Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Federal-State Joint Board on Universal Service NPCR, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier In Certain Rural and Non-Rural Service Areas in the State of New York To: Wireline Competition Bureau	)))))))))))))	CC Docket No. 96-45

OPPOSITION OF VERIZON[1]

Verizon opposes the instant petition for the reasons stated in the Opposition of Verizon to the Alltel Petition for Designation as Eligible Telecommunications Carrier in the State of Virginia (filed June 30, 2003) (attached). The growing number of petitions for ETC designations in non-rural areas threatens to unravel the access charge reform established by the CALLS Order.[2] The Commission should take no action on Nextel's petition, and on other pending petitions for ETC status, until it resolves the issues raised in the Joint Board portability proceeding. In addition, it should amend its rules to require

[1] The Verizon telephone companies ("Verizon") are the local exchange carriers affiliated with Verizon Communications Inc., and are listed in Attachment A.

[2] *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000) ("CALLS Order"), *aff'd in part, rev'd and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001).

only one ETC per customer receives high-cost funding, which will limit dilution of CALLS-based support.[3]

Respectfully submitted,

Ann H. Rakestraw

1515 North Courthouse Road
Suite 500
Arlington, VA 22201
(703) 351-3174
ann.h.rakestraw@verizon.com

Attorney for the
Verizon telephone companies

Michael E. Glover
Edward Shakin
Of Counsel

August 18, 2003

[3] *See Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, Verizon Comments, CC Docket No. 96-45 (filed May 5, 2003).

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Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
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Alltel Communications, Inc.	)	
	)	
Petition for Designation as an Eligible Telecommunications Carrier In the State of Virginia	)	
	)	
To: Wireline Competition Bureau	)	

OPPOSITION OF VERIZON[1]

Introduction

In response to the Commission's directive, the Federal-State Joint Board recently began its review of certain portability and eligible telecommunications carrier ("ETC") rules relating to high-cost universal service support.[2] In that portability proceeding, many commenters identified a number of problems that threaten the sustainability of the high cost fund. One growing threat is the recent increase in petitions seeking ETC status. Until recently, most of those petitions have focused on *rural* areas.

The Alltel petition for ETC designation in Virginia, and other petitions recently made by wireless carriers in *non-rural* areas, highlight another danger: the growing

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[1] The Verizon telephone companies ("Verizon") are the local exchange carriers affiliated with Verizon Communications Inc., and are listed in Attachment A.

[2] *See Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, Public Notice, 18 FCC Rcd 1941 (2003); *Federal-State Joint Board on Universal Service*, Order, 17 FCC Rcd 22645 (2002).

number of applications for ETC status in non-rural areas presents the potential to unravel the CALLS plan, and increase charges for all wireline customers.[3]

Unlike other portions of the high cost fund, the interstate access support established by the CALLS Order was designed to reform the access charge regime. Before CALLS, access charges contained a complex and inefficient system of implicit subsidies to support the interstate portion of high cost loops. Without CALLS-based interstate access support, carriers were forced to recover these costs through three separate charges, which were either directly or indirectly paid by end user customers. Because the amount of support set by the CALLS plan is capped, allowing ETCs to siphon off this support from its intended purpose (supporting the interstate portion of loop costs), merely in the name of "portability," will result in carriers having to recover these costs through reinstating the customer charges that CALLS was designed to reduce or eliminate.

The Commission should control this dilution of high cost support by limiting high cost funding (including CALLS-related interstate access support) to only one ETC per customer. In addition, the Commission should stay proceedings on Alltel's petition, and on other pending ETC petitions, until it resolves the issues related to the Joint Board

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[3] "CALLS" stands for the Coalition for Affordable Local and Long Distance Services, a group of local exchange companies and interexchange carriers who presented a proposal to the Commission for reforming interstate access charges. *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962, ¶¶ 1-3 & n.1 (2000) ("CALLS Order"), *aff'd in part, rev'd and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 265 F.3d 313 (5th Cir. 2001).

portability proceeding and determines how to preserve the CALLS regime, and ensure sustainability of the high cost fund in general.

I. CALLS-Based Interstate Access Support Is Different Than Other High Cost Support, Because It Was Designed To Reform The Access Charge Regime

The CALLS Order was designed to revise access charges to eliminate an inefficient system of implicit subsidies for interstate loop costs in non-rural areas. Before CALLS, local exchange carriers recovered interstate loop costs from three different charges.[4] The first was through the subscriber line charge ("SLC"), which was charged to end-user customers. The SLC traditionally was averaged within the state, so that customers in lower cost areas of the state paid higher SLC charges in order to subsidize the SLC charged to customers in higher-cost areas of the state. However, because the SLC was capped, it was not sufficient to recover all of these costs. *See* SLC Order, ¶ 12. Therefore, a portion of loop costs also were recovered through the primary interexchange carrier charge ("PICC"), a fixed per-month charge assessed through access charges to interexchange carriers. *Id.*[5] However, that charge also was capped at a level that did not allow full recovery of the loop costs. The remaining costs were recovered through carrier common line ("CCL") charges, traffic-sensitive per-minute access charges that were charged to interexchange carriers based on usage. *Id.*; CALLS Order on Reconsideration,

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[4] *See Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, Order on Reconsideration, CC Docket Nos. 96-262, 94-1, FCC 03-139, ¶¶ 2-3 (rel. June 25, 2003) ("CALLS Order on Reconsideration"); *Cost Review Proceeding for Residential and Single-Line Business Subscriber Line Charge (SLC) Caps, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers*, Order, 17 FCC Rcd 10868, ¶ 12 (rel. June 5, 2002) ("SLC Order").

[5] This PICC was generally passed on to the end-user customer, by the IXC. Where an end-user did not designate an IXC, the charge was imposed directly on the end-user. CALLS Order on Reconsideration, ¶ 3 & n.7.

¶¶ 2-3. Again, these charges usually were passed on to end-user customers. *See* CALLS Order, ¶ 64 (noting that the CCL charge assessed on the interexchange carrier "ultimately was recovered from end users through long distance charges").

The pre-CALLS system was problematic for several reasons. For one thing, it required carriers to recover loop costs through three separate charges. Not only was this system confusing and inefficient, but it led to constant contentious debate (and litigation) over the proper amount of the charges. *Id.*, ¶¶ 36-38. The CCL charge in particular was difficult to calculate, because it required carriers to attempt to recover non-traffic sensitive loop costs from traffic-sensitive charges. CALLS Order on Reconsideration, ¶ 2 & n.5.

CALLS revised this patchwork of implicit subsidies by moving to a system where loop costs were recovered by one charge (the SLC) and $650 million per year in explicit universal service support. CALLS Order, ¶¶ 31-32. Because of CALLS-based universal service support, carriers have begun eliminating the CCL and PICC charges from interstate access bills.[6]

In addition, after those charges have been eliminated, carriers will be able to deaverage the SLC so that customers in low cost areas are not subsidizing high cost SLCs. CALLS Order, ¶ 73. The Commission found that allowing carriers to deaverage the SLC is important to facilitate local competition in both high cost and low cost areas:

> Deaveraged rates more closely reflect the actual cost of providing service than do averaged rates. Therefore, deaveraged rates promote competition and efficiency and send the appropriate pricing signals to competitors.

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[6] For example, Verizon filed tariffs on June 16, 2003, which remove all PICC and CCL charges from Verizon East territories as of July 1, 2003. *See* Letter from Richard T. Ellis, Verizon, to Marlene H. Dortch, FCC, Transmittal No. 327 (filed June 16, 2003).

> Competitors are more likely to enter high-cost areas if the incumbent LECs' rates are closer to cost, rather than below cost because of averaging. This enables competition to constrain rates. Deaveraging also allows incumbent LECs greater flexibility in responding to competition in low-cost areas.

SLC Order, ¶ 41. Moreover, by moving from a system of implicit subsidies for interstate loops to explicit universal service support, the CALLS Order largely resolved "nearly two decades of contentions debate of complex issues stemming from the breakup of AT&T in 1984."[7]

The $650 million per year established for CALLS-based interstate access support was targeted to replace "a *specific amount* of access charges" that had previously been used as implicit support to interstate loop costs. CALLS Order, ¶ 185 (emphasis added). The Commission capped this support at $650 million per year based on the assumption that it was "a reasonable estimate of the amount of universal service support that *currently* is in our interstate access charge regime." *Id.*, ¶ 202 (emphasis added). Thus, the fact that the Commission found that the then-current $650 million per year funding level would be "sufficient" for five years reflected the Commission's assumption that the levels of support necessary to support interstate loop costs would remain relatively constant.

II. The Growth in Wireless ETC Petitions In Non-Rural Study Areas Threatens to Unravel CALLS

Like other high cost support, the CALLS-based interstate access support was designed to be portable. CALLS Order, ¶¶ 186, 209. However, unlike most other portions of high cost support, CALLS-based interstate access support was capped. *Id.*,

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[7] *FCC Reduces Access Charges by $3.2 Billion; Reductions Total $6.4 Billion Since 1996 Telecommunications Act*, News Release, CC Docket Nos. 96-262, 94-1, 96-45 and 99-249, at 2 (rel. May 31, 2000).

¶ 186. And unlike other high cost support, allowing CALLS-based interstate access support to be diluted would undermine the entire access charge reform established by the CALLS Order, and lead to increases in rates to all wireline customers.

CALLS-based interstate access support was designed to compensate local exchange carriers for interstate portions of the loop costs. Wireless carriers and CLECs do not have access charges regulated by the ILEC price cap regime that was under review in CALLS. Moreover, wireless carriers do not have loops, and thus do not have the loop costs this fund was designed to support. Nevertheless, under the Commission's portability rules, they are provided the same level of per-line support as the local exchange carrier. *See* CALLS Order, ¶ 209; *see also* 47 C.F.R. §§ 54.307, 54.309.

At the time of the CALLS Order, however, the Commission did not anticipate that the local exchange carriers who actually incur the interstate loop costs would be threatened with a significant dilution of support. When the CALLS Order was released in May 2000, there were only 9 *total* petitions for ETC status that had been granted or were pending.[8] As of the First Quarter 2003, the number of pending or approved ETC petitions just for *non-rural* areas had risen to 20; by the Third Quarter, USAC projects the number of pending or approved applications for non-rural ETC areas to be more than twice that amount, at 53.[9] And, like the Alltel petition, each petitioner typically seeks "to

8 USAC did not start to disaggregate this data into rural and non-rural areas until Fourth Quarter 2001.

9 *See* Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2003*, First Quarter Appendices and Third Quarter Appendices, at Appendix HC01, *available at*: www.universalservice.org/overview/filings/.

receive federal universal service support for service offered throughout its licensed service area in the state. . ."[10]

Of course, a reduction in universal service interstate access support does nothing to reduce the local exchange carriers' loop costs. These costs are fixed, and do not vary when lines or customers are lost. However, because CALLS-based interstate access support is capped, moving this support from the ILEC to the ETC will result in a reduction in CALLS-based support for interstate loop costs. In addition, because of ambiguity in the way the Commission's rules currently are written, this support is being used for duplicative networks to the same customer.[11]

Therefore, allowing new ETC designations to dilute CALLS-based interstate access support will make this support insufficient to compensate for interstate loop costs. Carriers thus will be forced to reinstate the same customer-based charges the CALLS Order was designed to reduce or eliminate. First, carriers will not have sufficient explicit universal service support to allow them to deaverage the SLC. Thus, rather than promoting "competition," as applied to CALLS-based interstate access support, the Commission's portability rules will require carriers to return to a system of implicit subsidies that actually *harms* competition. *See* section I, above. In addition, if the dilution of support becomes significant enough, carriers may have to reinstitute the PICC

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[10] *Wireline Competition Bureau Seeks Comment on Alltel Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of Virginia,* Public Notice, 18 FCC Rcd 11336, at 1 (rel. June 3, 2003).

[11] *See* section III, below; *see also Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, Verizon Comments, CC Docket No. 96-45 (filed May 5, 2003) ("Verizon Joint Board Comments").

and CCL charges to interexchange carriers, which would likely again pass these charges on to end-user wireline customers.

A number of commenters in the portability proceeding generally have argued that principles of "competition" and "portability" prevent the Commission from setting almost any limits on high cost funding to ETCs. However, if ETC petitions (such as that filed by Alltel) begin to threaten CALLS-based interstate access support, soon the portability tail will be wagging the dog. In the CALLS Order, the Commission properly noted that "*as long as the Commission's universal service methodology provides sufficient support for universal service*, the Commission is free to adopt a methodology that serves its *other* goal of encouraging local competition." CALLS Order, ¶ 192 (emphasis added). In other words, portability principles necessarily are subordinate to the primary goal of universal service. Allowing CALLS support to be diluted in the name of "portability" does not allow universal service for interstate loop costs to be "sufficient." Indeed, as stated above, because it prevents carriers from deaveraging the SLC, it actually is harmful to competition. Thus, the Commission must amend its portability rules to prevent such a result.

III. The Commission Should Limit High Cost Support to Only One ETC Per Customer, and Should Stay Action on ETC Petitions Until It Has Resolved The Issues Raised In The Joint Board Portability Proceeding

Verizon and other commenters have urged the Commission to stay action on pending ETC petitions until it resolves the issues regarding portability that have been referred to the Joint Board.[12] Numerous commenters in the Joint Board portability

[12] *See Federal-State Joint Board on Universal Service, Highland Cellular Petition for Designation as an Eligible Telecommunications Carrier In the State of Virginia Wireline Competition Bureau*, Verizon Comments, Docket No. 96-45, at 3-5 (filed Oct. 15, 2002); *Federal-State Joint Board on Universal Service Seeks Comment on*

proceeding have proposed dramatic reforms of the high cost fund, including several proposed changes to the Commission's rules regarding portability of support to ETCs. Because Alltel and other ETCs' petitions raise questions that the Commission should reexamine in a broader rulemaking proceeding, including whether and to what extent high cost support (including CALLS-based interstate access support) will be portable to certain ETCs, the Commission should stay a ruling on all ETC petitions until it has resolved those issues.

As Verizon argued in comments to the Joint Board, the Commission should clarify its rules so that it is not providing high cost support (including CALLS-based interstate access support) to multiple ETCs per customer.[13] Under USAC's current interpretation of Commission rules, it appears that competitive ETCs have been reporting loop counts to USAC, and receiving universal support for, *all* customers they serve in all areas where they have received ETC status, regardless of whether those customers are still receiving service from the ILEC.[14] This results in a customer receiving duplicative high-cost support from more than one carrier. As more than one Commissioner has recognized, there are serious questions about the wisdom of using ratepayer dollars to subsidize "multiple competitors to serve areas in which the costs are prohibitively

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Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process, National Telecommunications Cooperative Association Reply Comments, CC Docket No. 96-45, at 22-23 (filed June 3, 2003).

[13] *See* Verizon Joint Board Comments, at 4-7.

[14] *See NTCA Petition for Rulemaking to Define "Captured" and "New" Subscriber Lines for Purposes of Receiving Universal Service Support*, Petition for Expedited Rulemaking, RM No. 10522 at 2, 7 & n.10 (filed July 26, 2002) (*citing* Letter from Roberta Haga, Secretary and Treasurer, USAC to Irene Flannery, Chief, Accounting Policy Division, re. Clarification of Section 54.307 (filed Feb. 11, 1999)).

expensive for even one carrier."[15] In addition, as noted above, this system presents the danger of diluting CALLS-based interstate access support, which would increase charges to *all* wireline telecommunications customers in order to offset the loss of universal service support. A one ETC per customer rule would limit the dilution of support, preserving high cost funds for their intended purposes. And because the one ETC per customer rule would allow support to go to either the competitive ETC or the ILEC, depending on who wins the customer, it addresses commenters' concerns that support in rural areas be "competitively neutral."

Conclusion

The Commission should stay action Alltel's petition, and on other pending petitions for ETC status, until it resolves the issues raised in the Joint Board portability proceeding. It should amend its rules to require that only one ETC per customer receives high-cost funding, which will limit dilution of CALLS-based support.

Respectfully submitted,

A Rakestraw

Ann H. Rakestraw

Michael E. Glover
Edward Shakin
Of Counsel

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1515 North Courthouse Road
Suite 500
Arlington, VA 22201
(703) 351-3174

Attorney for the
Verizon telephone companies

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[15] *Multi-Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers,* Separate Statement of Commissioner Kevin J. Martin, 16 FCC Rcd 19613, 19746 (2001). *See also* Jonathan S. Adelstein, Commissioner, FCC, Remarks before the National Association of Regulatory Utility Commissioners (Feb. 25, 2003), *available at* hraunfoss.fcc.gov/edocs_public/ attachmatch/DOC-231648A1.pdf.

Attachment A

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.