

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

In the Matter of )  
 )  
Petition of Stratos Government Services, Inc. ) WC Docket No. 06-122  
for Clarification or Declaratory Ruling )

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

Stratos Government Services, Inc. (“Stratos”) asks the Commission to significantly expand the so-called “exclusive government services” exemption from contributions to the universal service fund (“USF” or “fund”).<sup>2</sup> The exemption allows providers that sell services only to government customers to avoid direct contributions to the fund. There is no legal or public policy basis for Stratos’ request, which if granted would heighten the competitive advantage that one class of competitors enjoys over another and would be impractical to implement. Stratos’ petition should be denied.

The exclusive government services exemption was adopted by the Commission in its original universal service order following the 1996 Act. *See Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 800 (1997) (“*First Report and Order*”). In determining which “other providers of telecommunications services” should contribute to the fund (in addition to “telecommunications carriers,” which are mandatory contributors) based on the Commission’s permissive authority to require such contributions, the

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<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> Stratos Government Services, Inc., *Petition for Clarification or Declaratory Ruling*, WC Docket No. 06-122 (Sept. 15, 2009) (“Petition”).

Commission excluded entities that self-provision communications services on public policy grounds. *Id.*; *see also* 47 U.S.C. § 254(d). The Commission determined that these entities, including government entities that self-provision, need not contribute to the fund because “telecommunications” is not typically part of their business models and they do not charge others for these services. *First Report and Order* ¶ 799. The Commission also excluded from the contribution base an entity that “exclusively provides interstate telecommunications to public safety or government entities and does not offer services to others,” an exclusion that gave rise to the exclusive government services exemption that exists today. *Id.* ¶ 800. Discussion of the exclusive government services exemption in the *First Report and Order* is largely limited to this one sentence. The scope of the exemption, however, is unambiguous: It applies only to an entity that, to the exclusion of all other potential customers, serves only government or public safety agencies. *Id.* It does not, as Stratos would like, apply to a supplier or sub-contractor of that exempt entity. There is no suggestion in the *First Report and Order* that the exemption reaches an additional layer deep in the communications supply chain, and there is nothing for the Commission to clarify.

Moreover, the point of the exclusive government services exemption is to ensure that government agencies are not arbitrarily penalized based on the manner in which they procure communications services. From a public policy perspective, the rationale for the exemption is debatable. Because of the exemption, government agencies that purchase communications services from contractors that serve *only* the government can avoid universal service assessments on the services they purchase. Other government agencies that purchase communications services from any other provider, however, do generally contribute to the fund based on universal service pass-through charges on their bills. But in setting up the exclusive government

services exemption the Commission apparently saw little distinction between a situation where a government entity self-provisions a communications service and a situation where a government entity purchases services from a contractor that serves only government customers, and, literally, has no other customers. *Id.*

Regardless, all universal service contribution exemptions, including the exclusive government services exemption, are to be interpreted narrowly and applied only in the specific circumstances addressed in the Commission’s orders. The Commission was clear on this point: “[W]e do not want contribution obligations to shape business decisions. . . .” *Id.* ¶ 795. This concern, that the Commission’s universal service policies may unfairly advantage one class of competing providers over another, led the Commission to adopt “competitive neutrality” as one of its guiding principles for universal service policy. 47 U.S.C. § 254(b); *see also First Report and Order* ¶¶ 46-52. Competitive neutrality requires that distinctions among competing providers be “minimized so that no entity receives an unfair competitive advantage that may skew the marketplace.” *Id.* ¶ 49.

As a policy matter, therefore, it would be inappropriate and inconsistent with the *First Report and Order* to expand the exclusive government services exemption and advantage an even greater number of government contractors over competing providers that have made legitimate business decisions – independent of universal service contribution obligations – to serve customers other than government entities. In addition, further expanding the exemption would encourage providers to implement corporate structures designed merely to take advantage of the exemption – precisely the kind of business decision motivated only by universal service contribution obligations that the Commission said it should avoid. *First Report and Order* ¶ 795.

This would also have the effect of driving even more assessable revenue out of the universal service contribution base at a time when the fund can least afford it.<sup>3</sup>

Finally, Stratos' request to expand the exclusive government services exemption to sub-contractors of those primary contractors that exclusively serve government customers is not practical. In order for this new exemption to apply, the sub-contractor would need to ensure that it exclusively serves government customers or a prime contractor(s) that in turn exclusively serves government customers. In other words, the sub-contractor will have to limit its own sales and will have to know whether its prime contractor also limits its sales – in every instance – to government entities. Stratos suggests that the Commission could address the logistics of such a process through unspecified “documentation” rules. Petition at 7 n.6. This is similar to the situation today with wholesale carriers and their reseller customers where the Commission now requires that wholesale carriers obtain certifications from resellers in order to determine if the reseller customer is a direct contributor to the fund and therefore exempt from universal service charges assessed by the wholesale provider.<sup>4</sup> This certification process has been the source of significant confusion in the industry and has resulted in disputes before USAC and the

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<sup>3</sup> Recent filings by the Universal Service Administrative Company (USAC) show that the interstate revenue base has continued to decline (falling about \$1 billion from last quarter to its lowest level in the modern history of the USF), while the contribution factor is currently above 12 percent and will likely remain above 12 percent next quarter. *See* Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Quarterly Contribution Base for the Fourth Quarter 2009*, at 7 (July 31, 2009); Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter 2009*, App. M02 (Sept. 1, 2009); Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Quarterly Contribution Base for the Third Quarter 2009*, at 7 (May 1, 2009); Universal Service Administrative Company, *Federal Universal Service Support Mechanisms Fund Size Projections for the Third Quarter 2009*, App. M02 (May 1, 2009).

<sup>4</sup> *See* 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, [http://www.usac.org/\\_res/documents/fund-administration/pdf/499/form-499a-FY2007-instructions.pdf](http://www.usac.org/_res/documents/fund-administration/pdf/499/form-499a-FY2007-instructions.pdf), at 19.

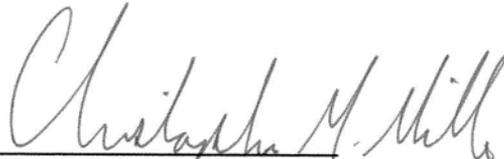
Commission.<sup>5</sup> Expanding the reseller certification process to cover prime contractor/sub-contractor relationships in the context of the exclusive government services exemption would make a bad situation worse.

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For these reasons, Stratos' petition should be denied.

Respectfully submitted,

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<sup>5</sup> See, e.g., Global Crossing Application for Review, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (Sept. 16, 2009).