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

In the Matter of	)	
	)	
Comprehensive Review of Universal Service Fund Management, Administration, and Oversight	)	WC Docket No. 05-195
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Schools and Libraries Universal Service Support Mechanism	)	CC Docket No. 02-6
	)	
Rural Health Care Support Mechanism	)	WC Docket No. 02-60
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Changes to the Board of Directors for the National Exchange Carrier Association, Inc.	)	CC Docket No. 97-21

COMMENTS OF VERIZON

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COMMENTS OF VERIZON[1]

The largest challenge facing the universal service program today is not administrative; rather, it is the size of the fund, particularly the growing cost of high cost support. The universal service fund is growing to levels that could threaten two of the primary goals of the universal service program: sustainability of the fund, and affordability of telecommunications services for all Americans. *See* 47 U.S.C. § 254. The Commission should take immediate steps to control the size of the fund, and work toward more long-term solutions to high-cost reform. *See* Section I.

While more fundamental reform is being accomplished, the Commission also can take specific steps to improve administration of the fund. In particular, the Commission should direct

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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.

USAC to adopt administrative changes that would speed up the application and approval process for E-rate funding, and minimize cases of waste, fraud and abuse. *See* Sections II-IV. It should move up the timeline for announcing the final contribution factor each quarter, to allow contributors to timely amend their tariffs. *See* Section V. If TracFone's eligible telecommunications carrier ("ETC") petitions are granted, the Commission also should give direction to USAC about how to apply Lifeline funding to providers of prepaid services. *See* Section VI. Other administrative changes contemplated by the Notice, such as imposing new auditing or recordkeeping requirements, are not warranted. *See* Sections IV.C, VII, VIII.

I. THE COMMISSION SHOULD DIRECT USAC TO RE-INSTITUTE THE CAP ON CALLS-BASED INTERSTATE ACCESS SUPPORT

Commenters and Commissioners alike have recognized the need to limit the growth of the high-cost fund.[2] Total high-cost disbursements have grown from $1.718 billion in 1999, to *almost a billion dollars per quarter by the end of 2005.*[3] The overall size of the universal service fund is growing to levels that could threaten two of the primary goals of the universal service

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[2] *See, e.g., Federal-State Joint Board on Universal Service*, Separate Statement of Commissioner Kathleen Q. Abernathy, 19 FCC Rcd 10800 (2004) ("[I]t seems clear that the universal service fund can no longer subsidize an unlimited number of connections provided by an unlimited number of carriers"); Comments of CTIA, CC Docket No. 96-45, at 6 (filed Oct. 15, 2004) (arguing that the rural fund is "a bloated fund that does not effectively target the appropriate levels of support"); Comments of BellSouth, CC Docket No. 96-45, at 3 (filed May 5, 2003); *Petition of Mid-Rivers Telephone Cooperative, Inc. for Order Declaring it to be an Incumbent Local Exchange Carrier in Terry, Montana Pursuant to Section 251(H)(2),* 19 FCC Rcd 23070, ¶ 11 (2004) (finding that the "Commission has recognized the vital importance of avoiding excessive growth in the universal service fund size").

[3] Industry Analysis & Technology Div., *Trends in Telephone Service*, at Table 19.3 (Apr. 2005) ("Trends in Telephone Service") *available at* http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/trend605.pdf; *see Federal Universal Support Mechanisms Fund Size Projections for the Fourth Quarter 2005*, Appendix HC02 (rel. August 2, 2005) ("USAC 4th Quarter 2005 Projections") (projecting annualized high-cost support funding to be $3.995 billion) *available at* http://www.universalservice.org/overview/filings/2005/Q4/FCC%204Q2005%20Quarterly%20Demand%20Filing%20-%20Final.pdf.

program: sustainability of the fund, and affordability of telecommunications services for all Americans. *See* 47 U.S.C. § 254. Even if there were no additional growth in the high-cost fund, by the end of 2005 the total high-cost fund would be more than $3.995 billion per year – more than double the size of high-cost mechanism from just six years ago. *See USAC 4th Quarter 2005 Projections*, at Appendix HC02. Without effective controls, the demand for high-cost funding will continue to rise. Because ratepayers throughout the country must ultimately pay for these significant outlays, funding unnecessary or inefficient investments increases the cost of telecommunications services to all consumers, running the risk of violating the goal that all rates remain "affordable."[4] Continued increases in the size of the fund may also exceed the capacity of any carrier-based contributions system to fund it, undermining the long-term sustainability of the universal service program as a whole.

Ultimately, the Commission should reform the rules regarding portability of high-cost support so that a customer is not receiving high-cost supported services from more than one carrier.[5] It also should eliminate portability of CALLS-based support to non-ILEC companies.[6] However, until those solutions can be addressed in more comprehensive proceedings, the Commission should adopt immediate steps to limit growth of the fund, including capping CALLS-based support.

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[4] *See* 47 U.S.C. §§ 1, 254(b)(1); *Alenco Communications v. FCC,* 201 F.3d 608, 620 (5th Cir. 2000) ("excess subsidization in some cases may detract from universal service by causing rates unnecessarily to rise, thereby pricing some consumers out of the market"); *see also Qwest v. FCC,* 398 F.3d 1222, 1234 (10th Cir. 2005).

[5] *See* Verizon Comments, CC Docket No. 96-45 at 8-9 (filed Sept. 30, 2005).

[6] *See* Letter from Clint Odom, Verizon, to Marlene H. Dortch, FCC, CC Docket No. 96-45, FCC03J-1, (filed August 1, 2003) ("Verizon Aug. 1, 2003 letter").

When originally adopted, the *CALLS Order* capped Interstate Access Support ("IAS") to $650 million per year.[7] Until 2004, the annual amount of CALLS-based support never exceeded that amount. However, due to a growing number of supported lines – triggered in large part due to subsidies to duplicative carriers in high cost areas – USAC projected that demand would exceed the $650 million amount by fourth quarter 2004, and requested guidance on how to proceed.[8] In January 2005, the Wireline Competition Bureau sent a letter to USAC directing it to go beyond the capped amount. Specifically, it counseled that "USAC should continue to administer the IAS mechanism by adhering to the calculation method specified in the Commission's rules, *even if doing so results in IAS disbursements over $650 million.*"[9] The Commission should reverse that pronouncement, and direct USAC to operate under a $650 million cap.

As a matter of legal interpretation, the Bureau was incorrect in directing USAC to treat the $650 million per year amount allocated for CALLS support as a "target" rather than a cap. The *CALLS Order* specifically states that the Commission was "fixing the amount of support at $650 million per year," which satisfied the statutory test that the amount of support be specific, sufficient, and predictable. *CALLS Order*, ¶ 201. While it is true that the Commission – in a footnote – stated that the amount of support "could slightly exceed $650 million in a particular

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[7] *See Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service*, 15 FCC Rcd 12962, ¶¶ 201, 208 (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).

[8] *See* Letter from Jeffrey J. Carlisle, Chief, Wireline Competition Bureau, to Irene Flannery, Vice President, High Cost and Low Income Divisions, USAC (Jan. 26, 2005) ("Carlisle Jan. 26 letter"), *available at* http://www.universalservice.org/hc/download/pdf/IAS%20letter%20to%20USAC.pdf; *see also* Verizon Comments, CC Docket No. 96-45, at 3-6 (filed June 21, 2004).

[9] Carlisle Jan. 26 letter at 1 (emphasis added).

year" if actual line growth was higher than projected, *id.* n.460, USAC already is projecting approximately $100 million per year growth as a result of the lift of the cap – far more than the "slight" projection errors contemplated by the *CALLS Order*.[10]

Verizon has expressed concern that, under a capped regime, the strain on the CALLS fund may make CALLS-based support insufficient for the purposes to which it was intended.[11] However, another real concern is the ever-growing size of the universal service fund. Based on most recent USAC projections, it appears that the removal of a cap on CALLS-based support has increased the size of the universal service fund – and thus costs to consumers – by almost $100 million in 2005 alone.[12]

The $650 million CALLS fund would be sufficient to meet its intended purpose if the Commission were to revisit the decision to allow CALLS support to be portable. CALLS support is different from most other high-cost support, because it was designed to replace implicit subsidies formerly recovered through ILEC access charges. Wireless and CLEC ETCs did not have access charges that were reformed by CALLS, are not subject to the CALLS plan and did not have interstate loop costs that were explicitly the subject of the support contemplated by the CALLS plan. Indeed, wireless carriers do not even have loops. *See CALLS Order*, ¶ 209;

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10 *See USAC 4th Quarter 2005 Projections*, at 10.

11 *See* Verizon Aug. 1, 2003 letter (explaining that CALLS support was designed to replace implicit subsidies formerly recovered through ILEC access charges, and if the CALLS support is not sufficient, price cap carriers may be forced to reinstate charges they have previously eliminated from interstate access bills).

12 Based on most recent USAC projections, it appears that the removal of a cap on CALLS-based support has increased the size of the universal service fund – and thus costs to consumers – by almost $100 million in 2005 alone. *See USAC 4th Quarter 2005 Projections*, at 10 ("Based on these projections, total annual IAS is estimated to be $747.676 million").

see also 47 C.F.R. §§ 54.307, 54.309.[13] Thus, it would have been reasonable for the Commission to approve a "no portability" rule for CALLS support. When the Commission decided to make CALLS support portable, the number of ETC applications in non-rural areas was relatively low: 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.[14] However, now that the number of ETCs is growing rapidly, and the support is projected to be approximately $100 million per year *above* the capped level of CALLS support, that decision should be revisited.

II. THE COMMISSION SHOULD ALLOW E-RATE FUNDS TO FLOW DIRECTLY TO THE APPLICANTS, RATHER THAN THROUGH THE SERVICE PROVIDER

A. The Commission Should Direct USAC To Make BEAR Applicant Reimbursement Payments Directly To The Applicants, Rather Than Through The Service Provider

Currently, E-rate funds are distributed in one of two ways: (1) the applicant pays the service provider the full cost of services, then applies to USAC for funding for the discounted portion, through the Billed Entity Applicant Reimbursement ("BEAR") process; or (2) the applicant pays only the non-discounted portion of the services, and the provider seeks

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[13] Before CALLS, non-rural ILECs were forced to recover interstate loop costs through three separate charges – the subscriber line charge ("SLC"), primary interexchange carrier charge ("PICC"), and carrier common line charge ("CCL"). These charges either were assessed directly on end user customers, or were assessed to interexchange carriers, who passed them on to customers in the form of line item charges or higher long distance rates. *See CALLS Order*, ¶¶ 64-65. The *CALLS Order* eliminated this inefficient system by increasing the cap of the SLC, and establishing $650 million per year in explicit universal service interstate access support to recover those specific amounts that previously were recovered through access charges. *Id.*, ¶¶ 31-32.

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

reimbursement from USAC from the remaining portion.[15] Under both scenarios, USAC flows funds through the service providers to the applicants, rather than making payments directly to the applicants. When applications for funding are made through the BEAR applicant reimbursement process, USAC should provide those funds directly to the applicant, rather than funneling them through the service provider.[16]

There is no policy reason why applicant reimbursement payments should be made through the service provider. The Commission originally ordered that the schools and libraries funding be administered through service providers "[f]or purposes of administrative ease," based on the theory that requiring schools and libraries to seek direct reimbursement would "burden the administrator because of the large number of new entities that would be receiving funds."[17] However, under current procedures, the school or library applicant *already* must file the BEAR application with USAC in order to get funds approved.[18] Particularly in this age of digital banking, it should not be overly difficult for USAC to send payments directly to individual applicants. Moreover, to the extent that there are administrative difficulties associated with

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15 *See Schools and Libraries Universal Service Support Mechanism,* 18 FCC Rcd 9202, ¶¶ 42, 44, 50 (2003) ("Second Report and Order").

16 *See e.g.,* Comments of Illinois State Board of Education, CC Docket No. 02-6, at 30 (filed July 21, 2003); Comments of State E-rate Coordinators' Alliance (SECA), CC Docket No. 02-6, at 44 (filed July 18, 2003) ("Comments of SECA"); and Comments of StateNets, CC Docket No. 02-6, at 4 (filed July 21, 2003). Discounted billing is discussed below in Section I.A.

17 *See Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8776, ¶ 586 (1997) ("First Report and Order").

18 *See Comprehensive Review of Universal Service Fund Management, Administration, and Oversight,* 20 FCC Rcd 11308, ¶ 36 (2005) ("NPRM") ("The FCC Form 472, Billed Entity Applicant Reimbursement ('BEAR') Form may be filed if the school or library needs reimbursement of discounts due on approved services for which it has paid full price"); *see also Universal Service for Schools and Libraries Billed Entity Applicant Reimbursement Form, available at* http://www.sl.universalservice.org/data/pdf/472.pdf.

sending payments to multiple individual applicants, there is no reason why service providers – rather than the company hired to administer the fund – should bear the burden.[19]

Eliminating the service provider as middleman will speed up funding to the schools. Under the current system, it can take the provider as long as twenty business days to process and send out BEAR applicant reimbursement payments to the applicant.[20] As the Commission has recognized, delays in funding can cause serious impacts to schools and libraries, which may be operating under strict budget or procurement schedules. *See* NPRM ¶ 38. Moreover, if USAC makes applicant reimbursement payments directly to the applicant, there is no longer a need to find a "Good Samaritan" provider to be a conduit for these funds in instances when the applicant already has paid for services, but the original service provider is no longer available to process the payment. *See* NPRM ¶ 40, n.94.

In directing that all payments be made through the service providers, it may be that the Commission also was being cautious in determining whether there were potential legal limitations in the Act regarding direct disbursements to applicants. The Act states that "telecommunications carriers" shall receive an offset or "reimbursement" from the universal service fund for providing E-rate services at a discount.[21] However, the requirement that carriers be reimbursed for the discounted service can be satisfied by requiring the applicant to pay for the entire cost of the service before it will receive money from the E-rate fund. Because the

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[19] Currently, Verizon receives BEAR payments that contain approved funds for multiple applicants. USAC does not pay on an applicant-by-applicant basis, but rather on the funding request numbers that are approved. Verizon then must divide the lump sum check into smaller checks for distribution to the appropriate applicants.

[20] *See* 47 C.F.R. § 54.514(b) (requiring service providers to remit checks to applicant within twenty business days after receiving reimbursement from USAC); *Second Report and Order*, ¶ 51.

[21] *See* 47 U.S.C. § 254(h)(1)(B).

applicant receives the E-rate money, and the carrier receives full payment, the carrier is effectively "reimbursed" for the amount of the E-rate subsidy. The applicant is the conduit for that reimbursement. In other words, the purpose of the statute is to make sure that (1) applicants have access to reduced-cost services, and (2) the universal service fund, rather than service providers, pays for the subsidy. If the carrier *already* has been reimbursed for one hundred percent of the price of the services by the customer, the language of the statute requiring the carrier to receive "reimbursement" already has been satisfied. And it would promote form over substance to suggest that there is a legal distinction between the current situation – having USAC give the service provider money that immediately must be forwarded to the applicant – and one in which the applicant receives the money directly from USAC. Indeed, the Commission recently eliminated such technical distinctions when it allowed USAC to recover funds disbursed in error directly from the applicant, even though the service providers, "actually receive disbursements of funds from the universal service support mechanism."[22]

If the Commission nonetheless decides to continue requiring applicant reimbursement payments be sent via the service providers (which, as explained above, it should not do), it should allow the service provider to choose the option of directly receiving the applicant reimbursement BEAR check, or designating the customer as its assigned recipient of such payments.

B. The Commission Should Consider Adopting E-Rate Disbursement Solutions That Would Eliminate The Need For Discounted Billing

As stated above in Section I.A., USAC should be directed to disburse E-rate funds directly to schools and libraries when they elect the applicant reimbursement (BEAR) process.

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[22] *See Federal- State Joint Board on Universal Service*, 19 FCC Rcd 15252, ¶ 6 (2004) ("Fourth Report and Order").

Currently, applicants also can choose to receive funds through discounted billing.[23] Under a discounted billing system, applicants "pay the non-discounted portion of the cost of services, with the service provider seeking reimbursement from the Administrator for the discounted portion." *Id.*, ¶ 42. In such circumstances, E-rate payments should continue to be made directly to the service provider, because the applicant has already received the discounted price, and the funds are used to reimburse the service provider for the discounts provided on the applicant's bill. However, the Commission should examine methods of disbursement that could replace the discounted billing regime, and eliminate the service provider role as conduit of E-rate funds.

Because of the processes that must be taken to assure proper payment, discounted billing often leads to a delay in service to the applicant. Delays occur at three stages in the process, through no fault of the participants: (1) while the USAC prepares and issues the Funding Commitment Decision Letters; (2) while the service provider awaits an Applicant's submission and USAC's approval of the Form 486 ("Receipt of Service Confirmation Form")[24]; and (3) while the service provider calculates the discounts in arrears to the approved service start date. Thus, it is not unusual for a service provided in July, for example, to be discounted for the first time on a bill at the end of the year — or even in the following year — along with the discounts for the subsequent months.

Moreover, direct billing for only the non-discounted portion, and determining which portion of the E-rate funding applies to each product or service, can be incredibly time consuming and burdensome to the service provider, which must rely on the applicant to provide

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[23] *See Second Report and Order*, ¶¶ 44-51 (requiring service providers to provide applicants with the right to choose discounted billing as a payment option).

[24] The service provider cannot be reimbursed for discounts provided to schools and libraries unless and until the applicant files a properly completed Form 486, Receipt of Service Confirmation Form. *See* Form 486 Filing Information, *available at* http://www.sl.universalservice.org/reference/8form486.asp.

information regarding the specific accounts, products and services approved for funding.[25] While Verizon has worked to automate some of these processes, it still must manually determine exactly which billing account numbers correlate to each specific funding request number (FRN).[26] For large customers in particular, this direct billing of the non-discounted portion can be a monumental task.

One proposal contemplated by the Notice is changing the distribution mechanism so that funds are distributed directly to the schools and libraries, pursuant to a formula based on factors such as school size. *See* NPRM, ¶¶ 32-33. As Chairman Martin recognized, such an approach could go a long way toward eliminating some of the complexity – and attendant delays and waste – inherent in the current system.[27] However, any new mechanism for distribution must contain sufficient safeguards to ensure that E-rate funds are spent on appropriate, communications-related services, and that universal service goals are being met. Regardless of the method of distribution of E-rate funds, applicants should be required to continue putting out services for competitive bidding, certifying that funds are used for E-rate purposes, and maintaining records that are adequate for audit purposes.

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[25] *See* Verizon Comments, CC Docket No. 02-6, at 7-9 (filed Apr. 5, 2002); Verizon Reply Comments, CC Docket No. 02-6, at 3-5 (filed May 6, 2002).

[26] Under the current rules, services must be tracked by funding request number rather than billed telephone number, even though billed telephone numbers are the tracking method that Verizon (along with most other telecommunications service providers) typically uses for billing purposes.

[27] *See* NPRM, Separate Statement of Chairman Kevin J. Martin ("By using a formulaic approach to distribute support directly to schools, libraries, and rural healthcare providers, the Commission may be able to address the concerns raised by beneficiaries about the growing complexity of the application process while still ensuring that the programs' funds are used appropriately.")

III. THE COMMISSION SHOULD MAKE CHANGES TO THE E-RATE PROCESS TO SPEED UP PROCESSING AND APPROVAL OF FUNDING

A. The Commission Should Require The List of Eligible Services To Be Finalized By September 1 For Services To Be Ordered In the Following Funding Year

As the Commission noted, providing E-rate funding in a timely manner "is critical to schools and libraries, many of which operate according to strict State or municipal budget and procurement schedules." NPRM, ¶ 38. Funding delays can threaten connectivity goals, and even "complicate the USAC application process for schools and libraries, leading to ministerial errors on subsequent applications, complicating auditing, and undermining [the Commission's] ability to combat waste, fraud, and abuse." *Id.* One thing the Commission can do to speed up the application and approval process is to require the E-rate eligible services list to be finalized by September 1 every year for the subsequent funding year.

In the *Third Report and Order*,[28] the Commission required USAC to submit by June 30 of each year a draft of its updated eligible services list for the following funding year. *Third Report and Order*, ¶ 40. The Commission then issues a public notice seeking comment on USAC's proposed eligible services list. *Id.* Following comments on the public notice, and at least sixty days prior to the opening of the window for the following funding year, the Commission issues another public notice attaching the final eligible services list for the upcoming funding year.

In setting the initial June 30 deadline for USAC, the Commission stated that it anticipated that the public notice setting the final eligible services list would be released by the Commission on or before September 15. *Id.* However, in practice, the eligible services list has been released

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[28] *Schools and Libraries Universal Service Support Mechanism*, 18 FCC Rcd 26912 (2003) ("Third Report and Order").

later than expected. For example, this year, as of the date of this filing, the final eligible services list still has not been released.

Delays in releasing the final eligible services list create a domino effect, delaying the rest of the application and approval process. Because the final eligible services list must be released "[a]t least sixty days prior to the opening of the [Form 471 application] window for the following funding year," *Third Report & Order*, ¶ 40, delays in release of the eligible services list also lead to delays in filing of the Form 471 applications for service. In addition, there are subsequent steps that are accordingly delayed. For example, if the Commission released the final eligible services list as of September 1, then the Form 471 window could open by early November; however, last year, USAC did not open the window until mid-December.[29] USAC then must leave the window open for several weeks to allow the applicants sufficient time to prepare and submit their Form 471 applications for service.[30] Following the receipt of Form 471s, USAC issues a Receipt Acknowledgement Letter to the applicant, and gives the applicant an additional three weeks from the date of the letter to make corrections.[31] It is Verizon's understanding that USAC does not begin its detailed review of the funding request until that three week period has expired. At that point, it can take USAC weeks or months to complete the Program Integrity Assurance review process before a funding commitment decision letter is issued. For funding

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[29] *See* USAC, *Funding Year 2005 Form 471 Filing Window Established* (Nov. 5, 2004), *available at* http://www.sl.universalservice.org/whatsnew/2004/112004.asp#110504.

[30] Last year, there was a 66 day filing window. *See Id.*

[31] *See* USAC, *Form 471 Receipt Acknowledgement Letter*, at 1, 7, *available at* http://www.sl.universalservice.org/data/pdf/471RAL.pdf.

year 2005, which began on July 1, 2005, the first wave of funding commitment decision letters were not released until June 27, 2005.[32] Some letters were not released until October.[33]

When funding decisions are not announced until late in the process, customers often are faced with the decision of either ordering services before they know whether or not their application for E-rate funding has been approved, or delaying the start of needed services to ensure they will not be saddled with a bill for the discounted portion of services that is greater than they had budgeted. Service providers, for their part, are forced to require 100% payment from the applicant pending E-rate approval, or they risk providing services for which, if E-rate funding is denied, they may never be paid.

B. The Commission Should Adopt A Streamlined, Multi-Year Application Process For Priority One Services

The Notice tentatively concludes that the Commission should adopt a streamlined multi-year application process for priority 1 services. *See* NPRM, ¶ 37. It should. Priority 1 services are telecommunications services, voice mail and Internet access for all discount categories. *See* 47 C.F.R. § 54.507(g)(1)(i). As the Notice correctly notes, "relatively few instances of waste, fraud, and abuse occur in requests for priority 1 services." NPRM, ¶ 37. Once an initial review has been made and it is determined that the services are eligible for reimbursement, applicants, service providers, and USAC should not have to repeat the same processes for approval every year. Specifically, applicants should not be required to file Form 470 (Competitive Bidding Forms) for services every year, if the terms of the services do not change. In addition, applicants

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32 *See* USAC, *Funding Year 2005 Form 471 Filing Window Established*; *Wave One Funding Year 2005 Released June 27* (June 27, 2005) *available at* http://www.sl.universalservice.org/whatsnew/2005/062005.asp#062705.

33 *See* USAC, *USAC Schools and Libraries News Brief* (Oct. 13, 2005) *available at* http://www.sl.universalservice.org/data/pdf/NewsBriefs/SL_Newsletter_101305.pdf.

should be allowed to file an abbreviated Form 471 (Services Ordered and Certification Form), that supplements the original Form 471 only to the extent any information changed since the original form was approved.

Form 470. USAC already has stated that the form for requesting competitive bidding, Form 470, does not have to be filed every year for services that are offered pursuant to a multi-year contract that already was competitively bid.[34] The same exception to the annual competitive bidding Form 470 filing also should be available for non-contracted tariff and month-to-month services. That is, if a customer is ordering priority 1 services from a tariff or on a month-to-month basis, it should not be required to issue a competitive bid for such services every year. If the services have not changed, the Commission should allow applicants to use the same Form 470 competitive bid for a period of up to three years, without issuing another request for competitive bidding. Reducing the annual Form 470 requirement to every three years for these services would also save resources from both the applicant and service provider, who would not have to post or respond to the forms as often, and USAC, which would not have to review them every year.

In addition, applicants should not be penalized for continuing to order services from an existing tariff or month-to-month service plan during the period for which a Form 470 request for competitive bidding is pending. The rules require applicants to wait at least four weeks after posting a Form 470 competitive bid request before they enter into an agreement for new services. *See* 47 C.F.R. § 54.504(b)(4). However, USAC should not use the four-week timeline to deny E-rate funding to applicants that continue ordering tariffed or month-to-month services from the

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[34] *See* Letter from D. Scott Barash, USAC, to Marlene H. Dortch, FCC, CC Docket No. 02-6, at 42 (filed Oct. 28, 2004).

same entity while the Form 470 is pending.[35] In other words, applicants should not have to discontinue services, file the Form 470, wait twenty-eight days, and then reconnect services, in order to comply with E-rate funding rules.

Form 471. Currently, applicants must fill out a Form 471 every year, even if they are ordering services that are the same as those that were approved the year before. Requiring applicants to repeat the Form 471 application process every year is burdensome, and wastes the resources both of the applicants and the USAC reviewers. In addition, waiting for USAC approval could lead to a disruption of service if applicants do not have the funds to pay for 100% of the services while awaiting E-rate funding. The Commission should direct USAC to allow for an abbreviated Form 471 application that allows the applicant to simply reference a prior-approved Form 471 and identify changes (if any) that have occurred since the original Form 471 was approved. Focusing on only information that has changed since the original Form 471 approval will eliminate considerable work, not just from the applicant, but for USAC as well, as it will not have to re-review services that it already has found to be E-rate eligible. And if USAC's reviewers find they do need to review the original eligibility determination, they can continue to do so. As long as the original Form 471 is still available, USAC's review team will have access to the same amount of information they would have had if the applicant had to refile the entire Form 471 every year.

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[35] *See* Letter from D. Scott Barash, USAC, to Marlene H. Dortch, FCC, CC Docket No. 02-6 at 43 (filed Oct. 29, 2004) ("USAC Oct. 29 Submission") ("USAC denies Funding Request Number(s) (FRNs) for non-contracted Tariff and Month-to-Month Services unless the applicant can show that a FCC Form 470 was posted to initiate a competitive bidding process for those services in each funding year").

C. USAC Should Be Directed To Give Service Providers Copies Of The Applicant's Form 471 Item 21 Attachment Once It Has Been Approved for E-Rate Funding

After completing the Form 470 competitive bidding process and entering into an agreement for conditionally eligible services, the applicant files with USAC a Form 471, which contains detailed information about the services the applicant has ordered, the estimated charges, and the service provider(s) selected. However, under current processes, USAC gives service providers very little information about which services have been approved for E-rate funding.[36] Thus, *service providers are in the position of being told by USAC that their customer has been approved for E-rate funding, but without being told what particular services have been approved.* When a service provider must discount the bill, it must rely on the customer to tell it what particular services have been approved for E-rate funding; if that information is incorrect, the service provider may apply the discounts to the wrong services, which can lead to a denial of E-rate funding or more work for the service provider, applicant, and USAC while the problem is corrected. The Commission should direct USAC to give service providers copies of the approved Block 5, Item 21 attachment to the Form 471, which gives detailed information that would ensure the service provider can apply discounts appropriately.

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[36] When the applicant files a Form 471, the service provider receives a copy of the Receipt Acknowledgement Letter ("RAL") from USAC. Once the Form 471 funding request is approved, USAC then sends the service provider and applicant a Funding Commitment Decision Letter ("FCDL"). Both of these documents contain only very basic information. For example, the RAL lists the billed entity number, funding request number, service provider name and invoice number, category of service (*e.g.*, Telecommunications, Internet Access, Internal Connections), total costs of services and estimated discounts, and, in some instances, a "site identifier." *See* USAC, *Form 471 Receipt Acknowledgement Letter*, at 1, 7, *available at* http://www.sl.universalservice.org/data/pdf/471RAL.pdf. Similarly, the FCDL contains funding request number, service provider name and identification number, billing account number (if available), service start date, pre-discount amount for charges, discount percentage, funding status and category of services. *See, e.g.*, USAC, *Sample Funding Commitment Decision Letter*, *available at* http://www.sl.universalservice.org/data/pdf/2004SampleLetters/FY2004_FCDL.pdf.

The Form 471 Item 21 attachment requires the applicant to provide "a description of the service, including a breakdown of components and costs, plus any relevant brand names."[37] This is where the applicant will provide a line item listing of the products and/or services, as well as their associated costs and manufacturer equipment information. The Item 21 attachment also requires the applicant to list the account or telephone numbers, which is information the service provider must have to ensure discounts are applied to the proper accounts. In addition, on the Item 21 attachment the applicant is expected to list ineligible products and/or services, and deduct the charges for those items from the total funding request.[38]

When Verizon receives a Funding Commitment Decision Letter from USAC, it requires the applicant to complete a data gathering form, identifying the approved services and account numbers for each funding request number. Verizon applies billing discounts to those services/accounts based upon the information provided by the applicant in the data gathering form, and invoices USAC accordingly. However, in several instances, the applicant has given Verizon incorrect information, which did not match the product/service or location information provided and approved on the Form 471. For example, Verizon has received denial of E-rate invoices for discounts provided to the customer for an entity/location that was not listed on the Form 471, and thus not approved for E-rate funding. Providing service providers with access to the Form 471 Item 21 attachment for approved services and account numbers would eliminate this problem. It would also save work for all parties. The applicant and service provider would not have to recreate the information already contained in the Item 21 attachment, and the service

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[37] *See Form 471*, Block 5, Item 21, *available at* http://www.sl.universalservice.org/data/pdf/TTT2004/FY2005_471_2004TTW.pdf.

[38] *See Item 21 Attachments for Form 271*, *available at* http://www.sl.universalservice.org/reference/Form471item21Attachments.asp.

provider, applicant, and USAC would not have to go through extra invoice review to correct and resubmit claims that were denied because of errors on the discounting formula.

USAC has created a prototype to allow applicants to create Item 21 attachments online.[39] When it is implemented, USAC should give service providers online access to approved Item 21 attachments for services they are providing.

D. USAC Should Provide An Online List Of All Rules, And Provide Other Online Tools When Practicable

USAC's website offers several tools to applicants and providers, including online forms, training sessions, and databases that allow parties to check a number of items, such as service provider invoice numbers and the status of funding requests.[40] USAC should be encouraged to continue updating the availability of web-based tools. Providing applicants and service providers the information they need in one area minimizes non-compliance due to errors by program participants, and saves USAC personnel time by not requiring them to answer inquiries on a participant-by-participant basis. However, one critical tool that still does not exist is a comprehensive database of E-rate program rules. USAC should be directed to create a list of program rules in one, searchable website database, which is updated as the rules change.

The E-rate program is complex. When E-rate funds are disbursed in error, it often is not because of fraud or abuse, but due to applicant or service provider confusion about the program's rules.[41] As the Notice correctly describes, there are many administrative rules that have been

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[39] *See* Build Item 21 Attachment Eligible Products Database pilot program, *at* https://slpin.universalservice.org/mfpin/epdpublic/BENFRN.aspx.

[40] *See* USAC: School & Libraries, http://www.sl.universalservice.org/.

[41] *See, e.g.,* Request for Review filed by Western Heights School District I-41, CC Docket 02-6 (filed Sept. 27, 2005) (SLD found that school's service was eligible, but device it chose was not); *See* Comments of Alaska State Library and Department of Education and Early

adopted by USAC but that are not codified by the FCC.[42] In addition, often interpretations of program rules develop over time. Although the USAC website contains a "What's New" section that is helpful in reviewing recent changes, there is no place an applicant or service provider can go to get in one place a complete listing of currently applicable rules. Requiring USAC to post all rules in one place would give applicants and service providers a clear roadmap of what is expected, which would ultimately reduce non-compliance due to misunderstanding of program rules.

If rules are posted, each posting should also state the effective date of the new rule. In the past, Verizon has seen USAC issue requests for "commitment adjustments" – *i.e.*, return of disbursed funds – *for alleged violations of rules that had not been in effect at the time services were ordered.* Federal agencies normally have no authority to apply new substantive rules retroactively.[43] Likewise, to the extent the rules had been in effect, but program participants had not been informed of the rule change, the lack of notice creates the same impact as retroactive application of a rule. Service providers and applicants should not be faulted for failing to follow program rules that were not in effect at the time of the alleged violation, or for which they were not given adequate notice.

Development, CC Docket No. 02-6, at 9 (filed July 21, 2003); Comments of SECA at 4; Comments of Tel/Logic Inc., CC Docket No. 02-6, at 14 (filed July 21, 2003).

[42] *See* NPRM, ¶ 22; *see also* USAC Oct. 29 Submission (a list describing current USAC administrative procedures used in the Schools and Libraries program).

[43] *See Bowen v. Georgetown University Hospital*, 488 U.S. 204 (1988) ("an agency cannot act with retroactive effect without some special congressional authorization").

IV. THE COMMISSION SHOULD IMPROVE EFFORTS TO COMBAT WASTE, FRAUD, AND ABUSE IN THE E-RATE PROGRAM

A. Applicants Should Be Required To Provide Proof of Authority to Procure Funding /Enter Into a Contracts In Conjunction With Form 471 Requests

A key component of ensuring program integrity is requiring the applicant to pay for services ordered.[44] In order to ensure that the applicant has undertaken the necessary steps to ensure payment *before* services are ordered, the Commission should require applicants to provide proof of funding and authority to enter into contracts for the services provided at the Form 471 stage. While the Form 471 requires applicants to certify, among other things, that they have "complied with all applicable state and local laws regarding procurement of services for which support is being sought" and secured access to resources "to pay the discounted charges for eligible services," in Verizon's experience, these certifications often are not sufficient.

B. The Commission Should Not Codify USAC's Administrative Rules, But Should Instead Allow USAC the Flexibility to Respond to Changing Circumstances

The Notice asks whether the Commission should codify certain USAC rules. *See* NPRM, ¶ 22. It should not. Because USAC may not "make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress," *id.*, all of the procedures it has developed should be purely administrative in nature.[45] The Commission should continue to allow USAC to implement the processes it determines are most appropriate. Codifying administrative procedures would not give the administrator the flexibility to respond promptly to changing

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[44] If the applicant receives E-rate funding, it must pay for the portion of services not subsidized by E-rate; the Commission has recognized that this is important because it "encourage[s] [applicants] to avoid unnecessary and wasteful expenditures." *First Report and Order*, ¶ 493. Regardless, the applicant remains 100% liable for the cost of goods and service ordered, even if E-rate funding is not approved or is later rescinded.

[45] *See, e.g.,* USAC Oct. 29 Submission (describing current USAC administrative procedures used in the Schools and Libraries program).

circumstances, because changes to the procedures would require rulemaking proceedings, which takes months or years to accomplish.[46]

The Commission has stated that it is "concerned about recovery of funds disbursed after applicants failed to follow USAC administrative procedures."[47] However, regardless of whether or not additional rules are codified, the Commission should continue to abide by the principle that "recovery may not be appropriate for violation of all rules regardless of the reason for their codification." *Fifth Report and Order*, ¶ 19. For example, as the Commission properly noted, "recovery may not be appropriate for violation of procedural rules codified to enhance operation of the e-rate program." *Id.*[48] When the rule violations are relatively minor, and only discovered years after the service providers have provided the services (and the applicants have budgeted and paid for them), there is no good policy reason to request repayment. Moreover, when the amounts at issue are small, it is a waste of resources – of USAC, the applicant, and the service provider – to attempt to recovery of those funds.

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[46] For example, petitions for reconsideration of E-rate rules adopted in prior proceedings have been pending for more than a year. *See, e.g.,* Petition for Reconsideration of Sprint Corp. and BellSouth Corp., CC Docket No. 02-6 (filed Oct. 13, 2004) (requesting that the FCC revise the requirement that USAC presume that an applicant that does not pay its share of services within 90 days will not pay).

[47] *See* NPRM, ¶ 22 (*citing Schools and Libraries Universal Service Support Mechanism,* 19 FCC Rcd 15808, ¶ 79 (2004) ("Fifth Report and Order")).

[48] "Applicants will be required to comply with procedural rules in applying for support—and applications that do not comply will be rejected. If, however, the procedural violation is inadvertently overlooked during the application phase and funds are disbursed, the Commission will not require that they be recovered, except to the extent that such rules are essential to the financial integrity of the program, as designated by the agency, or that circumstances suggest the possibility of waste, fraud, or abuse, which will be evaluated on a case-by-case basis." *Fifth Report and Order*, ¶ 19.

C. The Audit Process Can Be Improved By Eliminating Unnecessary Audits, Resolving Pending Audits More Quickly, and Not Penalizing Audited Parties By Withholding Funds Pending Unrelated Audit Investigations

The Bureau currently is considering an audit plan proposed by USAC.[49] As Verizon explained more fully in comments to the proposed plan, USAC should be directed not to adopt procedures that would penalize applicants and service providers during the pendency of such audits.[50] Specifically, USAC should not issue a demand for repayment of funds while an appeal is pending. In addition, pending resolution of audits, USAC should be directed not to withhold funding for unrelated issues or years. For example, funding should not be held up for particular time periods or funding request numbers pending resolution of open issues on other years or funding request numbers.[51] USAC also should not be allowed to withhold funding to all a service provider's E-rate customers during an ongoing investigation – only those entities affected by the investigation should have funding withheld.[52] Service providers should be made aware of and allowed to participate in audits of applicants, which also could speed up resolution of outstanding audits.[53]

Because USAC has limited resources, it should be directed to eliminate or minimize unnecessary audits. For example, the Commission should not adopt the proposal to conduct an annual audit of every company that receives more than $3 million. *See* NPRM, ¶ 72. Unless

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[49] *See Wireline Competition Bureau Seeks Comment on the Universal Service Administrative Company's Audit Resolution Plan*, CC Docket No. 02-6, DA 04-3851 (rel. Dec. 7, 2004) and USAC, *Proposed Audit Resolution Plan for Schools and Libraries Support Mechanism Auditees*, attached thereto ("Proposed Audit Plan").

[50] *See* Verizon Comments to Proposed Audit Plan, CC Docket No. 02-6, at 5 (filed Jan. 5, 2005).

[51] *Id.*, at 6.

[52] *Id.*, at 6-7.

[53] *Id.*, at 7-9.

USAC has found specific problems with an entity that require closer scrutiny, allowing the audit to occur at a less frequent interval -- such as every three years -- should be sufficient to satisfy program integrity assurance.

Resources saved by conducting less frequent routine audits could be spent resolving audits more promptly. It is not unusual for audits to occur years after funds have been disbursed. In addition, Verizon is aware of instances in which audits have been going on for months or years before being resolved. When audit investigations continue for long periods of time, applicants and service providers often are denied critical E-rate funds. The Commission should set a firm deadline for resolving audits promptly. An appropriate time frame would be six months after the receipt of responsive information from the audited party, which is similar to the deadline set for resolving many other government audits.[54]

D. USAC Should Be Directed Not to Request Repayment from the Service Provider of E-Rate Funds Disbursed In Error When the Service Provider Was Not at Fault

The Commission recently ordered that "recovery actions should be directed to the party or parties that committed the rule or statutory violation in question. We do so recognizing that in many instances, this will likely be the school or library, rather than the service provider." *Fourth Report and Order*, ¶ 10. As the Commission stated, "in many situations, the service provider simply is not in a position to ensure that all applicable statutory and regulatory requirements

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[54] *See, e.g.*, OMB Circular A-50, *Audit Follow-Up* (requiring audit reports to be resolved within six months of the audit report issuance date); Department of Energy Contract Administration regulations, 48 C.F.R. § 942.803 (requiring contract administrator to resolve cost issues within six months of audit date); Department of Agriculture Regulations, 7 C.F.R. § 3052.400 (requiring oversight agency for audit determinations to issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate and timely corrective action).

have been met. Indeed, in many instances, a service provider may well be totally unaware of any violation." *Id.*, ¶ 12.

Nevertheless, Verizon has had to file appeals challenging letters seeking recovery of funds disbursed via the applicant reimbursement/BEAR method for certain ineligible services.[55] However, as the Commission pointed out, invoicing the Commission via the BEAR process is the responsibility of the applicant, not the service provider.[56] In addition, as explained above, although the BEAR applicant reimbursement check flows through the service provider, the service provider is then required to transmit the payment to the applicant. When there was never any allegation that a service provider retained any payment for ineligible services they should not be directed repay funds disbursed in error.[57]

Moreover, Verizon is also deeply concerned that, in some instances, it appears that USAC has requested that *both* Verizon and the applicant repay the total amount in question. The Commission should make it clear that it is improper for USAC to seek *double recovery* – from both the service provider and the applicant – for amounts it believes were improperly disbursed.[58] Rather, it should follow the Commission's direction that "recovery actions should be directed to the party or parties that committed the rule or statutory violation in question."[59]

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55 *See* Letters from Tyrone E. Keys, Jr., Verizon, to Marlene H. Dortch, FCC, CC Docket No. 02-6, (filed April 29, 2005, May 6, 2005, and May 13, 2005).

56 *See Fourth Report and Order*, ¶¶ 11-12.

57 *See* Letters from Tyrone E. Keys, Jr., Verizon, to Marlene H. Dortch, FCC, CC Docket No. 02-6, (filed April 29, 2005, May 6, 2005, and May 13, 2005); *Fourth Report and Order*, ¶ 10.

58 *See* Letter from Tyrone E. Keys, Jr., Verizon, to Marlene H. Dortch, FCC, CC Docket No. 02-6, (filed April 29, 2005).

59 *Fourth Report and Order*, ¶ 10.

V. THE PUBLIC NOTICE OF THE CONTRIBUTION FACTOR SHOULD OCCUR AT LEAST ONE MONTH BEFORE THE START OF THE NEW QUARTER

Under current processes, the contribution factor is determined quarterly and is released by USAC twenty to twenty-five days prior to the start of the quarter.[60] Following USAC's announcement, the FCC must approve the proposed factor. The public notice announcing the new contribution factor is announced at least fourteen days before the beginning of the new quarter; if no other action is taken, it will become effective on the beginning of the quarter. NPRM, ¶ 18. However, the current timing does not give carriers sufficient time to prepare, review, and file tariffs implementing the changes in time for the next quarter. The Commission should direct that USAC release the contribution factor fifteen days earlier – i.e., thirty-five to forty days before the start of the quarter – and require the public notice for the universal service contribution factor to be released at least one month before the beginning of the new quarter, so that carriers have enough time to make necessary changes to their tariffs.

Verizon's federal universal service charges are included in its federal tariffs.[61] In order to meet the deadlines established by Congress and the Commission to achieve "deemed lawful" status, Verizon must file the tariffs on 15 days' notice.[62] To update its tariffs, Verizon must revise the Description and Justification and Appendix for the filing, as well as update work papers with new rates for 38 tariff entities, and more than a dozen different service codes. Changes to the work papers may include changes to the contribution rate, line counts associated

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60 *See* USAC Contribution & 499 Frequently Asked Questions, "What is this quarter's contribution factor?" *available at* http://www.universalservice.org/serviceprovider/faq /Contribution_and_499_FAQ.asp#_What_is_this.

61 *See, e.g.,* Verizon telephone companies Tariff F.C.C. No. 1, Section 4.1.6.2 *Federal Universal Service Fund Surcharge, available at* https://retailgateway.bdi.gte.com:1490 /grid_main.asp?optState=IS.

62 *See* 47 C.F.R. § 61.58.

with multi-line products, subscriber line charge (SLC), wireless number local portability, and port charges as applicable. Verizon also must calculate single line rates and multi-line equivalency rates, and populate special access rates.

Because of the current timing of the public notice release, Verizon often has only one day to make all the necessary changes and get the tariffs filed so that the new contribution factor can be effective as of the first day of the next quarter.[63] If the public notice comes only fourteen days before the beginning of the next quarter, or if the Commission changes the factor after the public notice is announced,[64] carriers do not have enough time to make the necessary changes to their tariffs at the beginning of the following quarter. Moving up the due date for USAC quarterly projections by fifteen days, and issuing the public notice of the contribution factor thirty days before the start of the new quarter, would give carriers time to perform the work necessary to file tariffs that are effective at the beginning of the new quarter.

The Commission is considering whether to implement a new contribution mechanism based on telephone numbers.[65] If it does, it should also consider moving from quarterly reporting to either annual or semi-annual reporting. Requiring reporting on a less frequent basis would save significant resources, both for carriers that have to prepare the forms, and at the Commission and USAC, which must review estimates and prepare new contribution factors.

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[63] Typically, the public notice comes out in the middle of the month before the new quarter, which is slightly more than the fourteen days required by the rules. *See e.g., Proposed Fourth Quarter 2005 Universal Service Contribution Factor*, CC Docket No. 96-45, DA 05-2454 (rel. Sept. 15, 2005).

[64] Under the current rules, "[t]he Commission reserves the right to set projections of demand and administrative expenses at amounts that the Commission determines will serve the public interest at any time within the fourteen-day period *following* release of the Commission's public notice." 47 C.F.R. § 54.709(a)(3) (emphasis added).

[65] *See Federal-State Joint Board on Universal Service*, 17 FCC Rcd 24952 (2002); *Commission Seeks Comment on Staff Study Regarding Alternative Contribution Methodologies*, 18 FCC Rcd 3006 (2003).

VI. THE COMMISSION SHOULD DIRECT USAC TO ADOPT PROCEDURES TO ADDRESS THE UNIQUE PROBLEMS ASSOCIATED WITH DISTRIBUTION OF LIFELINE SUPPORT TO PROVIDERS OF PREPAID SERVICES, SUCH AS TRACFONE

The Commission recently granted TracFone's petition for forbearance, allowing it to apply for ETC status for purposes of receiving Lifeline support, if certain circumstances are met.[66] However, if TracFone is granted ETC status for serving Lifeline customers, the Commission should direct USAC on how to distribute Lifeline support to address the prepaid nature of TracFone's offering. In particular, the current mechanism for distribution of Lifeline funds – which gives carriers a subsidy that they pass through to reduce the low income consumers' monthly bills – does not work for services that are not paid for by the customer on a monthly basis.

In the case of normal Lifeline support, carriers receive support "based on the number of eligible qualifying low-income customers it serves." 47 C.F.R. 54.407(a). They use this support to provide discounts to reduce the price of customers' monthly telephone bills.[67] Because TracFone provides prepaid services, its customers may pay in advance for minutes of use; in those instances, there is no way for TracFone to pass through a monthly discount to the customer.[68] The Commission should not grant TracFone ETC status unless it first gives USAC clear direction on how to distribute Lifeline funds in a manner that allows TracFone to flow the funding through to the end-user customer. Any distribution mechanism also must cap the level of support provided so as to not create incentives for waste, fraud, and abuse of Lifeline funds.

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66 *See Federal-State Joint Board on Universal Service; Petition of TracFone Wireless, Inc. for Forbearance*, CC Docket No. 96-45, FCC 05-165, ¶¶ 1 and 6 (rel. Sept. 8, 2005) ("TracFone Forbearance Order").

67 *See Lifeline and Link-Up*, 19 FCC Rcd 8302, ¶ 4 (2004); 47 C.F.R. § 54.407.

68 *See TracFone Forbearance Order,* ¶ 4 & n.17; *id.*, ¶ 15 & n.39.

In particular, methods must be put in place to ensure that customers or carriers do not receive more in Lifeline subsidies than the cost of service.

VII. THE COMMISSION SHOULD NOT ADOPT ONE-SIZE-FITS ALL SOLUTIONS TO PROGRAMS WITH DIFFERENT PURPOSES

A. The Commission Should Not Combine the Mechanisms for Disbursement of High Cost and Low Income Support

The Notice asks whether the Commission should combine the disbursement mechanisms for high cost and low-income support. NPRM, ¶ 60. It should not. Support for the programs is for different purposes, and targeted to different needs. Currently, high cost support is provided on a per-line basis, and is used to support carrier networks. By contrast, low income support is provided on a per-Lifeline/Link-Up customer basis, and is passed through to the customer. The Lifeline and Link-up programs are currently administered through an efficient reimbursement mechanism whereby carriers provide discounts directly to qualifying customers, and carriers seek reimbursement from the fund. There is no added benefit to combining it with high cost support, and doing so is likely only to lead to potential problems of waste, fraud, and abuse, because any hybrid funding mechanism could not be tracked to support provided to individual low-income customers.

B. The Document Retention Guidelines Adopted for the E-Rate Program Should Not Be Imported Into Other Programs

The Notice asks whether specific recordkeeping requirements adopted in the Schools and Libraries *Fifth Report and Order*, including a five-year record retention requirement, should be applied to other universal service programs. *See* NPRM, ¶¶ 83-84. They should not. As the Commission notes, the processes involved in the high cost and low income programs are different from the application and competitive bidding processes in the schools and libraries program. *Id.*, ¶ 84. Rather than addressing the document retention needs for these programs

comprehensively through the administrative rulemaking proceeding, each program should be addressed separately on its own merits.

For example, the Commission recently adopted new requirements for the Lifeline program in the Lifeline rulemaking proceeding, and adopted E-rate requirements in the Schools and Libraries proceeding.[69] This is appropriate. Focusing the requirements on the specific rulemaking proceedings ensures that key stakeholders in those proceedings, which deal with the programs every day, are focused on the requirements as they apply to the program application, rather than in a generic or abstract way. The Commission also can ask targeted questions about which requirements are burdensome, and which are adequately meeting program needs. Moreover, in situations such as the high cost program – where the Commission and Joint Board are considering changes that would affect the entire administration of the program – it makes sense for the Commission to determine whether any significant program changes will occur before it adopts any document retention requirements.

VIII. THE COMMISSION SHOULD NOT REQUIRE USAC TO COMPLY WITH FEDERAL ACQUISITION REGULATIONS, OR IMPOSE ANY CHANGES THAT WOULD ADD COSTS OR DISRUPTIONS TO PROGRAM PARTICIPANTS

The Notice asks whether USAC should be replaced as administrator of the universal service program. NPRM, ¶¶ 11-12. Certainly, improvements can be made in the administration of the program. *See* Sections II-VI, above. However, it is unclear whether bringing in another party, which would have no experience with the program and would have to recreate all of the resources USAC already has invested, would cost more time, effort, and expense than it would save. Regardless of whether the Commission decides to replace USAC as administrator, it

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[69] *See, e.g., Lifeline and Link-Up*, 19 FCC Rcd 8302, ¶¶ 37-40 (2004); *see also* Fifth Report and Order, ¶¶ 47-30.

should take care that any action to reform the administration of the program does not impose additional costs or disruptions to program participants. The Commission and any program administrator should continue to consult with participants to figure out ways to make the program run more smoothly.

The Notice also asks whether "USAC should apply, to the extent practicable, the policies and procedures of the Federal Acquisition Regulation ('FAR')." NPRM, ¶ 12. The answer to that question also is no. It is unclear what particular Federal Acquisition Regulation policies and procedures the Notice is proposing to apply; however, the government volumes listing the Federal Acquisition Regulations encompass more than 2000 pages.[70] The Commission should not require the administrator to navigate and comply with a new set of complex rules which are not demonstrated as being necessary to properly administer the universal service fund.

CONCLUSION

The Commission should adopt the changes suggested above to streamline the E-rate process, and control growth of the high-cost fund.

Respectfully submitted,

THE VERIZON TELEPHONE COMPANIES

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[70] *See Federal Acquisition Regulation, available at* http://www.arnet.gov/far/.

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 Southwest Incorporated d/b/a Verizon Southwest
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida 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.