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Marlene H. Dortch
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 10-90; GN Docket No. 09-51; WC Docket No. 07-135; WC Docket No. 05-337; CC Docket No. 01-92; CC Docket No. 96-45; WC Docket No. 03-109; WC Docket No. 04-36

Dear Ms. Dortch:

On October 19, Scott Angstreich of Kellogg Huber, representing Verizon, and I spoke with Austin Schlick, General Counsel of the FCC, by telephone. The purpose of the call was to discuss potential distribution of a new end-user “access recovery charge” (ARC) by carriers as part of the intercarrier compensation reforms being considered by the Commission. We discussed implementation of the ARC by carriers and per-line limits on the ARC that we understand are addressed in the Commission’s draft order. We also discussed a rate benchmark that will be used for an additional cap on any increases in charges to individual customers.

With those safeguards in place, we said that flexibility of carriers to recover modest additional revenue from their own end-users (at the holding company level) as part of changes to the intercarrier compensation system is an important component of reform. Such flexibility is consistent with section 202 of the Act. 47 U.S.C. § 202(a). Pursuant to section 202(a), the Commission should appropriately find that the rate benchmark is just and reasonable from an end-user standpoint. *Id.* Charges by LECs that fall at or below the benchmark will be considered just and reasonable from an end-user standpoint. Moreover, because ARCs will be small—and in no case will these charges exceed the per-line caps nor cause end-user rates to exceed the benchmark—variations in ARC amounts actually charged by LECs do not run afoul of other provisions of section 202. In other words, this flexibility by carriers to charge different ARC amounts as competitive circumstances warrant in particular areas will not constitute “any undue or unreasonable preference or advantage” nor any “undue or unreasonable prejudice or disadvantage.” *Id.* See also *Orloff v. FCC*, 352 F.3d 415, 421 (D.C. Cir. 2003), *cert denied*, 542 U.S. 937 (2004) (responding to competitive pressures in particular markets does not constitute

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unreasonable discrimination). Further, to the extent ARCs may be higher in some areas than in others, higher ARCs are more likely in those areas where rates are particularly low (relative to the cost of service) due to regulation and/or cross subsidies from access charges.

Should you have questions, please call.

Sincerely,

/s/ Chris Miller

Chris Miller

cc: Austin Schlick
Michael Steffen
Rebekah Goodheart
Marcus Maher