

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

In the Matter of

Petition of Locus Telecommunications, Inc.  
for a Declaratory Ruling or Rulemaking  
Regarding Customer Service Calls from  
Payphones, and a Motion to Dismiss Filed by  
APCC

RM-11354

**VERIZON'S<sup>1</sup> COMMENTS ON THE PETITION FOR DECLARATORY  
RULING OF LOCUS TELECOMMUNICATIONS, INC.**

The Petition for Declaratory Ruling filed by Locus Telecommunications, Inc. does not identify any genuine uncertainty regarding the meaning or application of the Commission's payphone compensation rules. The Commission should therefore dismiss the petition. Moreover, it would be inappropriate for the Commission to make any statements that might be interpreted to address any question of responsibility for compensation with respect to any particular calls and service arrangements that may be implicated by the apparent dispute between Locus and APCC.

**1.** The Commission should dismiss the petition because there is no genuine uncertainty regarding the meaning of "completed" calls for purposes of 47 U.S.C. § 276(b)(1)(A) and 47 C.F.R. § 64.1300(a): a call is completed if the caller succeeds in reaching the called party, whether that party is another end-user, a customer service representative, or an interactive

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<sup>1</sup> The Verizon companies participating in this filing ("Verizon") are the regulated wholly owned subsidiaries of Verizon Communications Inc.

voice-response (“IVR”) system. The Commission has “broad discretion” in deciding whether to issue a declaratory ruling. Order, *Petition of Home Owners Long Distance, Inc. Petition for a Declaratory Ruling*, 14 FCC Rcd 17139, 17145, ¶ 12 (CCB 1999); *see also* Memorandum Opinion and Order, *Omnipoint Communications, Inc., New York MTA, Frequency Block A*, 11 FCC Rcd 10785, 10788, ¶ 7 (1996) (“*Omnipoint Order*”); *Yale Broad. Co. v. FCC*, 478 F.2d 594, 601-02 (D.C. Cir. 1973). In this case, a declaratory ruling will not contribute to “terminating a controversy or removing uncertainty,” 47 C.F.R. § 1.2, because no such uncertainty exists. Indeed, Locus offers no colorable argument that would raise any doubt that the term “completed” call in the statute and the Commission’s rules means just what it says – that completed calls from payphones are compensable when they are answered by the called party, whether that is a business, an IVR system, or a customer service representative.

2. In addressing Locus’s petition, the Commission should not make any statements that could be interpreted to address assignment of compensation responsibility for the particular calls at issue here. Assigning compensation responsibility to a specific carrier is inappropriate in a petition for a declaratory ruling and instead is best resolved on a “case-by-case basis” in a complaint proceeding. *Omnipoint Order*, 11 FCC Rcd at 10789, ¶ 9. No party has filed a complaint, and the Commission has no factual record upon which to make any statement regarding compensation responsibility for any particular calls or calling arrangements. The only supposed issue presented here is whether calls completed to customer service representatives and IVR systems are “completed” within the meaning of the relevant statute and regulations.

3. The importance of avoiding any statement by the Commission that might be wrongly interpreted by a party to address the assignment of compensation responsibility is underlined by stray statements in Locus’s petition and APCC’s motion to dismiss that suggest

that Verizon may have completed certain calls that were delivered to Locus's platform. *See* Locus Pet. at 7; APCC Mot. at 2. Those statements are incorrect. Verizon serves as a facilities-based interexchange carrier when it switches payphone calls to Locus's platform; Verizon is therefore an intermediate carrier. *See* 47 C.F.R. § 64.1310(b). When Verizon delivers a call to Locus's platform, it is Locus that is the completing carrier for that call, whether Locus routes that call to another end-user or to its own IVR system or customer service representative. Verizon has no way of knowing where those calls are routed, much less whether those calls are completed. Only Locus, the completing carrier, has that information. Verizon, as the intermediate carrier for that call, knows only that it passed the call to Locus's platform.

### CONCLUSION

For the foregoing reasons, the Commission should dismiss Locus's petition.

Respectfully submitted,

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