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

COMMENTS ON PETITIONS FOR RECONSIDERATION

WORLDCOM, INC.

Lori Wright
1133 19th Street, N.W.
Washington, D.C. 20036

(202) 736-6468

February 27, 2003

I. Introduction

WorldCom hereby responds to petitions for reconsideration regarding the rules adopted in the December 13, 2002 Report and Order in the above-referenced docket.[1] WorldCom opposes the petitions filed by SBC, USTA, Verizon Wireless, and Nextel Communications to the extent that they seek reconsideration of the Commission's rule that prohibits universal service surcharges from exceeding the interstate telecommunications portion of a customer's bill multiplied by the relevant contribution factor. WorldCom also opposes Ad Hoc's petition, which asks the Commission to impose additional, unnecessary limitations on carriers' recovery of legitimate universal service costs. Finally, WorldCom supports the petition filed by NECA seeking reconsideration of the Commission's decision to refund carriers based on the two highest contribution factors and impose any further assessments based on the two lowest contribution factors.

II. The Commission Should Not Allow Certain Carriers to Average Universal Service Costs Across Customers.

SBC, USTA, Verizon Wireless, and Nextel Communications seek reconsideration of the Commission's rule that carriers' universal service surcharges on customer bills may not exceed the interstate telecommunications portion of a customer's bill times the relevant contribution factor (the "no averaging" rule).[2] They generally argue that the "no averaging" rule requires billing changes and a substantial investment of resources, and that such investment is particularly burdensome and unreasonable when the Commission

[1] *In the Matter of Federal-State Joint Board on Universal Service, et al., CC Docket Nos. 96-45, et al.,* Report and Order and Second Further Notice of Proposed Rulemaking, FCC 02-329, rel. Dec. 13, 2002 (Order).
[2] Order ¶¶ 45, 51.

may soon be again changing its contribution and recovery rules.[3] First, it bears emphasizing that WorldCom agrees that it is burdensome to have to implement new processes when the Commission in the near future may adopt an entirely new, connections-based USF contribution mechanism. It would have been far preferable, as WorldCom advocated throughout this proceeding, for the Commission to have immediately adopted a connections-based mechanism rather than adopting an interim measure. Some parties opposed a connections-based plan, the Commission did not adopt it, and all carriers now must adapt to an interim contribution and recovery measure. No carrier is untouched by the additional investment required to comply with the new "no averaging" rule, and petitioners have not provided a sufficient basis for why they should be exempt from it.

Granting the petitions for reconsideration to allow certain carriers to average universal service costs across customer classes would undermine the goals of the new rule, which include alleviating end-user confusion regarding the universal service line item, fostering a more competitive market by better enabling customers to comparison shop among carriers, and promoting transparency for the end-user in order to facilitate informed customer choice.[4] To fully meet these objectives, the Commission must either reconsider the rule as applied to all carriers for all customers, or deny the petitions for reconsideration. Otherwise, carriers exempt from the "no averaging" rule would be in a competitively advantageous position because they would be permitted to assess on their higher-volume customers a lower (i.e., averaged) universal service charge. This is unfair and unreasonable.

---

[3] *See, e.g.,* Verizon Wireless Petition at 4; SBC Petition at 2-3.
[4] Order ¶ 50.

SBC requests that the Commission reconsider its "no averaging" rule so that any carrier that currently assesses a flat-rated USF charge can continue to average such charges within customer categories (i.e., business and residential customers), while the Commission considers adopting a permanent contribution mechanism. SBC contends that it is unable to revise its billing systems in time for the April 1, 2003 deadline.[5] Verizon Wireless also argues that it should be able to assess averaged universal service line items due to billing issues and because CMRS carriers are a special class of carriers that should receive different treatment than other carriers and that the new rules are particularly "illogical" as applied to wireless carriers.[6] Verizon Wireless asserts that the Commission could have achieved its goals of fairness, accuracy, and transparency had it imposed "substantially less burdensome restrictions on wireless carriers."[7] But as stated above, it would not be fair or transparent to allow Verizon, SBC, and other select carriers to average USF charges across customer classes when carriers with whom they may compete must assess customer-specific universal service charges. This provides an incentive for customers with high levels of interstate usage to select or use carriers that are able to average universal service costs across customers, rather than carriers required to assess USF on a customer-specific basis.

Likewise the Commission should deny the petition for reconsideration filed by Nextel Communications requesting that the Commission allow CMRS carriers to provide special exemptions from USF charges to certain types of customers and in turn average those costs across other customers.[8] Nextel specifically requests that carriers may

---

[5] SBC Petition at 2-3.
[6] Verizon Wireless Petition at 6.
[7] Verizon Wireless Petition at 9.
[8] Nextel Communications Petition at 22.

exempt certain state and local government customers from USF fees and average those costs across other customers, because of "basic public policy reasons and the tax status of state and local governments."[9] Nextel further asserts that it would have to renegotiate contracts with state and local governments in order to be able to assess USF.[10] The Commission already addressed this issue in the Order, stating that, "the recovery limitations adopted herein constitute a change in universal service policy that was not anticipated at the time the existing contracts were signed. Therefore, we conclude contributors should be afforded a fresh look at existing contracts and may be permitted to renegotiate contractual terms that prohibit the pass through of universal service recovery charges."[11] Nextel may thus invoke the "fresh look" provisions in their contract negotiations, and in any case should not be permitted to average across customers USF costs that they are unable to recover, for the reasons described above.

USTA requests clarification from the Commission that LECs may continue to charge their Centrex customers the equivalency amount of one-ninth of the full universal service contribution assessment and may recover the difference by averaging the USF costs across other customers.[12] The Commission should deny this request. The Commission's "no averaging" rule contains no exception for Centrex or any other service. Moreover, as WorldCom stated in its opposition to the waiver petition filed by SBC, Verizon, and BellSouth on this issue, while the Commission's new USF cost recovery rule is mandatory, application of the equivalency ratio for Centrex is entirely permissive. That is, to the extent that a LEC *elects* to recover its end-user USF surcharge

[9] Nextel Communications Petition at 21, 22.
[10] Nextel Communications Petition at 21.
[11] Order ¶ 59.
[12] USTA Petition at 4, 9-12.

on a per-line basis, it "*may* apply that charge using the 'equivalency' relationships established . . . for Centrex lines."[13] Thus, to the extent that USTA members wish to take advantage of the equivalency ratio, they must simply ensure that their line-item surcharge complies with the Commission's new cost recovery rule.

USTA also requests that the "no averaging" rule be reconsidered as applied to PIC and PICC charges.[14] USTA argues that some carriers have difficulty assessing customer specific contribution charges on these charges.[15] As the Commission recognized in the Order, the new rules "may require modifications in billing practices for certain carriers."[16] Petitioners fail to demonstrate any particularly harmful burden imposed on them.

If Petitioners' cannot make the necessary billing systems changes in the time required, they have the option, as contemplated in the Order, of recovering these costs in their rates or not at all. SBC states in its petition that the amount of revenue generated by the occasional and usage-based PIC and PICC charges is "relatively small," and therefore SBC does not currently assess a universal service line item charge in connection with these charges. Thus it should not be a terrible burden on Petitioners to either recover these costs through their rates or forego recovery.[17]

---

[13] 47 C.F.R. § 69.158; ("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.") (emphasis added).
[14] USTA Petition at 12.
[15] USTA Petition at 4.
[16] Order ¶ 52.
[17] Furthermore we note that the Commission was unpersuaded in the Order by AT&T's arguments surrounding its inability to recover certain contribution costs, for example, where LECs refuse to include a universal service recovery charge on AT&T's portion of the bill (the "unbillables" issue). The Commission required AT&T to continue contributing to universal service based on these costs and provided AT&T with no relief in recovering these costs from consumers. The FCC concluded that its decision was competitively neutral because all carriers would be "subject to the same contribution recovery limitations." Order ¶¶ 56-

III. The Commission Should Not Grant Ad Hoc's Petition to Further Limit Carrier Cost Recovery.

The Commission should deny Ad Hoc's petition requesting that the Commission not allow carriers to recover universal service administrative costs from their customers through separate line item charges, or, in the alternative, limit universal service cost recovery to a "presumptively reasonable" level.[18] Further action on the part of the Commission with regard to universal service cost recovery is unnecessary. The Commission has taken the significant step of prohibiting USF "mark-ups." That is, beginning April 1, 2003, carriers may no longer recover universal service administrative costs in their universal service line item or in any line item characterized as recovering universal service or regulatory charges.[19] The Commission has achieved its stated goal of "ensur[ing] that federal universal service line items on customer bills accurately reflect the extent of a carrier's contribution obligations, while at the same time maximizing fairness and flexibility for carriers."[20] The Commission should not upset this balance by further limiting carrier flexibility. Carriers' universal service administrative costs are considered by the Commission to be "no different than other costs associated with the business of providing telecommunications service,"[21] and, like any other cost of doing business, may be recovered in rates or through a separate line item. The Commission has no basis at this time on which to reconsider this conclusion, and Ad Hoc's petition should be denied accordingly.

IV. WorldCom Supports NECA's Petition Regarding True-ups.

---

57. The same result should apply here, so that the "no averaging" rule would remain applicable to all universal service contributors.

[18] Ad Hoc Petition at 2, 8-9.

[19] Order ¶ 54.

[20] Order ¶ 45.

WorldCom supports the petition filed by NECA asking the Commission to reconsider its decision to refund carriers based on the two lowest contribution factors and penalize carriers by assessing additional amounts due based on the two highest contribution factors. As NECA states, it is much more difficult for carriers to forecast revenues accurately than it is to provide actual revenue information as carriers did under the previous system.[22] Under the new system, carriers that over-project could be penalized because their refund is not based on the contribution factor of the relevant quarter but on the two lowest contribution factors. Carriers that under-project could be penalized because the amount owed is not based on the contribution factor of the relevant quarter but on the two highest contribution factors. It would be more fair and equitable to perform true-ups based on the contribution factor in effect for the quarter in which the carrier mis-projected its revenues.

V. Conclusion

The petitions for reconsideration filed by SBC, Verizon Wireless, USTA, Nextel, and Ad Hoc should be denied, and NECA's petition for reconsideration should be granted, for the reasons stated herein.

Respectfully submitted,

WORLDCOM, INC.

____//s//_____

Lori Wright
Associate Counsel
WorldCom, Inc.
1133 19th Street, N.W.
Washington, D.C. 20036

(202) 736-6468

[21] Order ¶ 54.

[22] NECA Petition at 3.

Certificate of Service

I, Lonzena Rogers, do hereby certify, that on this 27th day of February, 2003, I have caused a true and correct copy of WorldCom, Inc.'s Comments On Petitions For Reconsideration in CC Docket Nos. 95-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170 on the following:

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

James S. Blaszak
Levine, Blaszak, Block & Boothby, LLP
Counsel for The Ad Hoc
Telecommunications Users Committee
2001 L Street, NW
Suite 900
Washington, DC 20036

Jeffry A. Brueggeman
Gary L. Phillips
Paul K. Mancini
SBC Communications, Inc.
1401 Eye Street, NW
Suite 1100
Washington, DC 20005

Laura H. Phillips
Laura S. Gallagher
Drinker Biddle & Reath LLP
1500 K Street, NW
Suite 1100
Washington, DC 20036

Leonard J. Kennedy
Senior Vice President/General Counsel
Lawrence R. Krevor
Vice President of Government Affairs
Garnet M. Goins
Attorney, Government Affairs
Nextel Communications, Inc.
2001 Edmund Halley Drive
Reston, VA 20191

Lawrence E. Sarjeant
Indra Sehdev Chalk
Michael T. McMenamin
Robin E. Tuttle
Attorneys for United States Telecom
Association
1401 H Street, NW
Suite 600
Washington, DC 20005

John T. Scott III
Anne E. Hoskins
Verizon Wireless
1300 Eye Street, NW
Suite 400 West
Washington, DC 20005

Richard A. Askoff
National Exchange Carrier Association,
Inc.
80 South Jefferson Road
Whippany, NJ 07981

Qualex International
Portals II
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554
qualexint@aol.com

_____/s/ Lonzena Rogers_____