

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

In the Matter of)	
)	
InterCall, Inc. Appeal of Decision)	
of the Universal Service Administrative Company)	
and Request for Waiver)	
)	CC Docket No. 96-45
InterCall, Inc.’s Petition for Stay of the)	
Decision of the Universal Service)	
Administrative Company)	
Universal Service)	
)	

REPLY COMMENTS OF VERIZON¹

The Commission should deny InterCall’s appeal of the Universal Service Administrative Company decision requiring InterCall to contribute to the fund and its petition for stay. No commenter identifies persuasive legal authority to exempt InterCall’s audio conferencing services from contributions to the Universal Service Fund (“USF” or “the fund”). And requiring InterCall to begin contributing will merely put it on the same footing as the other conference service providers that already contribute.

The few supporters of InterCall’s appeal and petition for stay are limited to (1) “stand alone” audio conferencing providers that also do not contribute to the fund; and (2) one party that asks the Commission to clarify its rules.² Like InterCall, four audio conferencing providers

¹ The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

² Comments of Canopco, Inc. (US) (“Canopco”); Comments of Genesys SA (“Genesys”) (InterCall’s parent company announced an offer to buy Genesys on February 19, 2008, Genesys Comments at n.1); Comments of Premier Global Services, Inc. (“Premier Global”); Comments of Telespan Publishing Corporation (“Telespan”); Comments of Qwest Communications International, Inc.

(none of which contribute to the fund on their retail revenues) ask the Commission to preserve their artificial competitive advantage in the market. Telespan complains that a decision requiring so-called stand alone audio conferencing providers to contribute to the USF directly “would have serious consequences for the conference calling industry” and could require some providers to “raise their rates.” Telespan Comments at 1, 4. Likewise, Genesys predicts that contributing to the fund “would stifle investment and innovation” in the audio conferencing market. Genesys Comments at i.³ In addition, Canopco alleges that USF contributions are inconsistent “with the way [stand alone providers] have considered themselves and operated.” Canopco Comments at 4. And Premiere Global claims to have “on several occasions commissioned research into the regulatory status of audio bridging services” and concluded that it need not contribute to the fund. Premiere Global Comments at 4.

The consistent theme from these commenters and InterCall’s appeal is that stand alone audio conferencing providers “face stiff competition.” Telespan Comments at 1; Genesys Comments at i. As a result, these companies want to preserve the pricing advantage they gain over their competitors that do contribute to the fund directly. A desire to maintain an artificial advantage in a competitive market does not give rise to a legally cognizable harm. That

³ Genesys also attempts to distinguish its teleconferencing services as information services, not telecommunications services. Genesys Comments at 5-11. Though many audio conferencing services have attendant features that can properly be classified as information services, as to the classification of teleconferencing itself, Genesys ignores significant contrary Commission precedent. See *Opposition of Verizon* at 2-5; see also, e.g., *In re Communications Assistance for Law Enforcement Act*, 15 FCC Rcd 7105, ¶ 28 (1999) (noting that “three-way (i.e., conference) calling” and other services are “considered to be so closely related to basic service that we treat them as adjuncts to it. . .they relate to the set-up or routing of telecommunications, rather than its content”); *Release of Funding Year 2008 Eligible Services List for Schools and Libraries Universal Service Mechanism*, 22 FCC Rcd 18751, at 18754, 18783 (2007) (defining “conferencing services” as “telecommunications services” that “provide a means for multiple users to participate in group discussions via telephone circuits or video facilities.”) Conferencing services have been identified as telecommunications services on the E-rate eligible services list, which is approved by the Commission annually, as “other eligible telecommunications services” for several years. *Id.*

InterCall and certain other audio conferencing providers may not preserve their current profit levels if they contribute to the USF directly is not a basis to sustain InterCall's appeal or petition for stay.

Also like InterCall, other stand alone audio conferencing providers make much of the argument that they contribute to the fund indirectly through USF surcharges on the transmission and other telecommunications inputs purchased from underlying carriers. Canopco Comments at 4; Genesys Comments at 4-5; Premier Global Comments at 5-6; Telespan Comments at 4-5. The suggestion that these providers will somehow be "double contributing" is simply not true. Stand alone audio conferencing providers that purchase telecommunications inputs from underlying carriers are very likely deemed resellers of those inputs for purposes of USF contributions. Resellers that satisfy certain criteria – namely those that certify that they contribute to the fund directly on their retail revenues – may seek an exemption from USF surcharges imposed by underlying carriers. Therefore, stand alone audio conferencing providers, following the Commission's reseller exemption procedures,⁴ have all the necessary tools to obtain an exemption from the underlying carrier's USF charge. If a stand alone audio conferencing provider avails itself to the exemption process, it will not be forced to make "double payments" to the fund, and all audio conferencing providers will operate on equal footing.

Moreover, a reseller relationship with underlying carriers does not excuse a provider's obligation to contribute to the fund directly on its retail revenues.⁵ Indirect contributions through

⁴ Telecommunications Reporting Worksheet, FCC Form 499-A (revised 2007), Instructions for Completing the Worksheet for Filing Contributions to Telecommunications Relay Service, Universal Service, Number Administration, and Local Number Portability Support Mechanisms, at 18-19 (http://www.usac.org/_res/documents/fund-administration/pdf/499/form-499a-FY2007-instructions.pdf).

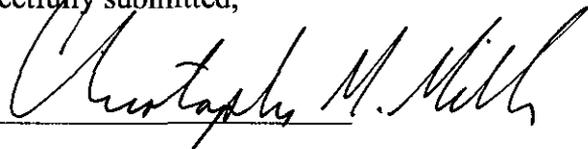
⁵ *Federal-State Joint Board on Universal Service; American Telecommunications Systems, Inc., et al.*, Order, 22 FCC Rcd 5009, ¶ 10 (2007).

surcharges paid to underlying carriers do not “adequately capture” a stand alone audio conferencing provider’s share of the USF. Canopco Comments at 5. Stand alone audio conferencing providers are in business to turn a profit. If these providers only contribute to the USF indirectly based on surcharges paid to underlying carriers, they will underpay. This situation would also put so-called “integrated” or facilities based audio conferencing providers that self-provision their own transmission and pay into the fund on their larger retail revenues at an unfair competitive disadvantage.

Conclusion

The Commission should deny InterCall’s appeal and its petition for stay.

Respectfully submitted,

By: 

Michael E. Glover, *Of Counsel*

Karen Zacharia
Christopher M. Miller
VERIZON
1515 North Courthouse Road
Suite 500
Arlington, VA 22201-2909
(703) 351-3071

Attorneys for Verizon

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