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John W. Kure
Executive Director - Federal Policy and Law

Ex Parte

October 24, 2002

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

Re: In the Matter of the Federal-State Joint Board on Universal Service, CC Dockets No. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170 and NSD File No. L-00-72

Dear Ms. Dortch:

Yesterday, Craig Brown and I, both representing Qwest Communications International, Inc., ("Qwest") met with John Rogovin, Linda Kinney, Sharon Diskin and Debra Weiner of the Office of General Counsel. The material in the attached presentation was reviewed. In summary, Qwest discussed why the universal service contribution mechanism put forth by the Coalition for Sustainable Universal Service ("CoSUS") is fundamentally flawed. To allow time for the Commission to fully develop a connection based plan, the Verizon Collect and Remit Proposal with minor modifications should be adopted in the interim. The final connection based plan should be competitively and technologically neutral and apply to all of a carrier's interstate telecommunications services.

Pursuant to FCC Rule 1.49(f), this Ex Parte is being filed electronically via the Electronic Comment Filing System for the inclusion in the public record of the above referenced dockets pursuant to FCC Rule 1.1206(b)(2).

Sincerely,
/s/ John W. Kure

cc: John Rogovin, Linda Kinney, Sharon Diskin and Debra Weiner (all via email)

Attachment

Universal Service Contribution Mechanism

October 23, 2002

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Overview

- CoSUS is fundamentally flawed
- As an interim solution, adopt a slightly modified version of Verizon's proposal
- For the long term, adopt a competitively neutral connection methodology
- Issue an FNPRM to fill in necessary details

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The Universal Service Contribution Mechanism Must Be:

- Competitively and technologically neutral
- Equitable for carriers and consumers
- Sustainable
- Adaptable to changes in the industry and technology

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Statutory Requirements

- Section 254(d): “Every telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis . . . .”

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“Equitable”

- According to Webster’s, “equitable” refers to something that is “marked by a due consideration for what is fair, unbiased, or impartial”

- Consistent with this definition, the Fifth Circuit held that section 254(d) requires “fairness in the allocation of contribution duties.” *TOPUC v. FCC* (1999)

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“Equitable”

- In order to be “equitable,” each carrier’s contributions must reasonably reflect its relative degree of interstate telecommunications activities
- Today, IXCs generate nearly two-thirds of assessable interstate telecommunications revenues
- Clearly, exemption of contributions for interstate long distance services clearly is not “equitable,” even if IXCs contribute for other interstate services

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“Nondiscriminatory”

- Contribution mechanism must not unreasonably discriminate among classes of *carriers* or *customers*

- All providers of potentially substitutable services (*e.g.*, wireline v. wireless, DSL v. cable modem) must be subject to the same contribution requirements

- All customer classes must contribute on the same basis

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CoSUS is Flawed

- CoSUS is fatally flawed as it fails to assess all carriers equitably by exempting long distance contributions
- Assessing wireline multi-line business customers at a higher rate than wireless multi-line business customers is not competitively neutral
- CoSUS unfairly imposes higher contributions on large business customers than residential and single line business customers
- CoSUS fails to demonstrate the appropriateness of the multipliers applied to high capacity services

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With Minor Modifications, Verizon's Collect & Remit Proposal Should be Adopted as an Interim Solution

- Will continue contributions from all carriers to support universal service
- Readily implemented by USAC and carriers
- Will provide time to develop and implement a connection based plan
  - There is not enough time to implement any type of connection based plan by April 2003

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Qwest’s Minor Modifications to the Verizon Proposal

- Include broadband revenues (DSL and cable modem) in the entire USF base instead of creating a separate base for schools and libraries

- Adopt a mandatory “pass through” mechanism to ensure that regulatory fees do not impact purchasing decisions

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Increase the Wireless Safe Harbor

- Re-examination of the safe-harbor is warranted
  - Addressed by numerous parties, including Ad Hoc, AOLTW, Nextel, Verizon, Verizon Wireless, CTIA, TracFone, and USTA
  - Qwest supports a 25% safe harbor in the interim
- CTIA provided data showing that interstate revenues for wireless carriers are as high as 28.5%
- Ad Hoc found that increasing the safe harbor to 25% would reduce the factor by .8 % and Verizon demonstrated that a 20% safe harbor will yield a factor lower than 10%

Issue an FNPRM

- Tentatively conclude a connection based plan is the best long term solution
- Determine how providers of long distance and private line will contribute under the connection-based plan
- Develop fair multipliers for higher capacity access and transport connections
  - Multipliers must be proportionate to the relative price of high capacity services
- Allow for the recovery of administrative costs and adopt an appropriate safe harbor
- Provide for the recovery of carrier one-time implementation costs associated with the connection-based plan
- Allow adequate implementation time

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Recommendation

- Adopt the Verizon proposal as an *interim* solution with Qwest's modifications:
  - Include broadband revenues (both cable modem and DSL) in the entire USF base
  - Mandatory "pass through" surcharge

- Issue an FNPRM to continue to finalize a legal and competitively neutral connection-based plan

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