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

VERIZON'S REPLY COMMENTS ON STAFF STUDY

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Introduction and Summary

The Commission's Staff Study[1] shows that, contrary to the claims of some parties, there is no "death spiral" of reduced interstate telecommunications revenue. However, while the Staff

[1] *See Commission Seeks Comment on Staff Study Regarding Alternative Contribution Methodologies*, Public Notice, 18 FCC Rcd 3006 (2003) ("Staff Study").

Study has been an important tool in helping frame the debate, the fact is that there are too many issues that must be resolved before the Commission can consider whether to change from a revenue-based system to another method of assessment. The Commission still has not decided what, if any, assessment should be made on broadband providers. Moreover, it does not yet have adequate experience with the modifications recently made to the existing mechanism – modifications that just became effective on April 1 – that could be used to evaluate what, if any, additional changes are needed in light of the evolving telecommunications marketplace. The Commission should reject calls for an "immediate" change in the universal service contribution mechanism, and should instead focus on ways to control growth in universal service spending.

I. THERE IS NO "DEATH SPIRAL" IN INTERSTATE REVENUES, AND THE ENTIRE DEATH SPIRAL DEBATE IS A RED HERRING

As the Staff Study demonstrates, the debate about the purported "death spiral" in interstate revenues is simply a red herring. Regardless of the contribution mechanism used, the same amount of funds will be collected from the same pool of consumers. *See* Staff Study, at 5-8 (projecting the same USF program requirements being met by the differing contribution methods proposed in this proceeding). The very basic fact is that regardless of the method of assessment, *consumers* – not "revenues" or "connections" or "telephone numbers" – will ultimately pay the universal service tab.

The real issue at the heart of the "death spiral" debate is *not* whether the current revenue trends will continue. Rather, it is whether the Commission can ensure that all interstate telecommunications services (including the interstate portion of bundled services) are properly assessed, and that the services that should contribute to the universal service fund are adequately captured by the assessment mechanism chosen. Although the types of challenges differ with

each proposal, this general issue – properly assessing and capturing universal service contributions from all interstate customers and services – presents challenges to all methodologies, not just a revenue-based system. In other words, switching from a revenue-based assessment to a connection-based or numbers-based system does not solve all assessment challenges, but merely trades one set of problems for another.

Critics of the revenue-based system argue that the Commission will have difficulty recovering sufficient assessment from bundled services, but fail to acknowledge similar problems with other proposals. For example, under a pure numbers-based approach, private line services would not be captured.[2] Thus, AT&T's criticism of the solutions to assessing bundled service offerings in a revenue-based system as "artificial, hyper-regulatory, and competitively biased,"[3] equally could be made of the tiered method it proposes for assessing private-line services under its hybrid numbers- and connection-based approach. Indeed, the purported bundled offering problem with a revenue-based system is tame compared to many of the challenges presented by other proposals.[4]

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[2] *See* NANC USF IMG Final Report, "Additional Considerations," ¶ 5, attached to Letter from Robert C. Atkinson, North American Numbering Council Chair, to William Maher, Chief, Wireline Competition Bureau (filed May 14, 2003) ("NANC Report").

[3] *See* AT&T's SFNPRM Reply Comments and Comments on the Staff Study, at 18 (filed Apr. 18, 2003) ("AT&T SFNPRM Reply").

[4] *See, e.g.*, NANC Report (identifying several "hurdles" to implementation of a numbers-based approach); Comments of AT&T to Second Further Notice of Proposed Rulemaking, at 47-55 (filed Feb. 28, 2003) (listing several problems that it contends makes the SBC/BellSouth proposal unworkable); SBC/BellSouth Joint Comments to Second Further Notice of Proposed Rulemaking, at 16 (filed Feb. 28, 2003) (arguing that a per-connection proposal with a mandatory minimum contribution "would be an inconsistent methodology that treats carriers differently depending on their legacy status as a provider of end user connections or long distance service").

Moreover, the Commission already has at its disposal various methods for addressing the bundled offering problem.[5] However, many of the problems presented by the new proposals, such as the impact a tiered system will have on competition in the marketplace, have not been fully explored. For many services, there will be a significant increase in the amount of universal service fees paid if the Commission moves to a per-connection or a numbers-based proposal.[6] Moreover, even if the Commission were able to design tiers in a way that would be equitable and reduce the impact universal service fees will have in the marketplace, as technology changes, and customers rapidly demand the need for more bandwidth, those tiers could quickly become outdated.

In addition, many of the projections supporting the "death spiral" cry are either based on flawed analysis, or are completely speculative. For example, AT&T argues that the per-minute prices of interstate toll calls will decline more quickly than the staff predicts, in part due to flat rate "all-you-can-eat" calling plans. AT&T SFNPRM Reply, at 8 & Exh. 1 at 3-4. However, this argument ignores the price elasticity of demand; that is, as prices *per call* go down, the decrease in per-minute revenues likely will be offset in part by a rise in usage. For example, while the average *per minute* revenues for international calls have dropped significantly in the last few years, this has largely been offset by an increase in the total number of minutes billed by

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[5] *See, e.g., Federal-State Joint Board on Universal Service,* Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 17 FCC Rcd 24952, ¶ 12 (2002) ("Report and Order and 2d FNPRM") (noting the Commission allows for a safe harbor for wireless providers, and for services that are bundled with customer premises equipment or information services); "How to Identify Interstate Revenues in Bundled Offerings," Attachment to Comments of Verizon to Second Further Notice of Proposed Rulemaking (filed Feb. 28, 2003).

[6] *See, e.g.,* Staff Study, at 6, 7, 8 (showing that a single-line business connection assessment will almost double (or will more than double) in the first year the new methodology is implemented).

all providers, collectively.[7] The concept of price elasticity is one that the Commission has long recognized.[8]

AT&T also argues that interstate revenues will decline more than the Staff Study predicts, due to bundling of local and long distance services, which would make interstate services more difficult to assess. *See* AT&T SFNPRM Reply, at 9. However, as stated above, there are many ways the Commission can ensure that it recovers adequate assessment for the interstate portion of "bundled" packages.

AT&T's attempts to nit-pick the Staff Study and identify "sources of *possible* overestimation" of revenues are merely speculative. *See* AT&T's SFNPRM Reply, at 11 (emphasis added). Any attempts to herald the death of the revenue-based system are premature, especially in light of the fact that the Commission has just adopted interim changes to the revenue-based system, and other issues (such as what the assessment, if any, should be on broadband services such as DSL and cable modem) are still uncertain. Regardless, even if AT&T were correct that some of the Staff Study assumptions are "overly optimistic," *id.* at 10, a revenue-based system is flexible enough to allow the Commission to make additional adjustments, as necessary, if any of AT&T's pessimistic predictions play out. None of AT&T's complaints are significant enough to undermine the validity of the revenue-based approach, at least for now.

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[7] *See* Statistics of Communications Common Carriers, 2001/2002 edition, Table 3.9 (2002), available at http://www.fcc.gov/wcb/stats.html (showing that while revenue per billed minute dropped from $0.74 to $0.48 between 1996 and 2000, the total number of billed minutes grew more than 11% per year, and total billed revenues stayed close to $14.2 billion during the same time frame).

[8] *See, e.g., Telephone Number Portability*, Fourth Memorandum Opinion and Order on Reconsideration, 14 FCC Rcd 16459, at n. 47 (1999) ("Indeed, competition should foster lower local telephone prices and, consequently, stimulate demand for telecommunications services and increase economic growth.").

II. THE COMMISSION SHOULD RESOLVE OTHER PENDING PROCEEDINGS AND STUDY THE RESULTS OF THE INTERIM CHANGES TO THE REVENUE-BASED SYSTEM BEFORE IT CONSIDERS ADOPTING ANOTHER METHOD OF ASSESSMENT

Currently, there are too many variables for the Commission to properly assess and determine whether any of the proposed connection-based or number-based proposals would provide a better framework for contribution than the current revenue-based system.

As an initial matter, the Commission must resolve the Broadband Proceeding before it can turn to the issues raised by universal service contribution.[9] For purposes of requesting comments on the various methodologies, the Staff Study simply "[a]ssumes status quo treatment of broadband services." Staff Study, at 6, 7, 8. However, the assumption is almost certainly wrong. The Commission cannot maintain the "status quo," which currently requires a contribution from DSL services, but not from cable modem and other modalities. In order to ensure competitive neutrality, and to be consistent with the statutory standard that contributions to universal service be "equitable and nondiscriminatory," 47 U.S.C. § 254(d), the Commission must treat all broadband providers and services the same.[10]

Moreover, the Commission should wait until it gains experience with the modifications recently made to the existing mechanism – modifications that just became effective on April 1 – and use that experience to evaluate what, if any, additional changes are needed in light of the

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[9] *See Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities; Universal Service Obligations of Broadband Providers*, Notice of Proposed Rulemaking, 17 FCC Rcd 3019 (2002).

[10] Comments of Verizon, *Appropriate Framework for Broadband Access to the Internet Over Wireline Facilities; Universal Service Obligations of Broadband Providers*, CC Docket No. 02-3 at 43-45 (filed May 3, 2002). Moreover, as Verizon pointed out in earlier comments in this proceeding, differential treatment of broadband services raises serious First Amendment concerns. *See* Reply Comments of Verizon on Contribution Mechanism and Comments on Staff Study, at 6-7 (filed Apr. 18, 2003).

evolving telecommunications marketplace and to ensure that any revised mechanism is fully consistent with statutory requirements. It also should conduct further study of the market impacts of various proposals before moving to a system that could affect pricing of services through the assessment of regulatory fees.

Commenters' calls for "immediate" change to the contribution methodology are simply premature. This is illustrated by the disintegration of the so-called Coalition for Sustainable Universal Service ("COSUS"), a group including AT&T, WorldCom, and others, that helped provide the impetus for a per-connection approach.[11] Just last Spring, COSUS filed comments touting their per-connection proposal as one that should be adopted and implemented "*immediately*, by July 1, 2002." COSUS Comments, at 2 (filed Apr. 22, 2002) (emphasis added). However, less than one year later, only *one* of the original "coalition" members is still advocating that the Commission adopt the original COSUS proposal. *See* WorldCom Comments (filed Feb. 28, 2003). Two other "coalition" members now are arguing that a numbers-based assessment is the "best means" of satisfying section 254. Comments of the Ad Hoc Telecommunications Users Committee, at 2 (filed Feb. 28, 2003); *see also* Comments of AT&T (filed Feb. 28, 2003). And the two other "coalition" members, e-Commerce & Telecommunications Users Group (eTUG) and Level 3 Communications, appear to have dropped out of the debate entirely.

And the COSUS debacle is merely a microcosm of the larger, splintered debate that surrounds the various proposed alternatives to the revenue-based system. Commenters in this

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[11] *See Federal-State Joint Board on Universal Service,* Further Notice of Proposed Rulemaking, 17 FCC Rcd 3752, ¶¶ 30-31, 34 & n.76 (2002); Letter from Patrick H. Merrick, Esq., AT&T, to Magalie Roman Salas, Federal Communications Commission, filed Nov. 14, 2001.

proceeding have embraced one methodology as the "only" sustainable solution, only to later modify the proposal to address criticisms or, in some cases, to jump to another solution that is now the "only" sustainable one. The lack of consensus on any alternative to a revenue-based approach simply highlights the fact that there is no magic bullet. The Commission should not rush into an "immediate" overhaul of the contribution proceeding that may only have to be revised for a "better" solution when more data is available.[12] Long-term solutions call for long-term study. Particularly when there are so many variables outstanding, and when any change to another methodology would impose significant administrative burdens, the Commission should not rush to throw out a system that still works in favor of one that has not been adequately tested.

III. THE COMMISSION SHOULD CONSIDER ADMINISTRATIVE HURDLES AND COSTS WITH THE VARIOUS PROPOSALS, AND ALLOW CARRIERS TO RECOVER THESE COSTS THROUGH UNIVERSAL SERVICE CHARGES

The Staff Study did not make any projections about the administrative costs associated with each proposal. However, administrative burdens are a significant factor that should be considered in weighing the advantages and disadvantages of each proposed method of contribution.

The North American Numbering Council ("NANC") recently issued a report responding to the Wireline Competition Bureau's staff request to identify technical issues associated with using working telephone numbers as a basis for assessing universal service contributions. In that report, NANC identified a number of significant "hurdles" that would be presented by a numbers-based assessment system. For example, one problem is that the Number Resource Utilization Forecast ("NRUF") report, which is the only existing industry database that can be

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[12] Verizon is not arguing that the new AT&T and Ad Hoc proposals are necessarily "better" than the original COSUS proposal, but only is pointing out that as more data becomes available, parties are changing their opinions on the various methodologies.

used as the basis for a telephone-number assessment, identifies "assigned" telephone numbers by the original carrier.[13] However, the assigned number may be ported, "perhaps many times," from the original carrier to resellers or other service providers, such as paging service providers and VoIP providers, who use the telephone numbers in providing services to the end users. *Id.* Thus, either the original carrier assigned the number must bear the burden of assuring that these other carriers make universal service contributions based on end-user numbers (something the NANC report says would be "extremely burdensome" and "likely to lead to numerous disputes and disruptions to the flow of contributions"), or the Commission would have to figure out a way to track the numbers ported out from the carrier to which the number was originally assigned. *Id.* Modifying the NRUF database to track this data would present "considerable cost and administrative burdens to the industry." *Id.*, ¶ 1. However, the alternative – allowing carriers to track and report ported telephone numbers – would lead to difficulties in getting accurate data, especially with intra-service provider porting and wireless porting. *Id.*

Moreover, NRUF data currently is reported only on a semi-annual basis, and even then "is considered to be a rigorous and time-consuming effort." NANC Report, "IMG Answers to Specific Questions Asked by the FCC," ¶ A3. Thus, if the Commission were to require more frequent reporting – such as on a monthly basis – this requirement also "is considered to be a significant hurdle" by NANC. *Id.*

AT&T argues that its hybrid number-and-connection based proposal would be "more economically efficient than the existing mechanism," which currently "imposes deadweight administrative costs." AT&T SFNPRM Reply, at 38. However, the obvious question becomes,

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[13] *See* NANC Report, "Hurdles with using Assigned TNs as a TN-based USF Allocator," ¶ 1. The definition of "Assigned" telephone numbers used in the NANC report is consistent with the FCC's definition, found in 47 C.F.R. § 52.15(f). *See* NANC Report, n.1.

"More efficient for whom?" The Commission should not adopt any proposal that would "efficiently" shift the bulk of these "deadweight administrative costs" to only certain segments of the industry, at the expense of players, such as AT&T, that would have few such burdens. Moreover, many of the proposed mechanisms would require significant *new* administrative costs. These costs have not been considered in the Staff Study. The Commission should investigate the administrative burdens associated with any new method for recovering universal assessment, and allow all carriers – including price cap ILECs – to recover these administrative costs in their universal service charges.

IV. REGARDLESS OF THE METHOD OF ASSESSMENT, THE COMMISSION MUST CONTROL THE GROWTH OF THE UNIVERSAL SERVICE FUND

Verizon agrees with AT&T in one respect – any long-term solution must focus not just on the way in which universal service charges are collected, but must also control the size of the universal service fund. Regardless of the method of assessment selected, as Chairman Powell properly stated, "the cost of [universal service] programs is ultimately borne by American consumers. Accordingly, . . . we must balance the needs of funding these programs against the real burden that our contribution requirements could impose on consumers if we do not manage those requirements carefully."[14]

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[14] *Schools and Libraries Universal Service Support Mechanism*, First Report and Order, Separate Statement of Chairman Michael K. Powell Approving in Part and Concurring in Part, 17 FCC Rcd 11521 (rel. June 13, 2002).

Conclusion

The Staff Study, while an important step in the debate on universal service assessment, leaves important issues unresolved. The Commission should scrutinize the results from the recent modifications to the existing universal service contribution mechanism and resolve pending proceedings before it decides whether to replace the existing system with any of the proposals.

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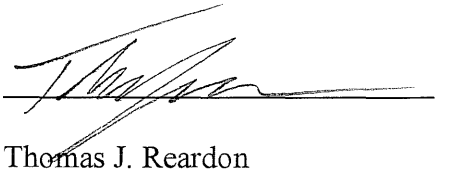
CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of May, 2003, copies of the foregoing "Reply Comments on Staff Study" were sent by first class mail, postage prepaid, to the parties below.



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