

October 28, 2008

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: Universal Service Contribution Methodology, CC Docket 96-45; High-Cost Universal Service Support, WC Docket No. 05-337; Universal Service Contribution Methodology; WC Docket No. 06-122; Developing a Unified Intercarrier Compensation Regime, CC Docket 01-92

Dear Ms. Dortch:

Hughes Network Systems, LLC, Inmarsat, Inc., MSV Satellite Ventures Subsidiary LLC, and WildBlue Communications, Inc. hereby submit this ex parte letter to address recent developments and published reports that relate separately to the provision of funding support for broadband services and the contribution methodology. Both elements are under consideration in the above-referenced proceedings.

On the funding side, we respond to published reports that the FCC intends, in its forthcoming order in the above-referenced proceedings, to provide funding support for broadband services.<sup>1</sup> Hughes, Inmarsat, MSV and WildBlue provide, or will provide, broadband services via satellite. We support the availability of funds for broadband services in both the Lifeline/Link-up and High Cost fund contexts. We are, however, concerned that potential restrictions that are intended to ensure a high service quality and utility may have the unfortunate consequence of completely precluding benefits for subscribers of broadband services provided by satellite. Given

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<sup>1</sup> Stifel Nicolaus, Washington Telecom, Media & Tech Insider, October 24, 2008, at 4. According to the report, the broadband service would have to be at least 768 kbps and USF recipients would have to commit to provide 100 percent broadband deployment in their high cost study areas within five years. *Id.*

the urgent need to ensure that all Americans have access to broadband services, a speed requirement that precludes technology choice would be fundamentally at odds with achieving the Commission's deployment goals.

Satellite providers can already provide broadband services to nearly 100 percent of U.S. geographic territory, including the 50 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands, and thus bring broadband services to millions of U.S. residents who are currently unserved by terrestrial providers. Today, nearly 800,000 customers subscribe to broadband services provided by satellite, and the numbers are expected to increase as new providers enter the market following the launch of new, more powerful satellites.

In some circumstances, however, satellite services may not yet be able to meet a 768 kbps minimum requirement. While broadband speeds are increasing as technology evolves, and will increase more when the next generation of satellites are launched, in certain contexts speeds will be below 768 kbps. Satellites do, however, offer the ability to serve customers in hard-to-serve areas *today*, and they ensure that millions of people and businesses in such areas are able to enjoy broadband offerings immediately. In many cases, the challenging economics of terrestrial infrastructure deployment mean that it could take many years for customers in hard-to-serve areas to have access to terrestrially-provided broadband services, and in some cases terrestrially-provided services will never be available. These customers deserve the option of being able to choose satellite-delivered broadband, even if it is available at speeds that are less than the speeds that might be available over wired technologies. Moreover, existing eligible telecommunications carriers (ETCs) should be able to partner with satellite providers to meet the ETCs' own broadband requirements where satellite service is the most economically rational means of ensuring that a customer has broadband service available – without seeking special permission from the Commission to do so.

The undersigned companies submit that specifying a minimum downstream requirement for satellite-provided broadband services as high as 768 kbps is overly restrictive and would deny support to those most in need. We instead suggest that, for purposes of both the High Cost and Lifeline/Link-up programs, the FCC allow support if satellite service providers offer broadband at lower speeds more appropriate to fixed and mobile satellite service.<sup>2</sup> Satellite providers should be permitted to, for

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<sup>2</sup> See also e.g., Ex parte letter of CTIA-The Wireless Association, WC Docket No. 05-337 (filed Oct. 2, 2008), slides at 6.

example, receive support from a broadband Lifeline pilot program provided that they offer such service.

We are also concerned about any geographic requirements that would be tied to local exchange carrier study areas. Satellite services are provided on a nationwide basis, with the geographic scope only limited by national licensing policies and the beams on the satellite. Unlike terrestrial wireline or wireless phone companies, satellite providers offer geographic ubiquity. Accordingly, satellite providers should not be required to meet geographic requirements designed for phone companies, or at least should be subject to a rebuttable presumption that any such geographic requirements are satisfied.

On the contribution side, we have been monitoring with interest the recent ex parte submissions concerning movement to a numbers-based contribution methodology. This idea was addressed jointly by AT&T and Verizon last month. Last week, the same two entities offered a variation on their approach that outlined a contribution system based on numbers and dedicated connections.<sup>3</sup> We do not take a position on their proposal but we note that AT&T and Verizon followed their most recent approach on contribution methodology a few days later with a very important clarification. In the entities' joint submission on October 24, 2008, they stated that "we did not intend to include certain services used by business for broadband Internet access that are also offered to residential customers in the proposed tiers of assessable [dedicated] connections."<sup>4</sup> We take this clarification to mean that dedicated connections would not include the broadband offerings that satellites operators provide. That is a positive development, and we urge the Commission to incorporate this clarification if it opts for this approach.

We look forward to the opportunity to work with the Commission on developing the details of High Cost and Lifeline/Link-up programs that can benefit customers of broadband satellite services, many of whom live in areas that are not or

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<sup>3</sup> Ex Parte Submission of AT&T Services, Inc. and Verizon, WC Docket No. 06-122/CC Docket No. 96-45 (filed Oct. 20, 2008).

<sup>4</sup> Ex Parte Submission of AT&T Services, Inc. and Verizon, WC Docket No. 06-122/CC Docket No. 96-45 (filed Oct. 24, 2008).

cannot be served by wireline or other wireless technologies. We look forward as well to continue to have input on the important subject of contribution methodologies.

Please contact the undersigned if you have any questions.

Sincerely,

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