

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

In the Matter of

Great Lakes Communication Corp. and  
Superior Telephone Cooperative Emergency  
Motion for Stay of Iowa Utilities Board Final  
Order Pending Review

Aventure Communication Technology, LLC  
Emergency Petition for Stay [of] The Iowa  
Utility Board's Final Order

WC Docket No. 09-152

**OPPOSITION OF VERIZON<sup>1</sup> AND VERIZON WIRELESS**

The latest in a series of meritless filings by traffic pumpers seeks a stay of the Iowa Utilities Board's ("Board") Final Order<sup>2</sup> finding that traffic pumpers in Iowa engaged in pervasive fraud against the Board, the Commission, and interexchange carriers and their customers.<sup>3</sup> Like their other submissions,<sup>4</sup> the traffic pumpers' stay motions are baseless. The Commission should deny the Motions.

---

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

<sup>2</sup> Final Order, *Qwest Communications Corp. v. Superior Tel. Coop.*, Docket No. FCU-07-2 (Sept. 21, 2009), *attached to* Letter from Robert B. McKenna, Qwest, to Marlene H. Dortch, FCC, WC Docket No. 09-152 (Sept. 21, 2009) ("Final Order").

<sup>3</sup> *See* Great Lakes Communication Corp. and Superior Telephone Cooperative Emergency Motion for Stay of Iowa Utilities Board Final Order Pending Review, WC Docket No. 09-152 (Oct. 1, 2009) ("Great Lakes Motion"); Aventure Communication Technology, LLC Emergency Petition for Stay [of] The Iowa Utility Board's Final Order, WC 09-152 (Oct. 6, 2009) ("Aventure Motion," and collectively "Motions").

<sup>4</sup> *See, e.g.*, Petition for Declaratory Ruling to the Iowa Utilities Board and Contingent Petition for Preemption, WC Docket No. 09-152 (Aug. 14, 2009) ("Preemption Petition").

The Commission does not have authority to issue a stay in these circumstances. States generally have authority over intrastate traffic within their jurisdiction.<sup>5</sup> The Commission, therefore, cannot stay an order of a state commission that addresses only the treatment of intrastate traffic within its jurisdiction – and staying the effectiveness of the Board’s Final Order would do just that. For reasons discussed in more detail in Verizon’s comments and reply comments in this matter, the traffic pumpers’ suggestion that the Commission should preempt the Final Order because the Board *might* exceed its authority was proven wrong by the Final Order itself.<sup>6</sup> The Final Order makes clear that the Board was well aware of the scope of its authority and limited its rulings to intrastate matters within its jurisdiction. *See* Verizon Reply Comments at 2-3.

Moreover, the Commission need not even reach the merits of the Preemption Petition because the traffic pumpers filed it *before* the Board issued its Final Order. By definition, the Preemption Petition was premature and should be denied on that ground alone.

Regardless, to obtain a stay, the traffic pumpers must first demonstrate that they are likely to succeed on the merits of the pending Preemption Petition, which – as discussed above – they cannot do because the Final Order is limited to intrastate traffic within the Board’s jurisdiction.<sup>7</sup> And even if the traffic pumpers could show that they are likely to succeed on the merits, they

---

<sup>5</sup> *See, e.g., Developing a Unified Intercarrier Compensation Regime*, Further Notice of Proposed Rulemaking, 20 FCC Rcd 4685, ¶ 78 (2005).

<sup>6</sup> Reply Comments of Verizon and Verizon Wireless, *Petition for Declaratory Ruling to the Iowa Utilities Board and Contingent Petition for Preemption*, WC Docket No. 09-152 (Oct. 6, 2009) (“Verizon Reply Comments”).

<sup>7</sup> *AT&T Corp. et al., v. Ameritech Corporation*, Memorandum Opinion and Order, 13 FCC Rcd 14,508, ¶¶ 13, 22 (1998) (“*AT&T Corp.*”).

must then show that the balance of harms favors a stay.<sup>8</sup> In particular, the traffic pumpers must show that: (1) they will imminently suffer irreparable harm in the absence of a stay; (2) a stay will not cause substantial harm; and (3) the public interest would be served by a stay.<sup>9</sup> The traffic pumpers do not satisfy any of these remaining requirements for a stay.

The traffic pumpers do not make a serious attempt to show irreparable harm. Rather, in both Motions, the traffic pumpers simply predict over a few paragraphs that the result of additional proceedings to follow the Final Order will have serious consequences for them. *See* Great Lakes Motion at 21-22; Aventure Motion at 6-8. However, the traffic pumpers fail to address why, if they are really interested in operating a legitimate business, they cannot simply stop engaging in the fraudulent arbitrage schemes the Board identified on the record before it and compete with carriers serving more reputable conferencing and other providers on a level playing field. Instead, the traffic pumpers complain generally that they have an economic interest in keeping these scams going for as long as possible. *See* Great Lakes Motion at 21-22; Aventure Motion at 6-8. Such averments are insufficient to find irreparable harm.<sup>10</sup> The traffic pumpers do not have a cognizable interest in continuing their fraud.

---

<sup>8</sup> *AT&T Corp.*, ¶¶ 13, 22.

<sup>9</sup> *See Baja Broadband Operating Company, LLC (f/k/a Orange Broadband Operating Company, LLC) and Carolina Broadband, LLC; Petition for Deferral of Enforcement of July 1, 2007 Deadline in 47 C.F.R. § 76.1204(a)(1); Implementation of Section 304 of the Telecommunications Act of 1996; Commercial Availability of Navigation Devices*, Memorandum Opinion and Order, 22 FCC Rcd 17,489, ¶ 11, n.48 (2007) (citing *Virginia Petroleum Jobbers Ass'n v. Federal Power Comm'n*, 259 F.2d 921, 925 (D.C. Cir. 1958)).

<sup>10</sup> The hallmark of a successful showing of irreparable harm is a demonstration of damages that extend beyond economic burden. *See Access Charge Reform*, Order, 12 FCC Rcd 10,175, ¶ 30 (1997) (quoting *Wisconsin Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985)); *Bachow/Coastel, L.L.C. v. GTE Wireless of the South, Inc.*, Order, 15 FCC Rcd 5801, ¶ 4 (2000).

True to form in these Motions, the traffic pumpers also all but ignore the other requirements for a stay – evidence that no harm will result to others, and the public interest. Rather, the traffic pumpers assert generally that maintaining the status quo will not harm anyone. *See* Great Lakes Motion at 21-22; Aventure Motion at 8-9. This is false. As Verizon and others have explained for years – and as the Board’s Final Order confirms – these traffic pumping arbitrage schemes result in net payments to conference, chat-line, and other providers that in turn advertise and market their services to the public as “free” in order to drive up demand. The result is that other carriers, and ultimately the ordinary consumers they serve, must subsidize supposedly “free” services that do not benefit them and that they would never voluntarily support. The harm that traffic pumping inflicts on the industry and on all consumers is very real.

Likewise, the traffic pumpers make no attempt to justify traffic pumping based on *any* public interest benefits. Rather, the traffic pumpers continue to rely on faulty logic that purports to explain why traffic pumping is permissible under the Commission’s rules and precedent, supposedly creating a conflict with the Board’s Final Order. *See* Great Lakes Motion at 23-24; Aventure Motion at 4-5. For reasons Verizon and others have explained many times, there is no such conflict. *See, e.g.*, Verizon Reply Comments at 2-3.<sup>11</sup> The Commission has already tentatively concluded that traffic-pumping schemes are unjust and unreasonable.<sup>12</sup> And the Final

---

<sup>11</sup> *See also* Opposition of Verizon, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135 (June 1, 2009); All American Telephone Co., Inc., e.Pinnacle Communications, Inc, and ChaseCom, Petition for Declaratory Ruling, EB 09-MDIC-0003, WC Docket No. 07-135, at 4-7 (May 20, 2009).

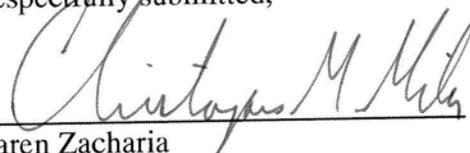
<sup>12</sup> *Establishing Just and Reasonable Rates for Local Exchange Carriers*, Notice of Proposed Rulemaking, 22 FCC Rcd 17989, ¶ 19 (2007).

Order, grounded in an extensive factual record developed by the Board, confirms that these scams constitute illegal arbitrage – nothing more.

\* \* \*

For these reasons, the Commission should deny the Motions.

Respectfully submitted,



Karen Zacharia  
Christopher M. Miller  
VERIZON  
1320 North Courthouse Road, 9th Floor  
Arlington, VA 22201-2909  
(703) 351-3071

John T. Scott, III  
Tamara Preiss  
VERIZON WIRELESS  
1300 I Street, NW, Suite 400 West  
Washington, DC 20005  
(202) 589-3760

Michael E. Glover  
*Of Counsel*

October 8, 2009

*Attorneys for Verizon and Verizon Wireless*

**CERTIFICATE OF SERVICE**

I, Jennifer Pelzman, hereby certify that, on behalf of Verizon and Verizon Wireless, I caused a copy of the foregoing Opposition to be mailed on October 8, 2009, via first-class postage prepaid mail, unless otherwise indicated, to the following:

Ms. Marlene H. Dortch\*  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Jonathan E. Canis  
Marcia Fuller Durkin  
Arent Fox LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036  
*Counsel for Adventure Communication  
Technology, LLC*

Paul Lundberg  
Attorney at Law  
906 Terra Centre  
Sioux City, IA 51101  
*Counsel for Adventure Communication  
Technology, LLC*

Ross A. Buntrock  
Stephanie A. Joyce  
Arent Fox LLP  
1050 Connecticut Avenue, N.W.  
Washington, DC 20036  
*Counsel to Great Lakes Communication  
Corp. and Superior Telephone  
Cooperative*

Craig J. Brown  
Robert B. McKenna  
Qwest Communications Company, LLC  
607 14<sup>th</sup> Street, N.W.  
Suite 950  
Washington, D.C. 20005

David Lynch, General Counsel  
Jennifer Smithson, Assistant General  
Counsel  
Counsel for the Iowa Utilities Board  
350 Maple Street  
Des Moines, Iowa 50319-0069

Chairman Julius Genachowski\*\*  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Commissioner Michael J. Copps\*\*  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Commissioner Robert M. McDowell\*\*  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Commissioner Mignon Clyburn\*\*  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

\*The Secretary was served via ECFS in WC Docket No. 09-152.

\*\*Service via e-mail.

Commissioner Meredith Attwell Baker\*\*  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Sharon Gillett\*\*  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Priya Aiyar\*\*  
Legal Advisor to Chairman Julius  
Genachowski  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Jennifer Schneider\*\*  
Legal Advisor to Commissioner Michael J.  
Copps  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Carol Simpson\*\*  
Legal Advisor to Commissioner Mignon  
Clyburn  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Renee Roland Crittendon\*\*\*  
Chief of Staff and Senior Legal Advisor,  
Spectrum, International and Public Safety  
Office of Commissioner Clyburn  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Austin Schlick\*\*  
General Counsel  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

P. Michele Ellison\*\*  
Chief, Enforcement Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Mary Beth Richards\*\*  
Special Counsel for FCC Reform to  
Chairman Julius Genachowski  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Christine Kurth\*\*  
Legal Advisor to Commissioner Robert J.  
McDowell  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Christi Shewman\*\*  
Legal Advisor to Commissioner Meredith  
Attwell Baker  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Erin A. McGrath\*\*\*  
Acting Legal Advisor for Wireless,  
International and Public Safety Issues  
Office of Commissioner Baker  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Donald Stockdale\*\*  
Deputy Chief, Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Julie Veach\*\*  
Deputy Chief, Wireline Competition  
Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Alexander Starr\*\*  
Division Chief, Market Disputes Resolution  
Division  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

William Dever\*\*  
Acting Division Chief, Competition  
Policy Division  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

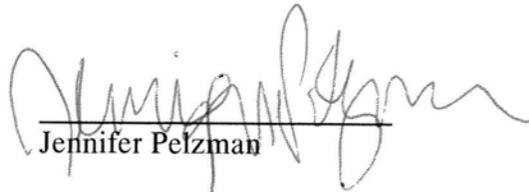
Albert Lewis\*\*  
Division Chief, Pricing Policy Division  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Rosemary McEnergy\*\*  
Deputy Chief, Market Disputes  
Resolution Division  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Lisa Griffin\*\*  
Deputy Chief, Market Disputes Resolution  
Division  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Doug Slotten\*\*  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

Lynn Hewitt Engledow\*\*  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

  
Jennifer Pelzman