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October 28, 2008

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Universal Service Contribution Methodology, WC Docket No. 06-122
Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Dear Ms. Dortch:

InterCall, Inc. (“InterCall”) has following with interest recent proposals to modify the contribution methodology for the federal Universal Service Fund. In particular, InterCall has reviewed the *ex parte* notice filed by AT&T and Verizon on October 20, 2008, which proposes additional modifications to a telephone numbers based USF contribution mechanism.¹ If the Commission adopts a numbers-based contribution mechanism, InterCall urges the Commission to clarify which entity is required to contribute to the USF for an assessable telephone number.² The Commission should clarify that conference service providers, like other providers discussed in the AT&T/Verizon Proposal, may arrange with their service providers to be treated as a Final Consumer of Service for purposes of the USF.³

¹ Letter from Mary L. Henze, AT&T Services, Inc. and Kathleen Grillo, Verizon, to Marlene Dortch, Secretary, FCC, WC Docket 06-122, CC Docket 96-45 (Oct. 20, 2008) (“AT&T/Verizon Proposal”).

² To be clear, InterCall comments only on the telephone number based portions of the AT&T/Verizon Proposal. InterCall does not comment on the merits of a connections mechanism, nor should its letter be interpreted as support for those portions of the AT&T/Verizon Proposal. InterCall opposes the hybrid numbers/revenues contribution methodology that has been reported in the press.

³ See AT&T/Verizon Proposal at 3.

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A key benefit of the proposed numbers-based contribution mechanism is supposed to be greater simplicity of administration. InterCall has first-hand knowledge of the costs and complexities that contributors to the USF face with a revenue-based methodology. InterCall first became responsible for filing USF forms in August 2008 as a result of the *Conference Calling Classification Order*.⁴ The 499-A form currently in use has 38 distinct categories of wholesale and retail revenues to be reported by contributors. For each of these categories, contributors are required to separate revenues by intrastate, interstate and international jurisdictions. In InterCall's experience, classifying revenues according to the categories listed on the 499 form is extremely burdensome. The classifications used by USAC for 499 purposes are not used by InterCall for its own business purposes. As a result, InterCall had to review literally hundreds of product and feature codes to determine whether USF applied to each and, if so, the jurisdiction of the revenue in question. This process took thousands of people hours and many months to develop. For most of these services, the jurisdiction was not readily apparent because InterCall did not track revenues according to these jurisdictions, nor, outside of USF, does it have a need to do so. Moreover, critical guidance for classifying services and/or allocating revenues was missing in many instances because neither the Commission's rules nor the 499 Instructions address the types of services offered by conference service providers. Put simply, compliance with USF revenue reporting has imposed a tremendous burden on InterCall.

Under a numbers-based contribution mechanism, these burdens are supposed to be reduced. However, InterCall is concerned because the AT&T/Verizon Proposal may needlessly require conference service providers to report and pay USF as if they were telecommunications carriers, thereby imposing on the industry a significant and unnecessary administrative burden. As explained below, the root of the problem is that the AT&T/Verizon Proposal does not clearly provide conference service providers with the option to be treated as Final Consumers, even though AT&T and Verizon propose such an option for other information service providers and for VRS providers.

In the Proposal, AT&T and Verizon define a Contributor as "an entity that provides an Assessable Number ... to a Final Consumer."⁵ In turn, a Final Consumer is defined as "a person or entity that receives an Assessable Number and is not a person or entity that receives a telephone number as an input to services it provides to others."⁶

⁴ *Request for Review by InterCall, Inc. of Decision of Universal Service Administrator, Order, CC Docket No. 96-45, FCC 08-160 (rel. June 30, 2008) ("Conference Calling Classification Order")*.

⁵ AT&T/Verizon Proposal, Attachment at 1.

⁶ *Id.*, Attachment at 2.

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AT&T and Verizon propose a key clarification to these definitions. They offer two instances where an entity that otherwise might be defined as a Contributor could elect to be a Final Consumer instead. Referencing concerns raised by Google and by certain Video Relay Service (“VRS”) providers, AT&T and Verizon propose that these entities may arrange with their wholesale service providers to be treated as a Final Consumer.⁷ In both instances, though, AT&T and Verizon confusingly appear to limit this clarification only to entities that are not “telecommunications” providers or interconnected VoIP providers. Given the tremendous complexity in distinguishing between the “telecommunications,” “telecommunications service” and “interconnected VoIP” classifications, AT&T and Verizon’s language should be eliminated. Instead, the distinction should be whether the entity obtains telephone numbers directly from the Numbering Administrator. If an entity obtains numbers directly, it must report all Assessable Numbers it assigns to Final Consumers. If the entity obtains the numbers from another source, it should elect whether to be treated as a Contributor or as a Final Consumer.

In fact, AT&T and Verizon permit just such an election when discussing the traditional wholesale carrier-reseller relationship. AT&T and Verizon propose to require Contributors to self-identify if they receive telephone numbers other than from the Numbering Administrator (i.e., from a wholesale carrier).⁸ If the Contributor fails to self-identify, it “may” be treated as a Final Consumer by its wholesale carrier, but the Proposal is not clear whether it must be treated as such. InterCall submits that the choice should be one or the other.

InterCall proposes a clarification that will ensure that one – and only one – entity contributes to the USF when a wholesale carrier provides a telephone number to another service provider. Specifically, InterCall proposes a clarification of the definition of a Contributor and a clarification of the definition of a Final Consumer to achieve this purpose. If it adopts a numbers-based contribution mechanism, the Commission should modify the proposed definitions as follows (modified text is noted by underlining):

“Contributor.” A Contributor is an entity that provides an Assessable Number ... to a Final Consumer, and, if the entity does not receive numbers directly from the Numbering Administrator, has not arranged with the source from which it obtains telephone numbers to be treated as a Final Consumer.

“Final Consumer.” A Final Consumer is a person or entity that receives an Assessable Number ... and is not a person or entity that receives a telephone number ... as an input to services it provides to others. Except for an entity that receives telephone numbers directly from the Numbering Administrator, this

⁷ *Id.* at 3-4.

⁸ *Id.*, Attachment at 4.

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definition shall not prevent a person for entity from arranging with the source from which it obtains telephone numbers to be treated as a Final Consumer.

These two modifications would eliminate the confusing and ultimately contentious issue of whether a provider offers “telecommunications” and/or “interconnected VoIP” services. Instead, the determination of which entity is responsible for reporting numbers as a Contributor would be easy to determine as one moves down the wholesale chain. For each entity other than the entity obtaining numbers directly from the Administrator, the entity either self-identifies as a Contributor or it is to be treated as a Final Consumer.⁹

Further, these two modifications place conference service providers on an equal footing with the information service providers and VRS providers discussed on pages 3 and 4 of the AT&T/Verizon Proposal. Like those providers, there is no reason conference service providers should be required to report numbers directly to the USF Administrator. Instead, conference service providers should be permitted to make arrangements with their wholesale suppliers to be treated as a Final Consumer for USF purposes. Of course, if the conference service provider is treated as a Final Consumer then Assessable Numbers assigned to the conference service provider would be subject to USF contributions the same as any other Final Consumer’s numbers.

Sincerely,



Steven A. Augustino

SAA:pab

cc: Dana Shaffer
Jeremy Marcus
Jennifer McKee

⁹ InterCall agrees with AT&T and Verizon that, once an entity self-identifies as a Contributor, its wholesale supplier has no further USF contribution obligations. AT&T/Verizon Proposal at 4.