

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20544**

In the Matter of

Petition of UTEX Communications Corporation, Pursuant to Section 252(e)(5) of the Communications Act, for Preemption of the Jurisdiction of the Public Utility Commission of Texas Regarding Interconnection Disputes with AT&T Texas

WC Docket No. 09-134

COMMENTS OF VERIZON¹

As Verizon (and all other commenters) have argued, a Section 252 arbitration, with facts limited to a specific interconnection dispute between two unique parties, is the wrong vehicle to set industry-wide policy, like regulatory rules governing intercarrier compensation for Voice over Internet Protocol (VoIP).² Whatever the result, the decision in the ongoing arbitration between AT&T Texas and UTEX should be crafted carefully and narrowly, to avoid discouraging or restricting others from negotiating voluntary VoIP intercarrier compensation arrangements.

The arbitrators at the Public Utility Commission of Texas appear poised to issue a Proposal for Award in the Section 252 arbitration between AT&T Texas and UTEX. The full Texas Commission would then consider the recommended decision. But whether the Texas Commission or this Commission [acting under Section 252(e)(5)] eventually renders the decision in the AT&T/UTEX arbitration, any conclusions that may be reached in any recommended or

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

² See Verizon’s Reply Comments, WC Docket 09-134 (Aug. 18, 2009).

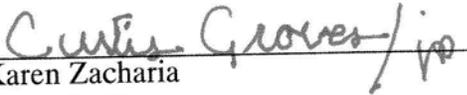
final decision relating to the intercarrier compensation treatment of VoIP traffic should apply only to the parties to the arbitration. Any such decision necessarily will be based on the specific facts presented and the arguments made by AT&T and UTEX, and any recommended or final decision should state explicitly that it is based on the proposals of the parties and the record compiled on those proposals, and that its effect is limited to the parties.

In addition, voluntarily negotiated agreements are often the best way to resolve seemingly intractable issues, and that is especially true in a case like this. The industry should be encouraged to negotiate VoIP compensation arrangements on a case-by-case basis, at least until this Commission specifically addresses the particular intercarrier compensation that applies to VoIP traffic. Commercial arrangements provide a stable basis for ongoing business relationships and are far less costly to all concerned than continued disputes and litigation. The Commission can then build upon the negotiated outcomes in establishing any future rules for VoIP traffic, just as the Commission has looked in the past to industry negotiations in order to resolve contentious issues involving intercarrier compensation.

It is essential, then, that any decision resolving the interconnection dispute between AT&T and UTEX is written narrowly enough to avoid chilling voluntary negotiations between carriers with respect to intercarrier compensation for VoIP.

Respectfully Submitted,

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