connection assessment, to implement the per-connection plan – particularly since the changes to the IXCs' contribution methodology is the foundation for CoSUS's argument, albeit inadequate, that the per-connection plan is legal under section 254(d). Indeed, many commenters have pointed out that the legal infirmities of the proposal present substantial likelihood of its rejection on appeal.

The per-connection proposal is also unlikely to result in a sustainable fund, and would probably result in its own type of "death spiral." Verizon Wireless noted recent filings by the Coalition for Sustainable Universal Service ("CoSUS") regarding projected assessment levels under the per-connection proposal. Those filings purport to show that a $1 per-connection charge on residential, single-line business, and wireless connections would result in a residual multi-line business charge of less than $4.00.[1] Verizon Wireless used publicly available data to demonstrate that these claims appear to be inaccurate. Indeed, as soon as the Joint Board suggested that the residential and wireless charge be frozen at $1 for five years, CoSUS, which includes the largest users group, immediately objected, claiming that the level of the resulting residual charges "may substantially undermine the national consensus on the importance of universal service support."[2]

The recent CoSUS filings projecting the levels of the per-connection assessments also demonstrate the substantial inequities that would have to be worked out of the existing proposals to bring them into conformity with the statute. For example, in its September 20, 2002 ex parte letter, CoSUS admitted that the estimates it has placed on the record of multi-line business USF assessments between $2.50 and $3.00 per line were an "average" that included Centrex assessments of only $0.40 to $0.50 per line.[3] In its comments in this proceeding, Verizon Wireless has pointed out that the various per-connection assessment proposals are thinly veiled efforts to shift the burden of USF programs away from the sponsors of the proposals, in many cases onto wireless carriers.[4]

In particular, Verizon Wireless has pointed out the inequity of assessing high-volume multi-line business lines at a monthly rate significantly lower than wireless lines, which may be "peace-of-mind" safety phones that are only used in cases of emergency.[5] These parties would

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1 CoSUS ex parte letter dated Sept. 26, 2002, CC Docket Nos. 96-45 *et al*., at attachment.

2 CoSUS ex parte letter dated Aug. 9, 2002, CC Docket Nos. 96-45 *et al.,* at 2.

3 *See, e.g.,* CoSUS ex parte letter dated Sept. 20, 2002, CC Docket Nos. 96-45 *et al*. ("CoSUS September 20 ex parte").

4 *See* Verizon Wireless reply comments, May 13, 2002, at 2-3, 13.

5 *Id.* at 21-22. *See also* CTIA reply comments, May 14, 2002, at 6.

have the Commission adopt a USF assessment methodology that assesses a substantially lower charge each month on a wireline business connection that generates high volumes of usage and interstate activity than it assesses for a wireless phone that is kept in a customer's glove compartment for use in the event of emergency. Logic suggests that even wireless phones that are used for more than just emergencies generate substantially lower interstate usage, and lower revenues, than Centrex business wireline connections.

The belated revelation that the CoSUS plan would assess only $0.40-$0.50 per Centrex line also shows the inadequacy of the record in this proceeding for the Commission to ascertain whether the per-connection proposals meet the statutory requirements of equity and non-discrimination. The Commission should not make radical changes to the existing assessment methodology.[6] Instead, Verizon Wireless urges the Commission to adjust the existing revenue-based system in the near term. The Commission should (1) increase the wireless safe harbor percentages based on actual carrier data regarding interstate traffic percentages; (2) adopt a mechanism to correct for the effect of the assessment/collection lag on carriers with declining interstate revenues;[7] (3) expand the base of contributors to include providers of broadband services.[8] Only after such reasonable steps have been undertaken can the Commission consider whether more radical changes can be justified.

The materials that Verizon Wireless used in the meeting are attached. Consistent with the Commission's Rules, this letter is being filed electronically in each of the above-referenced dockets.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

By: /s/
L. Charles Keller

cc: James Schlichting
Jeffrey Steinberg
Wayne Leighton
Diane Law Hsu

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6 *See* Verizon Wireless ex parte letter dated September 13, 2002.

7 For example, Verizon Wireless' parent company, Verizon Communications, has proposed a collect-and-remit system that would account for the lag. *See, e.g.,* Verizon Communications ex parte letter dated September 19, 2002.

8 Verizon Wireless comments, April 22, 2002, at 15-17.

UNIVERSAL SERVICE CONTRIBUTION METHODOLOGY

VERIZON WIRELESS

October 2002

Revenue-based Assessment is Equitable and Sustainable

- **CMRS carriers pay a significant share of the total USF burden.**
    - To reflect market changes, re-examine the safe harbor level and clarify its application; don't discard the safe harbor.

- **Wireless Carrier Traffic Studies**
    - CTIA data collection shows actual wireless share of interstate revenue in a range from 10% - 28.5%.
    - Studies shows that simplifying assumptions can be developed and that the safe harbor concept is sound. A revenue safe harbor is less complex than the proposed capacity-based equivalency ratios under a connection-based assessment.
    - As Verizon Communications has shown, a wireless safe harbor of 20% would yield a contribution factor below 10%. Broadening the contributor base would help even more.

- **IXC's USF "Death Spiral" is unsubstantiated.**
    - Revenue-based assessment automatically adjusts each carrier's contribution as its revenues change.
    - Migration of long distance minutes to wireless carriers doesn't seriously undermine total IXC revenue. Most wireless carriers re-sell IXC services to end-users.
    - Nothing requires the FCC to keep the contribution factor below 10%. A $1 assessment on a wireless customer who makes no or few interstate calls in a month yields a much higher effective assessment rate than 10%.

Adopting the CoSUS Proposal is Far Riskier to the Stability of the Funding Mechanism than Modifying the Existing System

- **CoSUS's failure to assess IXCs for their interexchange activity would violate section 254(d) by excluding a significant class of telecommunications carriers. Any connection-based proposal that allows IXCs to escape contributions for the bulk of their interstate revenues also is not equitable or non-discriminatory.**
  - By contrast, the current mechanism's incidental exclusion of pure "carriers' carriers" is inconsequential.

- **The CoSUS approach will result in its own type of "death spiral," requiring residential, single-line business, and wireless connection assessments well above $1 to avoid excessive residual MLB contributions.**
  - Based on current FCC data, $1 assessment would result in an untenable residual contribution requirement of ***$5.75** per MLB line* – even without discounting for Centrex lines (see attached chart).
  - Future growth in the fund would only exacerbate this connection-based "death spiral".
  - Even CoSUS acknowledged the $1 level is untenable by objecting to the Joint Board's proposed temporary freeze at that level.
  - At higher per-customer amounts, the regressive nature of a per-connection mechanism becomes more severe.

The CoSUS Proposal is Too Complicated to Implement by March 2003

- **Even CoSUS member AT&T warns that it may not be possible to implement such a radical change to the collection methodology by March 2003. Sprint expresses similar concerns.**
  - Inequitable and anti-competitive to require wireless carriers to implement a dramatic change to their assessment and collection methodology while providing additional time to the IXCs who proposed the per-connection plan and claimed it was "simple."
- **Significant questions remain about the details of how CoSUS could be implemented:**
  - How will the residential, single-line business, and wireless assessment amount be determined from year to year?
  - How will pre-paid wireless handsets be assessed?
  - No justification to assess Centrex lines at a lower per-line rate than CMRS lines.
  - How will Centrex connections be assessed fairly?
  - How will paging units be assessed fairly?
  - How will the Commission and/or carriers handle the enormous re-education effort to minimize consumer confusion and backlash?
- **In light of all these issues, it would be arbitrary to determine on the current record that the CoSUS proposal is equitable and non-discriminatory.**

An Assessment Methodology that Substantially Increases the Wireless Industry's Share of the Total USF Burden, while Substantially Decreasing the IXC Industry's Share, Would Be Inequitable and Discriminatory

- **Section 254 requires that *carriers* (not customers) be assessed on an equitable and non-discriminatory basis.**

- **Wireless carriers, with highest total number of connections, would become the industry segment contributing the most under CoSUS, yet IXCs have far greater interstate activity.**

- **To be equitable, the assessment methodology should reflect differences among carriers' amounts of interstate revenues.**
    - Because IXCs continue to benefit from the largest amount of end-user interstate revenues, they should bear a proportionate share of the contribution obligation.
    - On a per-line basis, wireless revenues are much lower than landline (i.e., combined LEC and IXC) revenues.

- **Given wireless revenue levels and proportion of interstate revenue, the record does not support moving to a per-connection charge of $1 or more. At that level, the charge would either be inequitable and discriminatory (by assessing a greater share of wireless carriers' revenues – both interstate and total), or illegal by assessing wireless intrastate services and revenues in contravention of *Texas Counsel.***

Assessing a $1 or More Monthly Charge on Each Wireless Handset Will Suppress Demand for Wireless Service and Provide a Competitive Advantage to IXCs

- **Actual assessment rate is likely to exceed the much-cited "$1" figure. (See attached chart re CoSUS; BellSouth/SBC proposal is likely to result in higher assessments by attributing two or more "QSCs" to wireless).**

- **A $1 monthly assessment would more than double the percentage paid by Verizon Wireless' customers. Higher assessment amount would further increase the effective assessment rate.**

- **Other agencies at all levels of government also are adding new taxes on CMRS carriers to pay for telecom and non-telecom related programs and initiatives.**

  - Average tax/assessment rate on Verizon Wireless customers is approximately 18%. Existing taxes and assessments convert a $40 monthly plan into a $47 monthly plan.

  - Increased tax burdens will price moderate income customers out of plans that offer large buckets of minutes—thereby undermining wireless carrier competition with IXCs.

  - Customers care about relatively small increases in fees. Missouri voters recently defeated a referendum for a surcharge of 50 cents per month to support wireless 911 services.

  - Rural carriers and IXCs are advocating for new intrastate USF programs, which will reduce access charges paid by IXCs and impose new assessments on wireless carriers.

The CoSUS and BellSouth/SBC Proposals Would Impose Disproportionate Per-Connection Assessments on Wireless Carriers

- **The SBC/BellSouth proposal is infirm because the FCC has held repeatedly that CMRS is a single, integrated service. The FCC cannot impose multiple assessments on CMRS for provision of an integrated service.**

- **The proposed per-handset collection discriminates against wireless carriers in favor of wireline carriers.**

  - Wireless carriers cannot reproduce the convenience of a landline extension in every room without multiple phones ("connections"). Wireless "family plans" seek to reproduce this convenience, but would face significantly greater tax burdens than comparable wireline services.

  - The existing per connection proposals would penalize wireless customers who maintain multiple phones for low use emergency or family purposes.

  - Both CoSUS and SBC/BellSouth would discount the assessment on Centrex multiple lines for a single customer. Wireless customers deserve similar treatment.

Recommendation:

Reject calls from IXCs and other industry sectors to eliminate or reduce their contribution obligations.

Stabilize the Fund by revising the wireless safe harbor and adopting administrative adjustments to the revenue-based system by year-end (e.g., decrease the lag.)

The Commission needs additional time to examine options for broadening the base of contributors, and if warranted, to consider alternative systems that are equitable and non-discriminatory, as required by statute.

VERIZON WIRELESS
ILLUSTRATIVE RESULTS USING FCC DATA FOR ACCESS LINE COUNTS AND FUND REQUIREMENTS
COMPUTATION OF MLB PRICE AND SUSTAINABILITY
Per Unit MLB Price

Funding Source	USF Rating Category	Line Units	Monthly Rate	Annual $s
USF Fund Size				**6,345,668,000** (h)
Category (a) units				
ILEC Residence Lines	(a)	111,181,802 (d)	assume $1	1,334,181,624
ILEC SLB Lines	(a)	3,329,973 (d)	assume $1	39,959,676
CLEC Res. & SLB (j)	(a)	7,793,071	assume $1	93,516,852
Lifeline	-(a)	-6,026,611 (c)	assume neg. $1	-72,319,332
Wireless	(a)	128,375,000 (e)	assume $1	1,540,500,000
Pagers	(a)/4	18,000,000	assume $0.25 (g)	54,000,000
Total Units		262,653,235		
Total Weighted Category (a) units		249,153,235		2,989,838,820
Residual Funding Requirement				3,355,829,180
Category (b) units (Residual)				
Business Lines				
ILEC Analog Multi-line	(b)	38,099,775 (d)		
ILEC Digital	(b)	11,913,954 (d)		
CLEC MLB (j)	(b)	8,250,938		
Total Category (b) units	(b)	58,264,667	4.80 (i)	3,355,829,180
Total Collected				**6,345,668,000**

(a) Assumes a $1.00 per-connection assessment for residential, single-line business, and wireless voice connections.
(b) Residually determined per-unit price.
(c) Source: FCC *Statistics of Communications Common Carriers* (Sept. 2002) at Tbl. 2.16.
(d) Source: *Id.* at Tbl. 2.4. (Residential Line count includes payphone lines.)
(e) Source: FCC *Seventh CMRS Competition Report* (July 2002) at C-2, Tbl. 1.
(f) Source: *Id.* at 65.
(g) This chart conservatively uses CoSUS's proposed $0.25/pager assessment without expressing approval for its appropriateness.
(h) Source: FCC 4Q02 *Contribution Factor Public Notice*.
(i) Assumes no reduction for Centrex lines.
(j) Source: FCC *Local Telephone Competition: Status as of June 30, 2001* (Feb. 2002) at Tbl. 2.