

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act)	GN Docket No. 09-47
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion)	GN Docket No. 09-137
)	
)	

VERIZON AND VERIZON WIRELESS

COMMENTS – NBP PUBLIC NOTICE #19

Michael E. Glover
Of Counsel

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

John T. Scott, III
Tamara L. Preiss
VERIZON WIRELESS
1300 I Street, NW
Suite 400 West
Washington, DC 20005
(202) 515-3770

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INTRODUCTION AND SUMMARY¹

The Universal Service Fund (“USF” or “fund”) can and should be repurposed for broadband and the modern communications services that consumers demand.² Policymakers need to redefine what universal service means in the broadband era and retarget funding to focus on the most pressing priorities. Merely layering broadband onto the existing, broken universal service infrastructure without more fundamental reform of the universal service system (and necessary related reform of existing intercarrier compensation systems), however, is not a viable option. The high cost fund is already struggling and at a tipping point even without adding broadband to the mix. Indeed, the universal service contribution factor is today near an all-time high and poised to set a new record next quarter of more than 14 percent. This situation is a tremendous burden on all communications service consumers who pay for the fund, and the current trend is not sustainable.

As the Public Notice recognizes, several steps are necessary to fix the Universal Service Fund and position it to play an important role in meeting the nation’s broadband needs going forward:

First, the Commission should set a budget for high cost universal service funding. Consistent with other USF programs, the high cost fund should be capped, which would compel funding discipline and help policymakers focus on getting universal service support to those areas that truly need it.

¹ In addition to Verizon Wireless, the Verizon companies participating in this filing are the regulated, wholly owned subsidiaries of Verizon Communications Inc. (“Verizon”).

² *Comment Sought on the Role of the Universal Service Fund and Intercarrier Compensation in the National Broadband Plan*, GN Docket Nos. 09-47, 09-51, 09-137, NBP Public Notice #19, DA 09-2419 (rel. Nov. 13, 2009) (“Public Notice”).

Second, the Commission must stabilize the universal service contribution base. The Commission can do so by establishing a numbers-based contribution system that assesses a small, flat-rate charge on working telephone numbers. A numbers-based contribution system would rectify the problems with the current interstate revenue-based system, which has become increasingly unworkable in today's world of converged, any-distance services. These services blur traditional jurisdictional boundaries and make distinguishing between telecommunications and information services (the underpinning of existing revenue-based contributions) increasingly difficult.

Third, the Commission should retarget high cost universal service support to focus on broadband deployment. The Commission can move to funding broadband, while cutting back on funding that is either unnecessary or supplanted by broadband support. Specifically, the Commission could use universal service support to help defray the cost and increase the availability of middle- and second-mile facilities. Because of long distances and low population density, the per-subscriber cost of these facilities in some rural areas has hindered deployment of broadband. Subsidizing middle- and second-mile facilities directly with universal service support would ensure that new broadband subsidies are narrowly targeted to areas that need support the most. In addition, the Commission should distribute support to wireless carriers through competitive bidding and discontinue the policy of providing support to multiple wireless carriers in a study area. These changes would free up funding for broadband priorities.

Fourth, as the Public Notice correctly recognizes, universal service and intercarrier compensation are linked, and reform of both systems is a prerequisite to implementing effectively any worthwhile National Broadband Plan. Verizon has submitted a comprehensive proposal to reform the current intercarrier compensation system, which the Commission should

adopt. Most parties agree that the modern intercarrier compensation system should embrace a single, low terminating rate that applies to all traffic regardless of technology or jurisdiction. The new system should be a default regime only; providers should be allowed and encouraged to pursue alternative commercial arrangements. Carriers that lose revenue under the new system should also have an opportunity to recover additional revenues from their end-users, and, if necessary, from a new, time-limited universal service access-replacement fund.

Finally, in the Public Notice the Commission asks a number of questions regarding two additional matters related to universal service – state carrier-of-last-resort (“COLR”) obligations and additional support for broadband within the current Lifeline fund.³ With respect to COLR, whatever the source of the requirement, it does not make sense to continue COLR obligations in areas where there are competitive providers willing to serve all consumers. With respect to Lifeline, the program has helped to provide low income consumers with access to voice services, subsidized through the federal program and additionally by many states. The reasons why consumers may choose not to subscribe to broadband service (usability, relevance, computer ownership, etc.), however, in most cases have nothing to do with price or the availability of broadband service. It makes most sense, therefore, to structure broadband adoption initiatives separate from the universal service program.

³ In a previous meeting the Commission’s National Broadband Plan staff also asked Verizon representatives to respond to a few technical network engineering questions associated with deploying facilities in rural areas. Responses to those specific questions appear below.

DISCUSSION

As requested in the Public Notice, Verizon and Verizon Wireless provide the following responses to the Commission's specific questions:

I. To Clear the Way For A Universal Service Fund That is Focused on Broadband and Modern Communications Services the Commission Should First Set a Budget for High Cost Funding. (Q. 1)

As it stands, the USF is in trouble, and in order to contribute to the broadband solution fundamental change is necessary. Indeed, consumers are already faced with a heavy burden in paying for the existing fund. The federal universal service "contribution factor" (state universal service assessments are additional) exceeded 12 percent in the third- and fourth-quarters of 2009 and is poised to increase to an all-time high – likely more than 14 percent – in the first quarter of 2010.⁴ These fees hit consumers hard, especially in these economic times. Layering new broadband requirements onto the existing fund without fundamentally reforming the universal system would only increase the burden on consumers, which would – perversely – discourage broadband adoption.

To clear the way for a USF that is focused on broadband and meeting the modern communications needs of consumers, the essential first step is to set a budget for high cost universal service funding. The Joint Board endorsed this approach in 2007 when it recommended that the Commission cap the size of the high cost fund.⁵ Caps have long been

⁴ See *Proposed Third Quarter 2009 Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 09-1322 (rel. June 12, 2009) (12.9 percent contribution factor); *Proposed Fourth Quarter 2009 Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 09-2042 (rel. Sep. 14, 2009) (12.3 percent contribution factor); See *Federal Universal Service Support Mechanisms Fund Size Projections for the First Quarter 2010*, Universal Service Administrative Company (Nov. 2, 2009) (available at www.universalservice.org/about/governance/fcc-filings/2010/Q1/1Q2010%20Quarterly%20Demand%20Filing.pdf).

⁵ *Federal-State Joint Board on Universal Service*, Recommended Decision, 22 FCC Rcd 20477, ¶¶ 24-25 (Fed.-State Jt. Bd., rel. Nov. 20, 2007) (concluding that "unrestrained growth in

used as a means of controlling growth of the universal service program. For example, funding for both the Rural Health Care program and the Schools and Libraries program has been capped since those funds were created.⁶ There are also reasonable caps on high cost support to incumbent local exchange carriers (“LECs”), such as on the annual target for Interstate Access Support and on safety valve support.⁷ More recently, the Commission adopted an interim cap on support to competitive eligible telecommunications carriers (“ETCs”).⁸ Establishing an overall cap on the high cost fund as policymakers go about repurposing the USF for broadband would compel similar funding discipline at the outset and help focus attention on getting universal service support to those areas that truly need it.

II. The Current Revenue-Based Universal Service Contribution System is Not Sustainable and Should be Replaced with a Numbers-Based System. (Q. 2)

If the Commission hopes to draw upon the USF to advance its broadband agenda, it must stabilize the contribution base. There is widespread agreement that the current interstate revenue-based universal service contribution system is broken. It was designed for a one-network world where telephone carriers offered customers separate local and long distance services and meaningful distinctions existed between telecommunications and information services. Today, by contrast, consumers buy from a variety of providers “all distance” bundled

the universal service fund, regardless of the source, could be, and would likely be catastrophic for universal service,” as it would threaten the affordability of telecommunications services and erode public support for the universal service program). An overall cap on the high cost fund is consistent with the notion that government programs should operate on a budget, and the high cost fund should be no different. *Id.* ¶ 26 (noting that “[m]any areas of government enterprise operate within a budget, and we think that high-cost funding can do likewise ...”).

⁶ 47 C.F.R. §§ 54.507(a), 54.623.

⁷ 47 C.F.R. §§ 54.801(a), 54.305(e). *See Access Charge Reform, Price Cap Performance Review for LECs, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service, Order on Remand*, 18 FCC Rcd 14976, ¶ 14 (2003).

⁸ *High-Cost Universal Service Support, Order*, 23 FCC Rcd 8834 (2008) (“*Interim Cap Order*”).

offerings, which often include video, voice, and data for one price. To report revenues for purposes of USF contributions, providers must make increasingly difficult distinctions between what portion of their revenues is “interstate” or “intrastate” or “telecommunications” or “information” services. These complexities worsen as companies deploy more broadband and IP-based services, which blur traditional jurisdictional boundaries and make distinguishing between telecommunications and information services increasingly difficult. In addition, the current revenue-based system skews the competitive landscape because some providers offering converged IP products and services do not generate any end-user revenues at all; funding comes from advertising or other non-assessable sources. Given these trends, it is critical that the Commission establish an objective, bright-line test identifying those services (including those VoIP and IP-based services) that must make USF contributions and those that are not required to contribute.

The current revenue-based system plainly does not meet that standard. And, as Verizon and others have explained,⁹ the problems with revenue-based contributions cannot be fixed by tinkering with the existing system. Indeed, the transition away from traditional interstate telecommunications services has resulted in a rapidly shrinking base of assessable revenues upon which to fund the USF. This quarter (the fourth quarter of 2009), the assessable base of interstate revenues is \$17.16 billion, which is the lowest level in the modern history of the USF and almost \$2 billion less than the fourth quarter of 2008 (\$19.011 billion).¹⁰ Ever-dwindling

⁹ See, e.g., AT&T Petition for Immediate Commission Action to Reform its Universal Service Contribution Methodology, *Universal Service Contribution Methodology*, WC Docket No. 06-122 (filed July 10, 2009).

¹⁰ See Federal Universal Service Support Mechanisms Quarterly Contribution Base for the Fourth Quarter 2009, Universal Service Administrative Company, at 7 (Sep. 1, 2009) (available at www.universalservice.org/about/governance/fcc-filings/2009/Q4/4Q2009%20Contribution%20Base%20Filing.pdf); Federal Universal Service

interstate revenues coupled with increasing demand for existing universal service funding will translate into a contribution factor upwards of 15 percent, even 20 percent or more, unless the Commission acts.

A numbers-based contribution system that assesses a small, flat-rate charge on working telephone numbers would rectify these problems.¹¹ A numbers-based system would stabilize the contribution base because growth in the “number of numbers” is expected to continue for the foreseeable future.¹² Such a system also is better for consumers because it will both decrease USF charges for residential services and stabilize the amount of the USF charge that appears on consumers’ bills so that it will not vary from month to month. And a numbers-based system fairly spreads the contribution burden among all competing providers and would be easier for the Commission and USAC to administer and audit.

Moreover, a numbers-based system would clearly define which emerging VoIP and other IP services must contribute to the fund. Services such as Google Voice, SkypeIn, ooma, and magicJack – which provide customers with phone numbers and compete with traditional telephone services, as well as with other VoIP and IP-based services – would contribute. It is appropriate that these services contribute because they offer the ability to make and/or receive

Support Mechanisms Quarterly Contribution Base for the Fourth Quarter 2008, Universal Service Administrative Company, at 7 (Aug. 28, 2008) (available at www.universalservice.org/about/governance/fcc-filings/2008/Q4/4Q2008%20Contribution%20Base%20Filing.pdf).

¹¹ See, e.g., AT&T Petition for Immediate Commission Action to Reform its Universal Service Contribution Methodology, WC Docket No. 06-122 (filed July 10, 2009) (“AT&T Petition”).

¹² For example, the total number of telephone numbers for all reporting carriers increased by approximately 35 million telephone numbers in the 12-month period from December 31, 2007 to December 31, 2008. See *Numbering Resource Utilization in the United States*, Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, at Table 1 (August 2008) (NRUF data as of December 31, 2007); *Numbering Resource Utilization in the United States*, Industry Analysis and Technology Division, Wireline Competition Bureau, FCC, at Table 1 (Sep. 2009) (NRUF data as of December 31, 2008).

calls from other telephony networks (wireline, cellular, VoIP, and so forth) that also make use of phone numbers. Other IP-based services that have a voice component but do not provide customers with phone numbers – such as Xbox LIVE, Phweet, WalkieTalkie for Facebook, Ribbit, and Skype’s computer-to-computer service – would not contribute, ending uncertainty about their status under the existing revenue-based system. Leaving these services out of the contribution base is appropriate because the voice component of these services is typically confined to the application itself.

At the end of 2008, AT&T and Verizon jointly proposed a workable numbers-based plan to replace the current USF contribution system.¹³ The plan features a flat-rate, per number charge and includes limited, narrowly tailored exclusions (Lifeline customers would pay nothing), with appropriate adjustments for wireless family-share and pre-pay plans. The per-number charge would likely be a little more than \$1.00 per month, which for most consumers represents an overall decrease in USF contributions.¹⁴ The Commission has a complete record on the benefits of a numbers-based contribution system and should adopt AT&T and Verizon’s plan, which is a balanced, reasonable approach that enjoys broad industry support.¹⁵ In addition

¹³ Ex Parte Letter from Mary Henze, AT&T, and Kathleen Grillo, Verizon, to Marlene Dortch, FCC, WC Docket No. 06-122, CC Docket No. 96-45 (filed Sep. 11, 2008); *see also* Ex Parte Letter from Mary Henze, AT&T, and Kathleen Grillo, Verizon, to Marlene Dortch, FCC, WC Docket No. 06-122, CC Docket No. 96-45 (Oct. 20, 2008).

¹⁴ In September 2008 AT&T and Verizon provided the Commission with supporting data and analysis for their workable numbers-based plan, including consumer versus business share of USF, estimated per-telephone number charge, and an illustrative estimated consumer impact. *See* Ex Parte Letter from Mary Henze, AT&T, and Kathleen Grillo, Verizon, to Marlene Dortch, FCC, WC Docket No. 06-122, CC Docket No. 96-45 (filed Sep. 23, 2008).

¹⁵ The Commission should adopt a numbers-based methodology for all those programs that are funded today based on interstate revenues, which include the USF (by far the largest), the North American Numbering Plan (“NANP”), Local Number Portability (“LNP”), the telecommunications relay service (“TRS”), and regulatory fees. As the Commission has previously determined, there are significant administrative and public interest benefits to having the same contribution base for all Commission programs. *See 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of*

to AT&T and Verizon, the Ad Hoc Coalition of International Telecommunications Companies, the High Tech Association Committee, MetroPCS, Sprint, Qwest, Windstream, the Oklahoma Corporation Commission, CTIA, and NCTA, among others, have all endorsed a numbers-based contribution system.¹⁶

A straight-forward contribution system with a flat charge on working telephone numbers remains a preferable approach to any complex hybrid system that would derive contributions from phone numbers and some other assessment, such as a charge on telecommunications revenues from commercial services or an additional charge on network connections. There are significant costs associated with tracking and assessing contributions based on multiple contribution units, regardless of the mechanisms involved. While the Commission and providers would be forced to manage these administrative burdens, the costs of doing so ultimately would be passed on to consumers.

In addition, continued reliance on interstate revenues for any part of the contribution base, including telecommunications services for business customers, would only perpetuate – if

Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Report and Order, 14 FCC Rcd 16602, ¶ 66 (1999) (“We expect that using the same funding basis for all of these programs would reduce confusion and minimize the amount of information we need to collect from contributors”).

¹⁶ Comments of the Ad Hoc Coalition of International Telecommunications Companies, CC Docket No. 96-45, WC Docket No. 05-337 at 14 (filed Nov. 26, 2008); Comments of AT&T Inc. CC Docket No. 96-45, WC Docket No. 05-337 at 46 (filed Nov. 26, 2008); Comments of High Tech Association Committee, CC Docket No. 96-45, WC Docket No. 05-337 at 16 (filed Nov. 26, 2008); Comments of MetroPCS Communications, Inc., CC Docket No. 96-45, WC Docket No. 05-337 at 30 (filed Nov. 26, 2008); Comments of Sprint Nextel Corp., CC Docket No. 96-45, WC Docket No. 05-337 at 38 (filed Nov. 26, 2008); Comments of Qwest Communications Int’l, CC Docket No. 96-45, WC Docket No. 05-337 at 40 (filed Nov. 26, 2008); Comments of Windstream Communications, Inc. CC Docket No. 96-45, WC Docket No. 05-337 at 60 (filed Nov. 26, 2008); Comments of Oklahoma Corp. Comm’n, CC Docket No. 96-45, WC Docket No. 05-337 at 6 (filed Nov. 26, 2008); Comments of CTIA-The Wireless Association, CC Docket No. 96-45, WC Docket No. 05-337 at 19 (filed Nov. 26, 2008); Comments of the National Cable & Telecommunications Association, GN Docket No. 09-51 at 34 (June 8, 2009).

not exacerbate – the problems confronting the current contribution system. For example, such a system would retain difficult distinctions between what is and is not a contributing telecommunications service and what portion of that service is interstate – distinctions that are particularly difficult to draw with business services. Indeed, the shift from traditional, simple telecommunications services towards more complex services that may or may not be assessable has both diminished the contribution base and disrupted the USF’s traditional system of support from competitively neutral universal service contributions. A separate system for business contributions also would be challenging to implement. Many services – historically including most all wireless products – are sold irrespective of whether a customer is a residential or a commercial consumer. Thus, attempting to isolate business revenues for contribution purposes would introduce yet another complexity to an already unworkable system, creating new potential for reporting disparities and competitive distortions.

Likewise, any system that assesses both telephone numbers and network connections would be more complicated to administer than a single, flat-rate charge on working numbers. Such a system would require difficult line-drawing to account for the various ways that services and customers connect to network providers. And the Commission would need to monitor continuously the per-connection charges (if assessments are based on the speed of the connecting service) to avoid penalizing carriers for developing better products and offering faster services. Connection charges would in practice also double charge many services because the clear trend in the industry is toward converged offerings on a single, high-speed circuit with capacity for both data and other services, including numbers-based services that “ride over” the circuit that would already contribute. Nonetheless, it is possible to design a contribution system based on an appropriate working telephone numbers plan and an additional assessment on network

connections. And to be certain, such a system would be an improvement over the current interstate revenue system, which is clearly unsustainable. While inferior to a pure numbers system, if the choice is between numbers and connections versus the current interstate revenue system, the Commission should move forward immediately with a numbers and connections approach.

III. To Repurpose the Fund for Broadband the Commission Could Focus on Middle- and Second-Mile Facilities in Rural Areas and Should Adopt a Competitive Bidding System for Wireless Support in Order to Free Up Funding. (Q. 3)

A. A Targeted Funding Program for Middle- and Second-Mile Facilities Would Help Extend Broadband Networks in Rural Areas that Need Additional Coverage.

As the Commission has correctly surmised,¹⁷ the cost and availability of middle- and second-mile facilities – together with other factors – have hindered the deployment of broadband in some instances. It can be expensive to deploy fiber or microwave from a high-speed network connection point to a rural area that is dozens or hundreds of miles away. In low-density areas, this translates into high per-unit costs that, if passed on to consumers, would make broadband too expensive for most. The higher costs associated with long routes must be recovered from a much smaller base of customers, making broadband uneconomic in those areas.

The best way to address this obstacle to broadband deployment is to partially offset part of the costs to deploy or purchase middle- and/or second-mile facilities in some rural areas.

Project-Based Infrastructure Grants. Once projects funded with federal economic stimulus support are underway, the Commission should evaluate where there are remaining areas of the nation where there is inadequate access to high-capacity middle- and second-mile

¹⁷ *Comment Sought on Impact of Middle and Second Mile Access on Broadband Availability and Deployment*, NBP Public Notice #11, GN Docket Nos. 09-47, 09-51, 09-137, DA 09-2186, at 1 (rel. Oct. 8, 2009).

facilities. And, where there are gaps, the Commission could establish a new, temporary program within the USF to provide project-based support to help offset the cost to deploy middle- and second-mile facilities, including connections to cell sites. That program should target support to rural areas where middle-mile and second-mile facilities do not have sufficient capacity to support broadband services and where such facilities would not be deployed in the foreseeable future without support.¹⁸

Middle-Mile Support for Broadband Providers. Alternatively, or in addition to, project-based infrastructure support, the Commission could provide support directly to broadband providers in some rural areas to help them offset a portion of their transport costs for a limited time. Even when high-capacity services are available, there may be rural areas where, due to long distances and low population density, the per-customer cost of transporting Internet traffic may be high enough to impinge on a rural broadband provider's ability to offer service. To address cases in which the high recurring expense of middle-mile facilities limits a rural provider's ability to offer broadband service, the Commission should establish a universal service program that would partially offset that expense. Providing support directly to broadband providers in these rural areas would also foster demand for the construction of facilities in areas where they do not exist today.

¹⁸ Alternatively, the Commission could recommend that Congress appropriate additional funds for the National Telecommunications and Information Administration ("NTIA") and the Rural Utilities Service ("RUS") programs established pursuant to the American Recovery and Reinvestment Act of 2009. See Comments of Verizon and Verizon Wireless on Impact of Middle- and Second-Mile Access on Broadband Availability and Deployment, NBP Public Notice, #11, GN Docket Nos. 09-47, 09-51 & 09-137, at 6 (filed Nov. 4, 2009) ("*Verizon Broadband Comments*"). The *Verizon Broadband Comments* contain additional details about the middle- and second-mile proposals discussed herein.

This middle-mile support program is outlined in greater detail in the *Verizon Broadband Comments*, but it should have the following attributes.

First, the program should be targeted to offset part of the cost of connecting the broadband provider's service area to a nearby long-haul network point-of-presence ("POP") or Internet Gateway. There is no need to provide support for long-haul network transport or Internet access service "port" costs as well, which are costs incurred by rural and urban providers alike and do not present a barrier to deployment of broadband services. Furthermore, the Commission must ensure that funding is provided only in the geographic areas where the high cost of middle- and second-mile facilities likely explains the lack of broadband deployment. To identify these areas, the Commission should analyze unserved or underserved areas (for example, by using Form 477 reports or the national broadband map that NTIA is developing).

Second, the Commission should open the support program to applicants regardless of the technology they propose to use or their regulatory status. Eligibility criteria should be competitively and technologically neutral, and support should be available to both wireless and wireline providers. The Commission should limit funding to avoid subsidizing duplicative networks.

Third, just as it is important to limit funding to those geographic areas where the economics do not support investment in middle- and second-mile facilities, the Commission also must ensure that the level of funding provided to a broadband provider in any given area is limited to offsetting a portion of the recurring costs associated with obtaining or deploying such facilities. This approach would be competitively and technologically neutral, and it would create incentives for providers to use the most efficient transmission services and technologies.

Fourth, the middle-mile support program should be temporary, such as an initial term of

three years, given that the need for such support is likely to decline over time as the broadband provider gains customers. The initial three-year term of the program should provide a broadband provider with sufficient time to enter an unserved or underserved area and – with the aid of the program’s support – build up its customer base to the point that declining per-unit middle-mile costs make universal service support unnecessary.

Fifth, the Commission should impose certification and reporting requirements on support recipients. These requirements would assist the Commission in verifying that support recipients are using middle-mile support for the purpose for which it is intended and would also allow the Commission to evaluate the effectiveness of its middle-mile support program.

Finally, the Commission should set a specific budget (which should be established once, and not every year) for this new support program that targets funding to middle- and second-mile facilities. Establishing a budget will help ensure that such funding is used efficiently.

B. Competitive Bidding is the Best Way to Distribute Support to Wireless Carriers.

Even with the *Interim Cap Order*, the current system of distributing high cost support results in excessive subsidies to wireless ETCs. Under the current distribution system, some wireless ETCs receive subsidies in areas where they already provide service and where other wireless carriers can and do provide service without universal service subsidies. Multiple wireless ETCs seek to provide service in many “high cost” areas across the country because of the identical support rule whereby universal service subsidies are calculated based on the incumbent wireline provider’s costs (as modified by the *Interim Cap Order*) and distributed to wireless ETCs based on the often large number of handsets they sell. 47 C.F.R. § 54.307.

Competitive bidding would rectify these problems and free up universal service funding

for broadband priorities.¹⁹ Rather than encouraging wireless carriers simply to sell more handsets, a competitive bidding system would provide a flat amount of subsidy to one wireless provider for the service term. This would encourage efficiency by the subsidized provider in order to maximize profit. In addition to creating incentives for providers to operate more efficiently, competitive bidding is the best way to determine how much a wireless carrier really needs from the high cost fund to offer service throughout a high cost area.²⁰

Competitive bidding is not a new concept. A 2008 paper examining reverse auctions for universal service support in several countries reveals that “reverse auctions have proven themselves both feasible and effective mechanisms for reducing expenditures on universal service and for revealing information about the true costs of supplying service in rural areas.”²¹ And competitive bidding is the standard means by which government and businesses procure goods and services. Competitive bidding for wireless universal service support also has the added benefit of increasing wireless coverage. To win the auction, a wireless carrier must agree

¹⁹ See Comments of Verizon and Verizon Wireless, *Modernizing Universal Service: Verizon’s Plan for Comprehensive Reform*, WC Docket No. 05-337, CC Docket No. 96-45 (filed May 31, 2007) (proposing a comprehensive and workable competitive bidding system for wireless high cost support).

²⁰ See *High Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Notice of Proposed Rulemaking, WC Docket No. 05-337, CC Docket No. 96-45, FCC 08-5, ¶ 11 (rel. Jan. 29, 2008); see also *Federal-State Joint Board on Universal Service*, Recommended Decision, 22 FCC Rcd 20477, ¶ 35 (Fed.-State Jt. Bd., rel. Nov. 20, 2007) (observing that the use of universal service support to subsidize competition and build duplicative networks is not “in the public interest ...”).

²¹ Scott Wallsten, *Technology Policy Institute, Reverse Auctions and Universal Telecommunications Service: Lessons from Global Experience* at 17 (April 2008), (available at http://www.techpolicyinstitute.org/files/wallsten_global_reverse_auctions-1.pdf). As evidenced by their use in other countries, reverse auctions are economically efficient and encourage investment. See James Stegeman, Dr. Steve Parsons, Robert Frieden, and Mike Wilson, *Controlling Universal Service Funding and Promoting Competition Through Reverse Auctions*, 2, (available at http://www.costquest.com/costquest/docs/Reverse_Auctions_Paper_Attachment_110806.pdf (2006)).

to serve an entire area, not just the smaller, more densely populated locale for which providers sometimes receive support today. The contracted area could be a wire center, or it could be an area that corresponds to the spectrum license that a wireless carrier holds. In either case, competitive bidding for wireless high cost support would require that the winning wireless bidder expand its service area in ways that today's system does not.

The Commission should also make clear that a new competitive bidding system to distribute wireless support "supersedes" merger conditions imposed on Verizon Wireless and Sprint that reduce high cost support to these providers by 20 percent per year over five years, as it did when it adopted the interim cap last year. *Interim Cap Order*, ¶ 5 n.21 (providing that the new interim cap on competitive ETC support replaces similar merger condition caps on high cost support to AT&T and Alltel).²²

IV. Intercarrier Compensation Reform Adopting a Single, Low Terminating Rate for All Traffic Should Accompany any Restructuring of the USF and the National Broadband Plan. (Q. 4)

As the Public Notice correctly recognizes, the USF and the intercarrier compensation regime are inextricably linked, and both systems must be reformed in order to achieve the Commission's and Congress's broadband goals. For many of the same reasons that the USF is in trouble, there is widespread agreement that today's intercarrier compensation regime is seriously outdated and must be modernized to reflect changes in the communications landscape since the 1996 Act. For example, under the current intercarrier compensation regime a provider that

²² *Applications of Cellco Partnership d/b/a Verizon Wireless and Atlantis Holdings LLC For Consent to Transfer Control of Licenses, Authorizations, and Spectrum Manager and De Facto Transfer Leasing Arrangements and Petition for Declaratory Ruling that the Transaction is Consistent with Section 310(b)(4) of the Communications Act*, Memorandum Opinion and Order and Declaratory Ruling, 23 FCC Rcd 17444 ¶¶ 192-97 (Nov. 10, 2008); *Sprint Nextel Corporation and Clearwire Corporation Applications for Consent to Transfer of Control of Licenses, Leases, and Authorizations*, Memorandum Opinion and Order, 23 FCC Rcd 17570, ¶ 108 (Nov. 7, 2008).

originates a call may pay compensation – or may receive it. Terminating providers (and, in some cases, originating providers) impose a wide range of charges to exchange traffic, depending on factors such as which provider terminates the traffic and whether a call crosses state, MTA, or local calling area boundaries before reaching the terminating provider. Thus, many terminating providers charge as little as \$0.0007 per minute for a “local” call rated under the “mirroring rule” – while rural carriers’ rates can be as much as *175 times more* to terminate an intra-state long distance call.²³ As the Commission aptly noted four years ago, this patchwork regime “require[s] carriers to treat identical uses of the network differently, even though such disparate treatment usually has no economic or technical basis.”²⁴

The system of widely varying rates based on arbitrary jurisdictional and technological distinctions is fundamentally unworkable in the modern, competitive communications market. Today, next-generation, IP-based platforms are offering new and innovative services that challenge the traditional concepts of geography and location that are the cornerstones of the existing intercarrier compensation regime. Providers devote substantial resources to the often impossible task of trying to measure and categorize the traffic they exchange in order to apply different rates to different types of traffic – a task that has become increasingly difficult in the age of IP services. Because these new technologies do not adhere to old assumptions about location-based and device-based phone numbers, carriers can no longer reliably determine whether a call is local or long distance, intrastate or interstate. Nor can providers always determine whether incoming calls were IP-originated – or whether outgoing calls are IP-bound. At the same time, providers continue to dispute which (if any) of these myriad rates even apply

²³ South Dakota Local Exchange Carrier Association, Inc. S.D.P.U.C. Tariff No. 1 at 17-1.

²⁴ *Developing a Unified Intercarrier Compensation Regime*, Further Notice of Proposed Rulemaking, 20 FCC Rcd 4685, ¶ 3 (2005).

to the growing – but often unidentifiable – category of IP traffic.²⁵ Ongoing uncertainty regarding the compensation due to – and from – providers for IP traffic serves as a disincentive to further investment in the very next-generation services that consumers seek most.

The myriad rates under the current system and the growing difficulty of properly categorizing traffic also serve as an invitation to fraud and arbitrage, as providers attempt to manipulate and disguise traffic in order to gain illegal profits for themselves or deprive other providers of lawful revenues. The traffic pumping arbitrage schemes that have proliferated in recent years are just the latest examples of such improper behavior.²⁶ These schemes undermine competition and harm consumers by diverting resources away from serving consumers and investing in new technologies and into fraud detection efforts and litigation.

Comprehensive reform of this antiquated system – reform that applies to all traffic and all providers – is essential. It simply no longer makes sense to maintain a system that requires or permits terminating providers to apply different rates to different traffic based on arbitrary and anachronistic distinctions. Reform that removes these arbitrary distinctions will benefit

²⁵ Quantifying the specific amount of intercarrier compensation that is in “dispute due to issues or concerns over the proper classification or jurisdiction of the traffic” is challenging. Public Notice, Question 4(h)(iii). To quantify intercarrier compensation payments owed to it, Verizon, like many carriers, relies upon factors self-reported by originating carriers to determine the jurisdiction of their traffic and the appropriate rates to apply to each minute of use (reciprocal compensation, intrastate access, interstate access, etc.). Because of changes in technology that make it difficult to distinguish whether a call is local or long distance, intrastate or interstate, and with the challenge of identifying VoIP traffic, the accuracy of self-reported factors is unclear. Nevertheless, the amount of intercarrier compensation that is in dispute due to disagreements about the appropriate compensation that may be owed to Verizon for terminating VoIP traffic is disclosed in Confidential Attachment A. Confidential Attachment A and the information contained therein are being produced and should be treated as “Confidential” within the meaning of the Commission’s Protective Order in this proceeding. *See International Comparison and Consumer Survey Requirements in the Broadband Data Improvement Act, A National Broadband Plan for Our Future*, GN Docket Nos. 09-47, 09-51, 09-137, Protective Order, DA 09-2415 (rel. Nov. 16, 2009).

²⁶ *See, e.g., Qwest Commc’ns Corp. v. Farmers and Merchants Mut. Tel. Co.*, Memorandum Opinion and Order, 22 FCC Rcd 17973 (2007), as modified by Second Order on Reconsideration, File No. EB-07-MD-001, FCC 09-103 (rel. Nov. 25, 2009).

consumers by giving providers the regulatory certainty needed to invest in new IP services and broadband networks, enabling providers to offer better products and lower prices.

Last year, Verizon filed with the Commission a straightforward and workable intercarrier compensation reform proposal that builds upon other intercarrier compensation plans previously submitted to the Commission.²⁷ Verizon’s proposal has three significant components.

First, under Verizon’s proposal, the Commission would establish a single federal default termination rate that would apply equally to all traffic and to all providers, regardless of jurisdiction or technology, unless the parties reach a voluntary commercial agreement to the contrary.²⁸

Second, under Verizon’s proposal, the Commission would require all providers to transition to this uniform terminating rate quickly. During this transition, the Commission should consider stepping down rates by using rates in existence today, such as by reducing intrastate access to interstate levels. Relying on existing rates for a step-down – rather than by

²⁷ See Ex Parte Letter from Susanne A. Guyer, Senior Vice President – Federal Regulatory Affairs, Verizon, to Kevin Martin, Chairman, FCC, et al., CC Docket Nos. 01-92 & 96-45 (Sep. 12, 2008).

²⁸ Any new intercarrier compensation system should be a default regime only. Providers should not only be permitted but encouraged to enter into alternative commercial arrangements, which may encompass any negotiated rate, including bill-and-keep arrangements. Indeed, the Commission and courts have long recognized that rates set through market-based negotiations are instructive in determining appropriate – and “just and reasonable” – compensation rates. See also *Petition of ACS of Anchorage, Inc. Pursuant to Section 10 of the Communications Act of 1934, as Amended, for Forbearance from Sections 251(c)(3) and 252(d)(1) in the Anchorage Study Area*, Memorandum Opinion and Order, 22 FCC Rcd 1958, ¶ 39, ¶ 40 n.136 (2007) (finding that “commercially negotiated rates” provide “just and reasonable prices”), *petitions for review dismissed, Covad Commc’ns. Group, Inc. v. FCC*, Nos. 07-70898 et al. (9th Cir. June 14, 2007); *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, ¶ 664 (2003) (finding that “arms-length agreements . . . to provide [an] element at [a] rate” “demonstrate[s]” that the rate is “just and reasonable”), *aff’d in pertinent part, USTA v. FCC*, 359 F.3d 554 (D.C. Cir.), *cert. denied*, 543 U.S. 925 (2004); *Illinois Pub. Telecomms. Ass’n v. FCC*, 117 F.3d 555, 562 (D.C. Cir. 1997) (in competitive markets, the Commission may “conclude that market forces generally will keep prices at a reasonable level”).

creating new, blended or hybrid rates – will eliminate disputes about whether a provider has appropriately calculated its transition rates.

Third, Verizon’s proposal would provide opportunities for companies to recover a portion of lost revenues from their own end-users and would ensure that a portion of other lost revenues may be recovered through a new, transitional recovery mechanism that would be part of the USF. The transitional USF recovery mechanism should decrease over time. This approach will help to sustain rural network infrastructure and other communications networks that consumers depend on today, while encouraging investment in new, innovative services (including broadband) nationwide.

Verizon’s comprehensive reform proposal will provide a swift, but rational, transition to a simple default intercarrier compensation regime. A single low terminating rate per minute will remove hidden subsidies from intercarrier compensation payments and instead make those subsidies available in a more explicit and dependable form. Applying this rate equally to all providers and all traffic – and transitioning all providers to that rate simultaneously – will ensure that the new regime will be competitively and technologically neutral. The new uniform federal regime will also eliminate the financial incentives for fraud and arbitrage, of which consumers are the ultimate victims. The Commission should remove the obstacles to progress and innovation that the current intercarrier compensation system has created by adopting Verizon’s intercarrier compensation proposal.²⁹

²⁹ In Confidential Attachment A, Verizon is providing intercarrier compensation data as requested in the Public Notice. *See* Public Notice, Question 4(h)(i).

V. COLR Obligations Vary Significantly by Jurisdiction and Today Make Little Sense in Markets with Multiple Providers. (Q. 5)

Attempting to determine the source and scope of carrier of last resort (“COLR”) obligations as discussed in the Public Notice is not an easy task. *See* Public Notice, Question 5. COLR obligations are often misunderstood and overstated. In some states, incumbent LECs have COLR obligations that are defined by state law,³⁰ while in other states, COLR obligations simply do not exist.³¹ In other jurisdictions, “COLR-like” obligations may not apply in areas where another provider offers service or where the incumbent no longer receives universal service support and cannot recover the cost of service through retail rates.³² Whatever COLR obligations still exist are the vestige of the monopoly era when incumbent providers were subject

³⁰ *See, e.g., Rulemaking on the Commission’s Own Motion into Universal Service and to Comply with the Mandates of Assembly Bill 3643*, Decision No. 96-10-066, 1996 Cal. PUC LEXIS 1046, at 292-93 (Cal. Pub. Util. Comm’n 1996) (discussing California’s carrier of last resort obligations); Tex. Util. Code Ann. § 54.253(a) (requiring the holder of a certificate of convenience and necessity or a certificate of operating authority to “offer all basic local telecommunications services to each customer in the utility’s certificated area; and provide continuous and adequate service in that area”); *id.* § 54.253(d) (limiting the ability of a holder of a certificate of operating authority to cease operations).

³¹ *See, e.g., Florida Statutes § 364.025(6)(d)* (allowing local exchange carriers to petition for waiver of carrier of last resort obligations). In addition, several other states, including Indiana, Kansas, Louisiana, Oklahoma and South Carolina, either have granted or are in the process of granting relief from COLR obligations. *See Reply Comments of AT&T Inc., WC Docket No. 05-337, CC Docket No. 96-45 at 17 n.60* (filed June 8, 2009).

³² Under Section 214(e)(1), 47 U.S.C. § 214(e)(1), an ETC may be under “COLR-like” obligations to offer supported services throughout its designated service area. But these obligations also vary on a state-by-state basis, and as the Commission has recognized, “we encourage states to follow the Joint Board’s proposal that any build-out commitments adopted by states ‘be harmonized with any existing policies regarding line extensions and carrier of last resort obligations.’” *Federal-State Joint Board on Universal Service*, Report and Order, 20 FCC Rcd 6371 ¶ 21 (2005) (quoting *Federal-State Joint Board on Universal Service*, Recommended Decision, 19 FCC Rcd 4257, ¶ 27 (Fed.-State Jt. Bd. 2004)). For example, if another provider offers service in an area, states have discretion to require competitive ETCs to offer resold service rather than extend their networks. *Id.* ¶ 26.

to an affirmative obligation to serve in exchange for a monopoly franchise.³³ Today, COLR obligations generally make no sense in markets with multiple providers.³⁴

VI. Broadband Adoption Initiatives that Focus on Usability, Relevance, and Computer Ownership will be Critical Going Forward and Should be Structured Separate from the Existing Lifeline Program. (Q. 7)

Verizon supports making broadband available to and accessible by all consumers, including low income consumers. Merely adding broadband to the existing Lifeline and Link-Up universal service programs, however, would not address the critical challenges that adversely impact broadband adoption.

The evidence reflects that the monthly subscription cost of broadband is just one factor in broadband adoption. According to a recent study, two-thirds of non-broadband adopters do not sign up for service for reasons having nothing to do with the price of the service – *i.e.*, usability (too hard to learn, do not know how, too difficult), relevance (nothing could get me to switch, too busy, not interested), and computer ownership.³⁵ Given these realities, policymakers should

³³ BARBARA A. CHERRY & STEVEN S. WILDMAN, *Unilateral and Bilateral Rules: A Framework for Increasing Competition While Meeting Universal Service Goals*, in TELECOMMUNICATIONS, IN MAKING UNIVERSAL SERVICE POLICY: ENHANCING THE PROCESS THROUGH MULTIDISCIPLINARY EVALUATION 42 (Lawrence Erlbaum Assocs., Inc. 1999).

³⁴ For example, at least two reported federal decisions have upheld a state commission's refusal to order geographic deaveraging of rates for unbundled network elements, on the grounds that COLR obligations would unfairly disadvantage incumbent LECs. *AT&T Comm. Of the Pac. N.W., Inc. v. U.S. West Comm., Inc.*, 31 F. Supp.2d 861, 865 (D. Or. 1998); *MCI Tele. Corp. v. GTE N.W., Inc.*, 41 F. Supp.2d 1157, 1171 (D. Or. 1999) (noting that the legal obligation of an incumbent LEC "to service all customers within its territory, at the same fixed price," which allows competitors to "solicit the most profitable customers, leaving the ILEC to service the unprofitable accounts the CLECs do not want").

³⁵ John B. Horrigan, "Obama's Online Opportunities II," Pew Internet & American Life Project (2009) ("Pew Study"). In addition, there have been encouraging increases in broadband adoption in low-income households. According to the Pew Study, in households with annual income of \$20,000 or less, broadband adoption grew from 25 percent to 35 percent between 2008 and 2009, while in households with incomes between \$20,000 and \$30,000, adoption grew from 42 percent to 53 percent. *Id.*

approach broadband adoption with an eye toward improving computer literacy, encouraging computer ownership,³⁶ and developing Americans' recognition of the relevance of broadband to their lives.

Nonetheless, those with annual incomes lower than \$20,000 are less likely to adopt broadband than individuals with higher incomes, and affordability is one of the issues that warrants more attention. In Verizon's view, it makes the most sense to focus broadband adoption initiatives outside of the Universal Service Fund, and in its National Broadband Plan the Commission should recommend to Congress that it allocate general treasury funding and/or other incentives to these efforts. As discussed above, the fund is already at a tipping point. Layering additional obligations onto the fund would further burden consumers at a time when the contribution factor is poised to set a new record of more than 14 percent. And the size of a new Lifeline broadband program could be significant. The current Lifeline voice service program is about \$1.2 billion annually, serving approximately 7.5 million households with a federal subsidy of approximately \$10 per month in most states (42 states and the District of Columbia also provide a state subsidy).³⁷ The cost of an additional broadband subsidy would depend on the size of the subsidy and how many Lifeline-eligible households take advantage of the program. But based on the cost of the current Lifeline program, it is reasonable to assume that a broadband Lifeline program could also exceed \$1 billion within a few years. For example, even if only 20 percent of the roughly 20 million households eligible for Lifeline assistance today (4 million

³⁶ In fact, analyst reports suggest that broadband penetration among those owning computers is already around 80 percent. Credit Suisse, *Downgrading Telecom Services to Market Weight*, at 3 (Feb. 19, 2008).

³⁷ USAC, Low Income, Federal Eligibility Criteria (available at <http://www.universalservice.org/li/low-income/eligibility/federal-criteria.aspx>).

total households) participated in a new broadband program (and assuming a subsidy of about \$20 per household each month), the additional funding requirement would be about \$1 billion.

More important, the current Lifeline program is largely provider-based. Carriers that are designated as ETCs are required to participate as a condition of receiving high cost universal service support payments. But, as discussed above, the reasons (usability, relevance, computer ownership) why consumers – low income or otherwise – do not subscribe to a broadband service in most cases have nothing to do with providers' monthly subscription prices. It would be more effective, therefore, to focus broadband adoption initiatives on consumers themselves.

With respect to affordability, Verizon is examining a number of possible alternatives including models based on the earned income tax credit or various government vouchers or coupon programs, perhaps similar to the Commission's recent DTV transition efforts. Providing support directly to the broadband consumer, instead of funding through a service provider, would empower consumers to educate themselves about the different broadband services available to them, which would enhance digital literacy and encourage competition at the same time. This approach avoids a situation where the government chooses winners and losers among competing broadband providers and technologies and instead lets low income consumers choose those broadband products and services most relevant to their lives. This approach might also allow for some support for equipment, such as personal computers for the home.

VII. Additional Information Requested by the Commission.

At a recent meeting with members of the Commission's Broadband Taskforce, Verizon representatives were asked to provide additional information related to but not specifically identified in the Public Notice. In particular, the Broadband Taskforce requested that Verizon provide answers to the following questions:

(1) Does Verizon agree that NECA's assumption that a DS3 middle-mile circuit can support 450 customers with 6 Mbps DSL service is reasonable?

Answer: Verizon does not offer a 6 Mbps DSL service. Moreover, as Verizon explained in its comments on National Broadband Plan Public Notice No. 11, the ratio of last-mile to middle-mile capacity varies based on several factors, including the type of traffic (e.g., voice, video, or other types of data) and the level of end-to-end service quality that the carrier seeks to maintain. Other factors may also impact middle mile capacity requirements. However, assuming typical broadband DSL service offerings, provider capabilities, and current usage patterns, NECA's estimate provides a reasonable initial planning assumption for a rural LEC in today's environment.

(2) Does Verizon agree that a carrier can provide 6 Mbps DSL service to all households within 12,000 feet of a DSLAM?

Answer: The downstream bandwidth that a carrier can provide at a given loop length is a function of a number of factors, including the type of DSL technology deployed, loop makeup, and the level of noise on the loop.

- At short loop lengths, below approximately 5,000 feet, ADSL2+ can deliver higher bandwidth than other types of DSL technology, such as ADSL or ADSL2. However, for a 12,000-foot loop, there is little difference in the bandwidth that can be delivered by the various types of DSL technology.
- The bandwidth that a carrier can support over a 12,000-foot loop depends in part on the gauge of the wire that is used in the loop. All else being equal, heavier (lower) gauge wire (e.g., 24 gauge) can support higher bandwidth than higher gauge wire (e.g., 26-gauge). The bandwidth also depends on whether or not a bridged tap is present. Bridged

taps on the loop will reduce the DSL bandwidth that can be supported, regardless of which type of ADSL technology is used.

- The downstream bandwidth that a carrier can support over a 12,000-foot loop also depends on the level of noise on the loop. The lower the noise, the higher the downstream bandwidth that the carrier can provide to the customer.

Based on the various ADSL standards, it would only be feasible to deliver 6 Mbps over a 12,000 foot loop if the loop consists of lower-gauge (24 gauge or heavier) wire for at least half of its length, has no bridged taps, and has very low noise. When qualifying loops for DSL service, Verizon assumes noise levels that are, based on its experience, typical for its network.³⁸

(3) What percentage of Verizon's central offices are broadband capable?

Answer: This information is provided in Confidential Attachment A.

Michael E. Glover
Of Counsel

Respectfully submitted,

/s/ Edward Shakin
Edward Shakin
Christopher M. Miller
VERIZON
1320 North Courthouse Road
9th Floor
Arlington, VA 22201
(703) 351-3071

John T. Scott, III
Tamara L. Preiss
VERIZON WIRELESS
1300 I Street, NW
Suite 400 West
Washington, DC 20005
(202) 515-3770

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³⁸ Verizon's guidelines regarding loop length qualification for downstream bandwidth are discussed in Confidential Attachment A.