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Verizon

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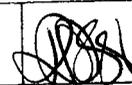
January 4, 2008

Arizona Corporation Commission

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Arizona Corporation Commission
Docket Control
1200 W. Washington Street
Phoenix, AZ 85007-2927

DOCKETED BY 

RE: Docket No. RT-00000H-97-0137
Docket No. T-00000D-00-0672

Dear Sirs:

Enclosed for filing are the original and thirteen copies of the Initial Comments of Verizon California, Verizon Business Services, Verizon Long Distance, and Verizon Wireless (collectively, "Verizon"). These comments are filed in accord with the Commission's Procedural Order dated November 29, 2007, and have been mailed to the parties on the service list.

Thank you.

Sincerely,

Charles H. Carrathers III

CHC/gms

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE REVIEW AND)
POSSIBLE REVISION OF ARIZONA)
UNIVERSAL SERVICE FUND RULES,)
ARTICLE 12 OF THE ARIZONA)
ADMINSTRATIVE CODE.)
)
)
_____)

DOCKET NO. RT-00000H-97-0137

IN THE MATTER OF THE)
INVESTIGATION OF THE COST OF)
TELECOMMUNICATIONS ACCESS.)
)
)
_____)

DOCKET NO. T-00000D-00-0672

VERIZON'S INITIAL COMMENTS

Verizon California, Verizon Business Services, Verizon Long Distance, and Verizon Wireless (collectively, "Verizon") file these Initial Comments in accord with the Commission's Procedural Order dated November 29, 2007. In general, Verizon proposes that (1) the current Arizona Universal Service Fund (AUSF) rules remain unchanged; and (2) all carriers, including CLECs, set their intrastate access charges at Qwest's levels and recoup any lost revenue by increasing rates for retail services.

I. GENERAL PRINCIPLES

A. The AUSF

The basic structure and size of the current AUSF should remain unchanged. Verizon is not aware of any evidence that the current fund is not meeting its goals or that the fund should be increased. Indeed, the FCC reports that the penetration rate for telephone service in Arizona is 94.2%, which is almost equal to the national average of

94.6%.¹ And the Arizona penetration rate has increased 5.4% since 1983, well exceeding the national average of a 3.2% increase.²

Verizon proposes only one addition to the current AUSF rules – a “de minimis” exception that would exclude carriers from contributing to the fund if their assessment would be less than \$500 per month. In this way, carriers need not continue to generate and process reports and payments, the costs of which likely exceed the amount of their contributions.³

If, however, the Commission takes up certain state-specific AUSF issues, then it should plan to keep the AUSF small, and maintain disbursements primarily for its purpose of establishing reasonably comparable rates between urban and high-cost areas. The proposals from ALECA should be rejected to the extent they would increase the size of the fund and allow carriers to receive funds beyond the purpose of the AUSF. Similarly, the proposals from Eligible Telecommunications Carriers (“ETCs”) should be scrutinized carefully because they also would substantially increase the size of the fund for the purpose of supporting the federal Lifeline program rather than supporting rates in high-cost areas.

In short, Verizon believes that the Commission should preserve a limited concept for the AUSF that seeks to provide access to basic local service while maintaining AUSF at size no larger than needed to achieve this goal. Verizon opposes efforts to broaden the definition of services supported by the AUSF. Broadening the definition of AUSF at this

¹ FCC Wireline Competition Bureau, “Telephone Subscribership in the United States” at page 8, Table 2 (June 2007) (based on data through March 2007).

² Id.

³ Texas, for example, has such an exception. P.U.C. Rule 26.420(f)(3)(C).

time could unnecessarily increase the size of the fund and the contribution burden imposed on consumers in Arizona.

For the same reason, the Commission should limit the provision of AUSF support to carriers that obtain ETC status. As with a broader definition of supported services, relaxation of funding eligibility requirements would result in unwarranted growth of the AUSF.

With respect to unserved areas, the Commission's approach should again be limited. Before considering the designation of any carrier to provide service to an unserved area, the Commission should hold a hearing to determine if any carrier will volunteer to serve that area. Or, in the alternative, if the FCC adopts reverse auctions for designation of carriers to receive support, the Commission may want to follow suit. In this way, the Commission will limit the amount of time, money and resources that it and carriers spend on unserved area issues.

B. Access Charges

The dramatic market and regulatory changes in the communications industry over the past decade compel a contemporary evaluation of local exchange carriers' access rates in Arizona. While Qwest has lowered its rates in recent years, the same is not true of other carriers.

In the Qwest price cap cases,⁴ the Commission and Staff noted that reducing high access charges promotes competition and is in the public interest.⁵ Verizon agrees that

⁴ The Commission began its generic investigation of intrastate access charges in 2000. In the first phase it investigated Qwest's charges, and established new, lower charges as part of Qwest's rate cap review. In the second phase, which is now part of this consolidated docket, the Commission intends to address access charges of all other providers.

access reductions would be appropriate in Arizona, and proposes that the Commission require all carriers, including CLECs, to reduce their access charges to Qwest's levels.⁶ Since the Commission has already found these rates to be reasonable, it need not (and should not) engage in the time-consuming, anachronistic process of trying to evaluate each carrier's "cost" of providing access service.⁷

⁵ Decision No. 68604 at 19 (Qwest 2006 price cap order). "Under the Second Revised Settlement Agreement and Price Cap Plan, consumers benefit from . . . lower switched access rates . . ." Decision No. 63487 at 24 (the Qwest 2001 Price Cap order).

⁶ The FCC also has observed that reducing unreasonably high access charges promote competition and benefit consumers. See generally *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board On Universal Service*, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (May 31, 2000) ("*CALLS Order*"); *Multi-Association (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Second Report & Order and Further Notice of Proposed Rulemaking in CC Docket No. 00-256, Fifteenth Report & Order in CC Docket No. 96-45, and Report & Order in CC Docket Nos. 98-77 and 98-166, 16 FCC Rcd 19613 (2001); *Reform of Access Charges Imposed by Competitive Local Exchange Carriers, Seventh Report & Order and Further Notice of Proposed Rulemaking*, 16 FCC Rcd 9923 (2001) ("*CLEC Rate Cap Order*").

⁷ Just as it was not necessary for the FCC to conduct a cost study before ordering reductions to carriers' interstate access rates in its *CALLS Order* and *CLEC Rate Cap Order*, *supra*, it is not necessary to initiate a cost case before moving all LECs to Qwest's intrastate switched access rates. Also, a number of other states have required changes to carrier access rates without conducting "cost" calculations. See, e.g., Decision, *DPUC Investigation of Intrastate Carrier Access Charges*, **Connecticut** D.P.U. Docket No. 02-05-17 (2004), 2004 Conn. PUC Lexis 15, at *45 (capping CLEC rates at SBC's then-current rate); Arbitration Decision, *TDS Metrocom, Inc., Petition for Arbitration*, **Illinois** Comm. Comm'n Docket No. 01-0338, at 48-50 (Aug. 8, 2001) and Arbitration Decision, *Arbitration Between AT&T Comm. of Illinois, Inc. and Ameritech*, Illinois Comm. Comm'n Docket No. 03-0239, at 149-51 (Aug. 26, 2003) (a CLEC may not charge an ILEC more for intrastate switched access than the ILEC charges the CLEC); Report and Order, *Access Rates to be Charged by Competitive Local Exchange Telecommunications Companies in the State of Missouri*, **Missouri** P.S.C. Case No. TO-99-596, 2000 Mo. PSC Lexis 996, at *28-31 (June 1, 2001) (capping CLEC access rates at the competing ILEC's level); Order, **New York** P.U.C. Case 94-C-0095, at 16-17 (Sept. 27, 1995), N.Y. P.U.C. Opinion 96-13, at 26-27 (May 22, 1996), and N.Y. P.S.C. Opinion 98-10, 1998 N.Y. PUC Lexis 325, at 26-27. (June 2, 1998) (establishing a benchmark for CLEC access charges at the level of the largest carrier in the LATA); **Indiana** Code § 8-1-2.6-1.5 (a carrier's switched access rates are just and reasonable if they mirror the carrier's interstate switched access rates); Code of **Maryland** Regulations § 20.45.09.03(b) (capping CLECs' switched access rates at the level of the largest LEC in Maryland); **New Hampshire** PUC § 431.07 (CLECs cannot charge higher rates for access than the ILEC does); **Texas** P.U.C. Subst. Rule § 26.223 (a CLEC may not charge a higher aggregate amount for intrastate switched access than the ILEC in the area served or the statewide average composite rates published by the Texas P.U.C. and updated every two years); 20 **Virginia** Admin. Code § 5-417-50(E) (capping CLEC rates at the higher of the CLEC's interstate access rates or the rates of the competing ILEC) (see Final Order, *Amendment of Rules Governing the Certification and Regulation of Competitive Local Exchange Carriers*, Va. S.C.C. Case No. PUC-2007-00033 (Sept. 27, 2007)); **Washington** Admin. Code § 480-120-540 (requires CLECs' and ILECs' terminating access rates to be no higher than their local interconnection rate, or depending on their regulatory status, incremental cost); *In the Matter of the*

Verizon has compared the access rates of various carriers and found that many carriers have rates far in excess of Qwest's. Because carriers use widely different rate structures, this analysis should compare carriers' average access revenue per minute ("ARPM"). This analysis takes into account all of the access rate elements that the carrier charges its access customers and thus generally provides a more "apples-to-apples" comparison than a review that considers only a single rate element. A comparison of the ARPMs of Qwest and other carriers that bill Verizon in Arizona confirms that many carriers' intrastate access charges are substantially higher than those of Qwest; indeed, several carriers have rates that are 400% to more than 1000% higher than Qwest's.⁸

The comparison of carrier rates mentioned above indicates that some carriers – including Verizon California – generate a significant portion of their revenues from intrastate access charges, and therefore will need to offset these revenues through other sources. The Commission should allow carriers to propose a retail rate design plan that would make up for lost access charge revenues. Any change in rates should be made simultaneously with access charge reductions, and, if necessary, could be phased-in over a period of time.

Verizon proposes that the Commission require all carriers that submit tariffs, including CLECs, to (1) submit revised tariffs that reduce their current access charges to Qwest's levels; (2) quantify the reduction in revenues associated with the access reductions; and (3) propose retail tariff changes to offset these lost revenues. In short,

Establishment of Carrier-to-Carrier Rules, Ohio PUC, Docket No. 06-1344-TP (August 22, 2007) (adopting Rule 4901:1-7-14(D) capping CLEC access rates at current rates of the ILEC). Final Opinion Modifying Intrastate Access Charges, Order Instituting Rulemaking to Review Policies Concerning Intrastate Carrier Access Charges, California P.U.C. Decision 07-12-020 (Dec. 10, 2007) (capping CLEC access rates at the higher of the state's two largest ILECs' intrastate access rates plus 10%).

⁸ Verizon's APRM calculations for specific companies are confidential.

each carrier would propose a rate rebalancing plan. So long as these plans do not increase total intrastate revenues, the Commission would approve them, and both sets of tariffs – the access reduction tariffs and the retail rate change tariffs – would take effect simultaneously.

Finally, the FCC currently has under consideration modifications to the federal intercarrier compensation regime. The Commission should continue to review and evaluate its rules in light of any changed federal rule, and, in general, Arizona's rules should be consistent with any federal rules.

II. COMMENTS ON STAFF'S QUESTIONS

In light of the general principles discussed above, Verizon provides the following comments on the Staff's questions:

1. *What should the fund look like?*

The AUSF should be kept small, and limited to providing access to basic local exchange service for high-cost areas, consistent with the Commission's intention for the fund to "assure the continued availability of basic telephone service at reasonable rates." R14-2-1113.

2. *What revenues should be assessed?*

As noted above, Verizon believes the current fund assessment and collection methodology can remain in place, but should be revisited if the FCC adopts a different methodology.

3. *What should the AUSF reporting requirements be?*

For carriers that pay into the fund, the current once-a-year report on access lines or revenues, as appropriate, is adequate for the Commission Staff to develop a budget. R14-2-1204. The Commission should avoid overburdening contributing carriers with unnecessary reporting requirements.

4. *What should the rules be for companies serving high cost areas?*

The AUSF rules are designed to ensure that customers in high-cost areas have access to basic local service at reasonable rates.

5. *Should all carriers be treated the same regardless of service area or technology used?*

For purposes of disbursements, the Commission should give interested carriers an equal opportunity to apply for support, but should only support one carrier per geographic area, regardless of technology. Also, the Commission should maintain a statewide benchmark for basic local service that it uses to monitor the appropriate level of disbursements from the fund. Disbursements from the fund should be used to support consumer rates in high cost-areas, but should not be used to make the charges for use of high-cost technology equivalent to basic local telephone service.

6. *What revisions to the existing AUSF rules should be made?*

See responses to other questions. Also, as noted above, the Commission should adopt a de minimis exception that would exclude carriers from contributing to the fund if their assessment would be less than \$500 per month. In this way, carriers need not continue to generate and process reports and payments, the costs of which likely exceed the amount of their contributions.

7. *Should the fund allow upfront recovery of construction costs?*

No. The fund should focus on providing access for basic local service that is reasonably priced for both urban and high-cost areas, rather than funding specific projects. Under the current rules, construction costs would be covered in the calculation of the cost of providing service, and recovered through rates and appropriate levels of AUSF disbursements, if necessary. If the AUSF funds specific projects, then certain carriers and consumers receive a benefit through separate funding for the construction costs that may not be available to similarly-situated carriers and consumers, since it is unclear how the Commission would decide which construction projects to fund. Allowing carriers to recover construction costs upfront could also result in increased funding requirements from year to year to be borne by contributing carriers, and could impose a hardship on ratepayers through spikes in the surcharge.

8. *Should a company be required to meet a set of criteria before they are allowed to obtain AUSF revenues to compensate it for reductions in access revenues resulting from access charge reform?*

The Commission should not use AUSF funds to make up revenues lost from access charge reform. See response to Question 15.

9. *Should AUSF funding be available to competitive eligible telecommunications carriers?*

AUSF funding should be available to any carrier that can provide the basic local services identified by the Commission. However, the Commission should restrict disbursements from the AUSF to one carrier per geographic area. Competing carriers can still offer service, but only one carrier would be subsidized for accepting the obligation to provide service.

10. *Should AUSF funding be provided to companies that are not certified as eligible telecommunications carriers?*

No. The Commission should require that carriers receiving AUSF funding also qualify for federal funding because that will reduce the amount of funding needed for the AUSF.

11. *Should companies be required to file a rate case to obtain AUSF revenue?*

The ACC should have a method to determine that disbursements from the AUSF are not over-compensating the ETC for the cost of providing service. Otherwise, the AUSF is unfairly and improperly subsidizing the network costs of the receiving carrier, distorting competition. A rate case is not required.

12. *If a rate case is not required, what method should be used to determine whether a company should receive AUSF payments?*

The Commission could adopt a statewide benchmark rate for basic local service and a statewide average disbursement for per-line AUSF support in high-cost areas. If a carrier applies for AUSF disbursements, and is unwilling to accept the default support rate, in order to provide service at or below the benchmark rate, then it should be required to demonstrate why additional support is necessary and in what amount.

13. *Should the AUSF rules be amended to allow for the provision of telephone service in unserved and underserved areas?*

See response to Question 7.

14. *Should the AUSF rules be amended to allow for incentives to companies to provide service in unserved and underserved areas?*

It is inconsistent with the purpose of USF to provide funds to a carrier that are not directly tied to the costs of supporting basic rates in urban and high-cost areas.

15. *Should the AUSF rules as proposed by ALECA be adopted?*

No. Adopting all ALECA's proposals would have the effect of increasing the size of the fund, which is not necessary or prudent. ALECA's proposals are designed to increase the amounts received by rural carriers from the fund, without a showing of

cost or need. For example, under ALECA's plan, the AUSF would have to make up any funding that a Small Local Exchange Carrier lost as a result of modifications to the federal USF program or federal access charge reform. ALECA also proposes increasing the number of "Small Local Exchange Carriers" by including all carriers with less than 200,000 customers in that category, rather than just those with less than 20,000 customers. As a result of that change, the support provided to carriers with between 20,000 and 200,000 customers would no longer be based on a most efficient cost study, but rather the embedded costs of the incumbent provider, which could be significantly more costly. Moreover, ALECA proposes to base AUSF disbursements for small LECs on the difference between the carrier's embedded working loop costs and 115% of the national average cost per loop. Proposed R14-2-1202(A); R14-2-1203.

ALECA also proposes disbursements from the fund for upfront construction costs, which should be rejected. See Response to Question 7. The Commission should reject proposals that would increase the size of the fund.

Additionally, ALECA has asked that funding from non-intrastate toll service providers in Arizona be based on intrastate telecommunications revenues rather than payments per access line/trunk line. The existing per access line support mechanism reasonably distributes AUSF funding evenly among users of telecommunications services. Modifying the funding mechanism as proposed by ALECA would increase the percentage of AUSF support provided by wireless carriers and their subscribers. This change should be rejected as unfair, because wireless carriers do not generally receive funds from the AUSF, yet wireless carriers would be paying a greater percentage into the fund than local exchange carriers who do receive funding. If the Commission decides to fund the AUSF from intrastate telecommunications revenues, it should exempt wireless customers and carriers from contributing.

16. Should competitive bidding be a component of AUSF implementation?

The use of reverse auctions to determine which carrier is willing to serve a certain area could benefit consumers and other carriers, by providing incentives for the winning carrier to achieve the most efficient costs and reducing the funds that must be collected to support the AUSF.

17. Should CLECs have to prove a need for AUSF revenues?

All carriers taking disbursements from the AUSF should be required to demonstrate in some form that the disbursements are necessary to support the purpose of the fund, that is, equalizing rates in rural and urban areas. But, as noted above, the Commission should limit disbursements from the AUSF to one carrier per area. Accordingly, the Commission's rule granting support from the AUSF to any competing carrier operating in the same area as a carrier that qualified for AUSF disbursements (R14-2-1206(E)) should be abandoned.

18. *What services should be eligible for inclusion in services supported by the AUSF?*

Only basic local services, as set forth in R14-2-1201(6), should be eligible. The ACC should not expand the definition to other services at this time.

19. *Should AUSF payments be used for line extensions and if so how should eligible costs be determined?*

See response to Question 7.

20. *How should the AUSF surcharges be calculated?*

See response to Question 2.

21-29. *Questions re ETC Report.*

Although Verizon does not object in principle to a Commission program to increase Lifeline participation within Arizona, the proposed program outlined in the ETC Report raises several concerns. First, Lifeline is widely advertised today through various sources. Indeed, all ETCs are obligated to publicize the availability of Lifeline throughout their service areas. 47 C.F.R. § 54.201(d)(2). Therefore, it is not clear that the proposed Commission action is necessary, and, the Commission should consider independently the accuracy of the projected increase of almost seven-fold in the number of Lifeline participants in Arizona through this proposal. (And as noted above, Arizona has a very high telephone penetration rate that has increased significantly in the past 15 years, and therefore no additional programs to increase participation in Lifeline and Link-Up are needed.)⁹

Second, although the estimated cost of implementation (\$27,808.83) is minimal, the annual operational cost (\$325,300.00) is substantial given the current size of the AUSF, because it would represent an almost 50% increase in 2007 disbursements from the AUSF.¹⁰ Substantially increasing the size of the AUSF should be avoided, unless clear benefits to Arizona residents are evident.

Third, the Commission should be mindful that these new operational costs would not further the basic goal of the AUSF set by the Commission, which is to equalize the rates for basic local service between urban and high-cost service areas. Rather, Arizona carriers and residents would be underwriting a program to enlarge participation in a federal program for low-income residents. That is a change in

⁹ Verizon California previously expressed its position against automatic enrollment in a response to a Staff Data Request (STF 1.1) in Docket No. T-00000A-05-0380.

¹⁰ "To date, only Citizens Telecommunications Company of the White Mountains, Inc. . . . is receiving AUSF money in the amount of \$769,620 annually per Decision No. 56657, dated October 10, 1989." *In the Matter of The Notice of Proposed Amendments to the Arizona Universal Service Fund*, Decision No. 69198 (ACC Dec. 21, 2006).

purpose for AUSF, outside the current goals of the program, and should not be adopted without serious consideration by the Commission.

Fourth, the ETC Report recommends that the AUSF use the Arizona Department of Economic Services (“DES”) as the entity that identifies and helps enroll residents in the Lifeline program. Given the significant commitment of residents’ funds to DES, the Commission should consider carefully whether it is more appropriate for the Legislature to appropriate funds directly to DES for the proposed Lifeline enrollment program, rather than raising and using funds from the AUSF.

If the Commission adopts the recommended program, Verizon strongly urges it to limit its scope. For example, the Commission should adopt specific and measurable goals for the program, and sunset the program after no more than three years, unless the goals are met and there are substantial increases in Lifeline participation by the residents of Arizona.

III. CONCLUSION

The Commission should maintain a relatively small universal service fund limited to providing support for basic local services in high-cost areas, and, if it adopts new AUSF rules, maintain sufficient flexibility to respond to changes in the federal USF program. Also, the Commission should require all carriers – including CLECs – to reduce their access charges to Qwest’s levels as Verizon proposes.

Verizon appreciates the opportunity to participate in this docket, and looks forward to working with the Commission, Staff and other parties in resolving these important issues.

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