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

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated With Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms	)	CC Docket No. 98-171
	)	
Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990	)	CC Docket No. 90-571
	)	
Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size	)	CC Docket No. 92-237 NSD File No. L-00-72
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

PETITION FOR INTERIM WAIVER

Verizon Telephone Companies
Lawrence W. Katz
1515 North Court House Road
Suite 500
Arlington, VA 22201-2909
(703) 351-3175
Michael E. Glover
Edward Shakin
Of Counsel

SBC Communications Inc.
Jeffry A. Brueggeman
1401 Eye Street, NW
Suite 1100
Washington, DC 20005
(202) 326-8911

BellSouth Corporation
Angela N. Brown
Suite 4300
675 W. Peachtree Street, NE
Atlanta, GA 30375-0001
(404) 335-0724

February 6, 2003

PETITION FOR INTERIM WAIVER

Verizon, BellSouth, and SBC ("Petitioners") respectfully request a waiver of the recently adopted rules for recovery of universal service contributions in two respects. First, they ask to preserve the *status quo* in connection with Centrex service, pending action on recently filed requests for clarification, to allow them to average among multi-line business customers the reductions in the charges to Centrex permitted under the "equivalency ratio" referenced in section 54.158 of the Commission's rules. Grant of this interim waiver will prevent the very disruption to Centrex service that the Commission's long-standing equivalency policy is designed to prevent, as discussed below. Second, Petitioners request that the Commission allow universal service assessments on certain interstate charges that are incurred by only some customers (*i.e.*, PIC change charges and PICCs) to be averaged within each class of customers, pending action on reconsideration petitions. This would also preserve the *status quo* and avoid the need for multiple billing system changes.

On January 29, 2003, the United States Telecom Association ("USTA") filed a petition requesting, among other things, clarification of the treatment of universal service contributions in connection with Centrex service. *See* Petition of the United States Telecom Association for Partial Reconsideration and Clarification at 9-12. In particular, USTA asked the Commission to clarify that it did not intend to change its long-standing pro-competitive policy of allowing local exchange carriers to charge universal service contributions from Centrex customers using an "equivalency ratio." USTA also asked that the contributions in connection with certain other interstate charges be assessed on an averaged basis because of limitations of certain carriers' billing systems. *See id.* at 12-13.

SBC Communications Inc. ("SBC") filed a more limited petition for reconsideration asking the Commission to defer the April 1, 2003 implementation deadline while it conducts the *Second Further Notice proceeding*. *See* SBC Petition for Reconsideration (filed Jan. 29, 2003). SBC instead proposed a transitional line item requirement that would allow carriers that are currently assessed flat-rated universal service line item charges to average such charges within customer categories. Petitioners urge the Commission to grant these petitions expeditiously.

Grant of either petition would obviate the need for carriers to file individual waiver requests and/or undertake a costly implementation process that may be rendered unnecessary if the present contribution mechanism is substantially revised. However, because action on this petition may not be forthcoming in sufficient time prior to the effective date of the rule changes, Petitioners are requesting a waiver to preserve the *status quo* pending such action.

The Report and Order and 2d FNPRM, which adopted interim changes to the universal service contribution recovery mechanism, requires all carriers to change their billing practices by April 1, 2003, to limit the universal service assessment on any customer to no more than the interstate portion of that customer's bill times the prescribed contribution factor. *Federal-State Joint Board on Universal Service,* Report and Order and Second Further Notice of Proposed Rulemaking, ¶¶ 45-51, FCC 02-329 (rel. Dec. 13, 2002) ("Report and Order and 2d FNPRM"). USTA requested that the Commission clarify that requirement to make it consistent with the Commission's Centrex equivalency policy, as discussed below. Recognizing that it is unlikely the Commission would be able to act on USTA's request by the April 1 deadline, Petitioners are requesting an interim waiver to avoid the adverse impact on Centrex service which the Commission's equivalency policy was designed to prevent. Specifically, Petitioners ask that they be permitted to continue to average the universal service charges among all multi-line

business customers, pending a ruling on the clarification request. Alternatively, Petitioners request that their own payments to the Universal Service Administrative Company ("USAC") be reduced by the same amount.

As USTA explained in its petition, the Commission's rules allow local exchange carriers to assess universal service contributions on an "equivalency" basis of one-ninth of the per-line charge to other multi-line business customers. *See* 47 C.F.R. § 69.158. Yet, the Report and Order and 2d FNPRM could be read to require carriers either to charge Centrex customers a full universal service contribution for each Centrex line or to forgo recovery of most of their contributions if they elect to charge Centrex customers based on the one-ninth equivalency ratio. USTA's petition asks the Commission to clarify that this is not the case and that it intended to make no change to its Centrex policy.

The equivalency policy is based on a 1997 Commission finding, that remains valid today, that Centrex service and private branch exchange equipment ("PBXs") are "functionally equivalent" and that "Centrex customers should be treated similarly to PBX customers." *See Access Charge Reform,* 12 FCC Rcd 16606, ¶ 31 (1997) ("Access Charge Reform Order"). In that Order, the Commission recognized that PBXs "concentrate usage from multiple lines [on the customer's premises] to a few trunks [to the central office]," while Centrex is provided through individual lines from the central office. *Id.*, ¶ 32. Each Centrex line and PBX trunk pays the applicable subscriber line charge, so all of the costs of service are covered. However, for elements that contribute revenues to other rate elements, the Commission recognized that charging the same contribution to each PBX trunk and Centrex line would give PBXs an artificial cost advantage over Centrex.

Initially applied to the presubscribed interexchange carrier charge, or PICC, the Commission extended the equivalency policy to universal service contributions in the CALLS Order.[1] The policy basis was the same in both instances, to avoid

> encourag[ing] a large customer to choose one of these arrangements, PBX, over another, Centrex, simply because, as a result of its IXC being charged substantially more PICCs, *i.e.*, non-cost-related charges, for Centrex service, the PBX service becomes cheaper.

Access Charge Reform Order at ¶ 33.[2]

The Commission not only made no change to this policy in the Report and Order here, it even extended the equivalency ratio to its proposed connection-based contribution mechanisms. *See* Report and Order and 2d FNPRM at ¶¶ 76 and 87. It would be inconsistent for the Commission not to follow the policy during the interim period while considering what, if any, new mechanism to adopt prospectively.

Today, Petitioners charge their Centrex customers for universal service based on the one-ninth ratio permitted under section 69.158. The amount they pay to USAC is calculated from their total interstate revenues times the current contribution factor, without any reduction for the reduced contribution from Centrex customers. To recover the difference, Petitioners charge the

---

[1] *See Access Charge Reform,* 15 FCC Rcd 12962, B-56 (2000). The equivalency ratio was incorporated into the CALLS proposal that the Commission released for comment and was adopted into the final rules without further discussion. *See* Memorandum in Support of the Coalition for Affordable Local and Long Distance Service Plan (filed Aug. 20, 1999), appended to *Access Charge Reform,* 14 FCC Rcd 16872, 16973 (1999).

[2] The Commission applied the same 9:1 equivalency ratio, for the same reason, in assessing number portability charges. *See Telephone Number Portability,* ¶ 145 13 FCC Rcd 11701 (1998) ("We set the PBX charge at nine times the level of the ordinary charge because Centrex and PBX arrangements are functionally equivalent. To do otherwise could encourage a large customer to choose one of these arrangements over the other because of the number portability charge, and thus would not be competitively neutral").

universal service contribution on an averaged basis from their customers. The Report and Order and 2d FNPRM could be read, however, not to allow Petitioners to continue that averaging beginning April 1. USTA's Petition asks the Commission to clarify that it may continue that averaging, consistent with the existing Centrex equivalency policy. Otherwise, Petitioners would need to increase the contribution charge to Centrex customers, which would result in a significant increase in charges to those customers and likely make Centrex unable to compete with PBXs because of regulatory action – the result which the equivalency policy was designed to prevent.[3]

In order to preserve the *status quo* while the Commission considers USTA's petition, and to avoid being found to be out of compliance in the event the Commission does not provide the requested clarification, Petitioners request a waiver to allow them to average the universal service contribution among all multi-line business customers while retaining the Centrex equivalency ratio. The total recovery from multi-line business customers from this averaging would not exceed the amount that Petitioners would recover if the Centrex equivalency ratio were not applied. In this way, the waiver will be fully consistent with the Commission's policy that the universal service charge to any customer may not include "completely unrelated costs." Report and Order and 2d FNPRM at ¶ 48.[4]

Alternatively, Petitioners asks that the amount that they pay to USAC be reduced by the aggregate difference between the Centrex equivalency amount and the full contribution amount

---

[3] Petitioners estimate that difference for all of the companies to be as much as $60 million annually using the current contribution factor.

[4] The interstate portion of local exchange customers' bills consists primarily of subscriber line charges and local number portability charges.

on each Centrex line without the reduction. This would reduce Petitioners' aggregate assessment by about $60 million per year, assuming no change to the contribution factor.

Petitioners also ask for a waiver to preserve the *status quo* in connection with certain rate elements that are charged only to certain customers, specifically, the rate for changing a customer's primary interexchange carrier ("PIC") and the presubscribed interexchange carrier charges ("PICCs") that are charged to multi-line customers who have no presubscribed carrier. Under the Report and Order and 2d FNPRM, Petitioners would need to add an increment to the universal service charge for only those customers who have PIC or PICC charges on their bill in that particular month. This would require a significant change to the billing systems to allow Petitioners to identify those individual customers and add the universal service charge to just their bills.[5] USTA and SBC have both asked the Commission to allow those charges to be averaged within customer categories.[6] Grant of this waiver would avoid the need for Petitioners to incur the costs and devote personnel resources to making billing changes that would be reversed if the Commission grants these petitions.[7] Moreover, as with Centrex, grant of this waiver would be fully consistent with the Commission's policy of precluding carriers from

---

[5] Other interstate charges – subscriber line charges and local number portability charges – are the same for all customers of a particular class (primary, non-primary, and multi-line business) within a state, so the universal service charge would not vary within that class.

[6] SBC asks more broadly that carriers that currently assess flat-rated charges be given the right to continue to average all universal service charges, pending a decision on adopting a new recovery mechanism.

[7] This would also include interstate charges for Lifeline customers, such as PIC change charges, for which the Commission appears not to permit contributions to be charged to those customers. *See* Report and Order and 2d FNPRM at ¶ 51 and 47 C.F.R. § 54.712(b).

charging customers excessive amounts for universal service, because the amounts to be averaged would be no higher than those which would otherwise be recovered from individual customers.[8]

Accordingly, Petitioners request that the Commission grant them a waiver to preserve the *status quo* in the areas discussed herein.

Respectfully submitted,

The Verizon Telephone Companies

Lawrence W. Katz
1515 North Court House Road
Suite 500
Arlington, VA 22201-2909
(703) 351-3175

SBC Communications Inc.

Jeffry A. Brueggeman
1401 Eye Street, NW
Suite 1100
Washington, DC 20005
(202) 326-8911

BellSouth Corporation

Angela N. Brown
Suite 4300
675 W. Peachtree Street, NE
Atlanta, GA 30375-0001
(404) 335-0724

Michael E. Glover
Edward Shakin
Of Counsel

February 6, 2003

[8] In the event the Commission does not grant this portion of the waiver for the full period pending reconsideration, Petitioners ask for an additional nine months, after April 1, 2003, to make the needed changes to their billing system in all jurisdictions. *See* SBC Petition for Reconsideration at 6.