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Ex Parte

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

Re: Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing a Unified Intercarrier Compensation Regime, CC Docket 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109

Dear Ms. Dortch:

On December 13th, Maggie McCready, Chris Miller, and the undersigned of Verizon met with Rebekah Goodheart, Al Lewis, Randy Clarke, John Hunter, Daniel Ball, Belinda Nixon, Victoria Goldberg, and Travis Litman of the Wireline Competition Bureau, and Peter Trachtenberg of the Wireless Telecommunications Bureau to discuss the Commission's recent *USF-ICC Reform Order*.¹ On December 14th, Ms. McCready also followed up with Ms. Goodheart by telephone.

In the meeting, we discussed the Commission's new definition of "VoIP-PSTN traffic." 47 C.F.R. § 54.913(a). It is clear from multiple references in the *USF-ICC Reform Order* that this definition is intended to cover all traffic with the PSTN on one end and that either originates or terminates in Internet protocol on the other end – including traffic to or from a cable VoIP provider. Nonetheless, we addressed new positions by some VoIP companies that now claim to provide VoIP service that does not require Internet protocol-compatible customer premises equipment. We emphasized that for present purposes the Commission should construe the term "customer premises equipment" in section 54.913(a) to include any equipment at or within proximity of a customer premises that enables the use of voice handsets or other equipment used for voice functions. In addition, or in the alternative, given the unambiguous intent of the *USF-ICC Reform Order*, Ms. McCready indicated to Ms. Goodheart during the follow-up call that the

¹ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, WC Docket Nos. 10-90 et al. (Nov. 18, 2011) ("USF-ICC Reform Order").*

Commission could make clear in section 54.913 that the new rule covers traffic flows with associated revenue reported by providers as interconnected VoIP on their 2011 FCC Form 499As. There is no basis for any different approach, which is the Commission's clear intent. The *USF-ICC Reform Order* unambiguously states that the new VoIP-PSTN traffic definition covers, but is not limited to, interconnected VoIP as defined in section 9.3 of the Commission's rules. *USF-ICC Reform Order* ¶¶ 940-41. And providers that have previously reported traffic as interconnected VoIP on their Form 499s cannot now credibly claim that the new VoIP rule should not apply to that traffic.

We also discussed revised section 64.1601(a) of the Commission's rules. In the *USF-ICC Reform Order*, the Commission declined to adopt any general exceptions to the call signaling rules, including where it would not be technically feasible to comply with the obligation to transmit the calling party number with the network technology deployed or where industry standards would permit deviation from the duty to pass signaling information unaltered. We noted that industry "phantom traffic" proposals that were filed with broad support, including the 2008 USTelecom proposal, had all included such exceptions. We urged the Commission to defer the effective date of section 64.1601(a) in order to provide carriers with sufficient time to evaluate currently-deployed network technology and, if necessary, to seek the contemplated waivers. *Id.* ¶ 723.

Finally, we discussed application of the new default bill-and-keep rate to traffic to or from a CMRS provider that is subject to reciprocal compensation under section 20.11 or Part 51 of the Commission's rules. *Id.* ¶ 994. The Commission should not modify the effective date of the bill-and-keep default rate, which "best serves [the Commission's] policy goals and requirements of the Act." *Id.* Any revenue recovery implications of the new rule for incumbent LECs are best addressed through modification of the recovery mechanisms, if necessary, not by delaying the effective date of the new rate. The new default rate is an important stop-gap against mounting arbitrage associated with intraMTA wireless traffic, particularly CMRS traffic terminated by competitive LECs. As the Commission found in the *USF-ICC Reform Order*, the absence of a federal methodology for implementing section 20.11's reasonable compensation mechanism for CMRS-CLEC traffic has been a growing source of confusion and litigation, which requires "immediate" action. *Id.* ¶ 995. At a minimum, under no circumstances should the Commission delay the effective date of the new rule for traffic exchanged between CLECs and CMRS providers. And, as Ms. McCready also discussed with Ms. Goodheart, if the Commission does delay the new default rate by six months – which it should not do – the Commission must also delay implementation of the new interim CMRS transport rule for rate-of-return LECs. *Id.* ¶ 999.

Sincerely,



cc: Rebekah Goodheart
Al Lewis
Randy Clarke

John Hunter
Daniel Ball
Belinda Nixon

Victoria Goldberg
Travis Litman
Peter Trachtenberg