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

In the Matter of Request for Review by Qwest Communications International Inc. of Decision of Universal Service Administrator	)))))	WC Dkt. No. 03-109

COMMENTS OF VERIZON[1]

The Universal Service Administrative Company's conclusion in its audits of three Qwest subsidiaries that Qwest was required to claim and seek reimbursement on a pro-rata basis for discounted services provided to low income consumers under the federal Lifeline program should be reversed. *See Request for Review by Qwest Communications International Inc. of Decision of Universal Service Administrator*, WC Dkt. No. 03-109 (filed Apr. 25, 2008) ("Qwest Request for Review").

Carriers are reimbursed from the Universal Service Fund for providing certain discounted services to low income consumers that participate in the federal Lifeline program. To seek reimbursement, carriers submit monthly worksheets, on FCC Form 497, to the Universal Service Administrative Company ("USAC"). Carriers that wish to pro-rate reimbursement claims for Lifeline customers that initiate or discontinue service during the month have the option to do so on Line 9 of Form 497. The plain language used on Form 497 and the attendant Worksheet Instructions makes clear that pro-rating is entirely optional for the carrier. The language preceding Line 9 on the Form states: "Check box to the right *if* partials or pro rata amounts are used. Indicate dollar amount, *if*

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

applicable, on line 9." Lifeline and Link Up Worksheet, FCC Form 497 (October 2000) (emphasis added). Similarly, the Worksheet Instructions indicated that "*If* claiming partial or pro-rata dollars, check the box on line 9. Enter the dollar amount (*if applicable*) for all partials or pro-rated subscribers. …" Instructions for Lifeline and Link Up Worksheet, FCC 497 Instructions, at 4 (October 2000).

Moreover, as Qwest explained in its Request for Review and other parties noted in comments to a proceeding on a similar audit finding against AT&T, the Commission already considered and rejected mandatory pro-rata Lifeline reimbursement claims when it proposed and then indefinitely delayed the adoption of a new Form 497. *See Wireline Competition Bureau Announces Effective Date of Revised Form 497 Used to File Low Income Claims with USAC*, 19 FCC Rcd 18574 (2004); *Wireline Competition Bureau Announces Delayed Effective Date for Revised Form 497 Used for Low-Income Universal Service Support Until Further* Notice, 20 FCC Rcd 4395 (2005); *see also* Qwest Request for Review at 5; Comments of Embarq Corp., WC Dkt. No. 03-109, at 3 (filed May 14, 2008).

In addition, Commission Rule 54.702(c) compels USAC to seek an interpretation from the Commission when a rule or instruction is not clear on its face. Specifically, Commission Rule 54.702(c) states that "[t]he Administrator may not make policy" or "interpret unclear provisions of the … rules[,]" and when there is a lack of clarity it "shall seek guidance from the Commission." 47 C.F.R. § 54.702(c). If USAC was uncertain whether the FCC allowed *optional* pro-rata accounting for Lifeline, it should have sought guidance from the Commission concerning the scope of its Lifeline rules and associated forms. Its failure to seek such guidance warrants reversal of USAC's Qwest audit findings.

Moreover, for carriers such as Qwest and Verizon with very large bases of Lifeline customers, the administrative complexity and cost associated with pro-rating Lifeline reimbursement claims would be extreme with no benefit accruing to the recipients of Lifeline universal service support and no identifiable improvement to administration of the universal service program. Lifeline customer counts are dynamic. To track Lifeline counts on a granular level, carriers would, at a minimum, have to pull data every day and calculate pro-rated support for each Lifeline customer. Complex modification to carrier billing systems (likely costing millions of dollars) would be necessary, and such a process for even a small number of Lifeline customers would be complicated and expensive. As USTelecom recently noted, a majority of its members "would have much the same burdens." *See* Comments of USTelecom, WC Dkt. No. 03-109, at 5 (filed May 14, 2008). For large carriers such as Qwest and Verizon, with millions of Lifeline customers, such a process is simply not practical and does not benefit Lifeline customers or Lifeline providers in any way.

On the other hand, reporting the number of Lifeline customers on a fixed day each month is generally equivalent to pro-rata reporting. Using this methodology, some partial month customers are included in the count while other partial month customers are excluded. There is no reason to believe that, over time, reporting on this basis would either overstate or understate a carrier's monthly count of eligible Lifeline customers. Indeed, Qwest states that its own investigation reveals that "overall Qwest's reimbursements from USAC are less than the federal Lifeline support Qwest has actually provided to its Lifeline customers." Qwest Request for Review at 4. Moreover, there is no evidence that carriers are attempting to "game" the system by submitting pro-rata claims in some months but not others. The method currently used by Qwest, Verizon, and other carriers is more efficient and less complicated to administer, equally accurate, and easier to audit than the pro-rata approach advocated by USAC and its auditors.

For these reasons, USAC's conclusion that Qwest was required to pro-rate Lifeline reimbursement claims should be reversed.

Respectfully submitted,

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