

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

IConnect Wholesale, Inc.,	)	
d/b/a Telecuba,	)	
Request for Waiver of the International	)	DA 10-691
Settlements Policy and Benchmark Rate	)	IB Docket No. 10-95
Under the 1997 Benchmarks Policy For	)	ISP-WAV-20100412-00007
Facilities-Based Telecommunications Services	)	
Between the United States and Cuba	)	

**REPLY COMMENTS OF VERIZON<sup>1</sup>**

The Commission should grant a narrow waiver of the International Settlements Policy (“ISP”) and of the benchmark rate under the 1997 Benchmarks Policy for facilities-based services with Cuba as requested by IConnect Wholesale, Inc. d/b/a TeleCuba (“TeleCuba”). The Commission should ensure, however, that any waiver of the ISP is sufficiently narrow so as not to circumvent the important protections the ISP provides to United States carriers on international routes where discriminatory conduct may be present. Additionally, any waiver must apply to all carriers who may wish to consider establishing direct communications between the United States and Cuba. A narrow waiver of the ISP that permits an increase in the approved United States-Cuba settlement rate for a limited period of time would facilitate greater contacts between separated family members in the United States and Cuba and increase the flow of

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<sup>1</sup> The Verizon companies participating in this filing (“Verizon”) are the regulated, wholly owned subsidiaries of Verizon Communications Inc.

information between the two countries. By allowing temporary flexibility in carrier settlement rates as requested here, the Commission would enhance the United States' stated Cuba policy.<sup>2</sup>

First, there is good cause for a narrow waiver of the ISP and corresponding increase of the benchmark rate for the three year period requested by TeleCuba. In April 2009, President Obama issued a memorandum to the Secretaries of State, Treasury, and Commerce on promoting democracy and human rights in Cuba.<sup>3</sup> The President's memorandum stated, among other items, that measures "that promote contacts between Cuban-Americans and their relatives in Cuba are means to encourage positive change in Cuba."<sup>4</sup> The memorandum also directed the recipients to "[a]uthorize U.S. telecommunications network providers to enter into agreements to establish fiber-optic cable and satellite telecommunications facilities linking the United States and Cuba," and to "[l]icense persons subject to U.S. jurisdiction to activate and pay U.S. and third-country service providers for telecommunications ... services provided to individuals in Cuba."<sup>5</sup> In January 2010, the State Department issued new guidance with regard to licensing of telecommunications service between the United States and Cuba, and the applicable ISP and Benchmarks Policy. In particular, while the State Department advised that the Commission should continue to apply the ISP and the appropriate benchmark settlement rate with respect to the United States-Cuba route, the Commission "should be prepared, to the extent necessary, to

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<sup>2</sup> See, e.g. Letter from Ambassador Philip Verveer, U.S. Coordinator for International Communications and Information Policy, U.S. Department of State, to Julius Genachowski, FCC Chairman, (Jan. 12, 2010) ("State Department Letter").

<sup>3</sup> Memorandum, for the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce: Promoting Democracy and Human Rights in Cuba, (April 13, 2009) (available at <http://www.whitehouse.gov/the-press-office/memorandum-promoting-democracy-and-human-rights-cuba> ).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

grant waivers reasonably limited in duration to enable carriers within its jurisdiction to provide telecommunications service between the United States and Cuba.”<sup>6</sup>

Under the unique circumstances presented by the United States-Cuba route, TeleCuba’s requested waiver or other temporary flexibility in carrier settlement rates is “reasonable” and in the public interest. A narrow waiver, comprised of a temporary increase in the settlement and benchmark rates, would facilitate a greater exchange of information and increased communications by allowing domestic carriers to investigate the re-establishment of a relationship with Cuban providers and/or the construction of potential facilities on the United States-Cuba route. As noted by the President’s memorandum, development of such relationships and additional construction of facilities will further United States policy and promote greater contact between separated family members in the two countries.

In addition, the requested three year waiver period is reasonable for the United States-Cuba route. Given the historic absence of direct United States carrier connections to Cuba, a shorter period of time might not allow sufficient opportunity for carriers to explore the most efficient relationships or to complete the amount of work required to establish services. Moreover, over the course of the requested three-year waiver period, there may be an increase in the volume of traffic between the United States and Cuba that would permit carriers to negotiate lower rates. The evolution of such lower rates could inform any further waiver or eliminate the need for one going forward.

Second, it is important that any temporary flexibility in the settlement and benchmark rates be structured so as to apply to all providers equally and not introduce new or additional opportunities for discriminatory actions against United States carriers. As the Commission

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<sup>6</sup> State Department Letter at 2.

works to implement the State Department Letter's guidance, it should be cognizant that opening the United States-Cuba route to the provision of direct services must take place in an atmosphere in which all providers may participate on an equal basis. For example, the Commission should be careful that its prohibition against whipsawing remains in effect, so that foreign carriers with market power may not exploit that power in negotiating settlement rates with United States carriers.<sup>7</sup> As the Commission has previously observed, the "[f]ailure to protect U.S. consumers and competition from this kind of behavior would likely result in U.S. carriers paying above-cost settlement rates to carriers out of fear that they would lose business to carriers willing to pay the higher rate."<sup>8</sup> Thus, any temporary waiver or other flexibility in the benchmark and settlement rates should be carefully tailored so as to promote the increase in communications and exchange of information contemplated by the State Department Letter, without jeopardizing other consumer and carrier safeguards.

Respectfully submitted,



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<sup>7</sup> See, e.g., *In re AT&T Corp. Emergency Petition for Settlements Stop Payment Order and Request for Immediate Interim Relief and Petition of WorldCom, Inc. for Prevention of "Whipsawing" on the U.S.-Philippines Route*, Order on Review, 19 FCC Rcd 9993, ¶ 18 (2004).

<sup>8</sup> *Id.*