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April 11, 2012

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

**Re: Implementation of the Federal Communications
Commission's Order of November 18, 2011 as Amended or
Revised and Coordination with Certain Intrastate Matters
Docket No. M-2012-2291824**

Dear Secretary Chiavetta:

Enclosed please find Verizon's Comments in Response to the Commission's March 22, 2012 Order, in the above captioned matter.

If you have any questions, please feel free to contact me.

Very truly yours,


Suzan D. Paiva

SDP/slb

Via E-Mail

cc: FCC Order Task Force

Via First Class U.S. Mail

cc: The Honorable Charles E. Rainey, Jr.

Via E-Mail and First Class U.S. Mail

cc: Attached Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of Verizon's Comments in Response to the Commission's March 22, 2012 Order Petition to Reopen the Record, upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 11th day of April, 2012.

VIA E-MAIL and FIRST CLASS U.S. MAIL

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Implementation of the Federal Communications Commission's Order of November 18, 2011 As Amended Or Revised And Coordination With Certain Intrastate Matters : **M-2012-2291824**
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**VERIZON'S COMMENTS
IN RESPONSE TO MARCH 22, 2012 ORDER**

By order entered March 22, 2012, the Commission opened this docket to consider its implementation of the Federal Communications Commission's ("FCC") November 18, 2011 intercarrier compensation order,¹ particularly the upcoming reductions in intrastate switched access rates required by July 1, 2012. Stating that it intends "to afford all interested stakeholders with the opportunity to present appropriate information and material" and to "provide recommendations" regarding implementation of the FCC Order, the Commission scheduled an "on-the-record collaborative session" for April 20, 2012 and directed interested stakeholders to address the questions set forth at pages 4 and 5 of the Order by April 11, 2012. (3/22/12 Order at 5, 7). Verizon submits these comments in response to that directive.²

¹ *Connect America Fund; a National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers; Developing a Unified Intercarrier Compensation Regime, etc.*, WC Docket No, 10-90, etc., Report and Order and Further Notice of Proposed Rulemaking (Nov. 18, 2011) ("FCC Order").

² These comments are submitted on behalf of Verizon Pennsylvania Inc., Verizon North LLC, and MCI metro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services, Verizon Long Distance LLC and MCI Communications Services, Inc. ("Verizon").

A. Implementation of FCC Access Reforms

1. Intrastate Switched Access Rate Reductions

The FCC Order requires default intercarrier compensation rates to be reduced, and ultimately eliminated, through a set of defined steps. State commissions are to oversee the reduction of intrastate access rates under the schedule and requirements set by the FCC Order and codified in regulations at 47 CFR § 51.901, etc. The reductions are to be implemented by filing tariffs “with the appropriate state regulatory authority.” *See* 47 C.F.R. § 51.907 (price cap carriers) and § 51.909 (rate of return carriers). Step 1 requires tariff changes to reduce intrastate rates 50% of the way to interstate access rate levels effective July 1, 2012 and Step 2 requires tariff changes to match interstate rate levels effective July 1, 2013. 47 CFR § 51.907 and 51.909.

This Commission seeks comment on its authority to require “the timely submission of the proposed tariffs and supporting data demonstrating that the FCC-mandated intercarrier compensation reforms comply with the FCC’s directives.” (3/22/12 Order at 4, Question 1(a)). The Commission has authority to require tariffs and relevant supporting data needed to verify that the rate decreases comply with the FCC’s Order and regulations. The FCC contemplated that “states will oversee changes to intrastate access tariffs to ensure that modifications to intrastate tariffs are consistent with the framework and rules we adopt today.” (FCC Order ¶ 803). The FCC specifically noted that state commissions “should monitor compliance with our rate transition; review how carriers reduce rates to ensure consistency with the uniform framework; and guard against attempts to raise capped intercarrier compensation rates” (*Id.* ¶ 813).

Consistent with its authority to oversee the intrastate access rate reductions and the intrastate tariff filing process, the Commission on April 3, 2012 released a Secretarial Letter

directing that all local exchange carriers must file tariff revisions to comply with Step 1 of the FCC Order by May 14, 2012, to be effective July 1, 2012, and must “file with their tariff supplements supporting information used for the calculation of the rates contained in these supplements.” The Commission intends to release for comment by April 13, 2012 a template detailing the supporting information required. Verizon supports the Commission’s schedule for a May 14 filing deadline providing for a 47 day tariff review period, given the number of tariffs expected and the potential complexity of the review. Verizon will review the template for supporting information when released and will comment as appropriate.

While the Commission is tasked with reviewing the tariffed rate reductions, it must do so by applying the FCC’s very specific regulations. For Step 1 the FCC provides carriers with two options: (1) retaining their intrastate rate structure but setting the rates at a lower level to reduce revenue recovery by 50% of the difference between intrastate and interstate as directed in the rules; or (2) adopting the interstate access rate structure and rates and adding a transitional per-minute charge on end office switching minutes to recover one half the difference between the fiscal year 2011 revenue at interstate versus intrastate rates. 47 C.F.R. § 51.907(b)(2)(iv) and (v) and 47 C.F.R. § 51.090(b)(2)(iv) and (v).

Having already adopted the interstate rate structure several years ago, the Verizon ILECs (Verizon PA and Verizon North) intend to follow the second option by adopting the interstate rates for the rate elements the FCC requires to be reduced (except for the small subset of elements where the intrastate rate is already below interstate levels).³ Per the FCC’s regulations, Verizon will calculate the “Step 1 Access Revenue Reduction” as one-half of the difference between the total revenue from the Transitional Intrastate Access Service at interstate rates

³ The rates subject to reduction are terminating End Office Access Service, terminating Tandem-Switched Transport Access Service and originating and terminating Dedicated transport Access Service. 47 C.F.R. § 51.903 (definition of “Transitional Intrastate Access Service.”)

versus the same services at intrastate rates, using fiscal year 2011 demand. 47 CFR § 51.907(b)(2). As permitted by 47 CFR § 51.907(b)(2)(v), Verizon will collect that amount through a transitional per-minute charge on Transitional Intrastate Access Service end office switching minutes from July 1, 2012 through July 1, 2013. To achieve the Step 2 reduction on July 1, 2013 Verizon will eliminate the transitional per-minute charge.

Verizon continues to review the FCC's new rules and reserves the right to raise other issues. One issue that Verizon suggests that the FCC Order Task Force consider is making sure its template requires the submission of sufficient information by those LECs that have an intrastate carrier charge (carrier common line charge or CCL) to understand how that LEC intends to bill the CCL for originating access following July 1, 2012. Following this Commission's 1999 *Global Order*, Verizon understands that most or all LECs tariff their CCL as a per-line, per-month charge. Verizon PA, for example, tariffs its CCL as \$0.58 per line, per month. Verizon PA Tariff Pa. PUC No. 302, Section 6.9.7. For billing purposes the charge applies both to originating and terminating access and, as Verizon explained in its direct testimony at Docket C-20027195, results in an effective per-minute charge of about \$0.0082007 on each minute (originating or terminating). The effective per-minute carrier charge for the rural ILECs is generally much higher. The FCC's rules require the CCL to be reduced on the terminating side. *See* 47 CFR § 51.903(d)(3) (defining "End Office Access Service" to include "the carrier common line rate elements").⁴ But the FCC order and rules do not require a reduction in the originating portion of the carrier charge. (*See, e.g.*, FCC Order ¶ 805). Accordingly, carriers are expected to continue to charge the carrier charge on originating traffic for the present time. The Commission should gather sufficient information to monitor the impact

⁴ Consistent with 47 CFR § 51.907(b)(2)(v), Verizon PA and Verizon North will match the interstate rate structure for the terminating carrier charge (*e.g.*, \$0) and will include the revenue difference based on fiscal year 2011 demand in calculating its Step 1 Access Revenue Reduction.

on the per-minute effective rate for the carrier charge on originating traffic when they reduce the charge on terminating traffic.⁵ Verizon for its part is planning to avoid increasing its originating CCL. Verizon has determined that in order to do so it is no longer feasible to charge the CCL on a per-line, per-month basis and that instead the best option is to convert the originating CCL to a per-minute rate based on fiscal year 2011 volumes. Verizon will supply the figures used to calculate the originating carrier charge with its May 14 filing. The FCC Order Task Force should ensure that it obtains similar information from other carriers.

2. Calculation of Eligible Recovery, ARC and CAF Support

The Commission also requests comment regarding its authority to monitor carriers' implementation of their federal "Eligible Recovery" amount and their utilization of the new federal Access Recovery Charge ("ARC") and/or claims for support from the federal Connect America Fund ("CAF"). The FCC has not tasked state commissions with overseeing this portion of its plan. To the contrary, the FCC has established its own process to collect the relevant data and monitor compliance. According to the FCC Order:

We require all incumbent LECs that participate in the recovery mechanism, including by charging any end user an ARC, to file data on an annual basis regarding their ICC rates, revenues, expenses, and demand for the preceding fiscal year. All such information may be filed under protective order and will be treated as confidential.

These data are necessary to monitor compliance with the provisions of this Order and accompanying rules, including to ensure that carriers are not charging ARCs that exceed their Eligible Recovery and that ARCs are reduced as Eligible Recovery decreases. (FCC Order ¶ 921-22).

The FCC was particularly mindful to eliminate burdens from duplicative or inconsistent filing requirements relating to back-up data for the ARC and CAF, noting that with regard to

⁵ The Commission has already determined that the existing carrier charges of the rural ILECs are too high and should be reduced. *See Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers*, I-00040105 (Opinion and Order entered July 18, 2011). The FCC has capped originating access charges for rate-of-return carriers. (FCC Order ¶ 805).

CAF support “[f]or carriers eligible and electing to receive CAF ICC support, we will ensure that the data filed with USAC is consistent with our request, so that carriers can use the same format for both filings,” and with regard to the ARC “to further minimize any burden on carriers, we delegate to the Wireline Competition Bureau the authority to adopt a template for submitting the data, which should be done in conjunction with the development of data necessary to be filed with USAC for receipt of CAF ICC support, which has also been delegated to the Wireline Competition Bureau.” (FCC Order ¶ 923).⁶ Not only is reviewing the ARC and CAF calculations beyond the tasks required of this Commission by the FCC, but the imposition of state-specific data reporting requirements would undermine the FCC’s effort to make reporting uniform nationwide to minimize burdens.

To the extent the Commission’s questions assume that the FCC directed state commissions to evaluate carriers’ calculations of their Eligible Recovery Amount or of the ARC or CAF support, that assumption is incorrect. Nor is the Commission authorized by the FCC rules to require carriers to submit “jurisdictional allocations” relating to their ARC calculations. (3/22/12 Order Question 1(b)). To the contrary, the FCC specifically “permit[s] carriers to determine at the holding company level how Eligible Recovery will be allocated among their incumbent LECs’ ARCs.” (FCC Order ¶ 910).⁷

⁶ See also FCC Order ¶ 813, n. 1530 (all carriers are required to file with the FCC together with their interstate tariffs “all data, including as relevant intrastate rates and MOU, necessary to verify eligibility for ARC replacement funding.”)

⁷ The Commission’s Order suggests that the FCC envisioned a role for state commission based on the FCC’s reference that state commissions should “ensure carriers are not taking actions that could enable a *windfall and/or double recovery*.” (FCC Order ¶ 813) (emphasis added). (3/22/12 Order at 2 and Question 1(a)) But review of the entire paragraph in context shows that the FCC was discussing the duty of state commissions to effectively monitor the access rate reductions by “review[ing] how carriers reduce rates to ensure consistency with the uniform framework; and guard[ing] against attempts to raise capped intercarrier compensation rates, as well as unanticipated types of gamesmanship.” (FCC Order ¶ 813). This discussion is in the rate decrease portion of the order, not the portion discussing the ARC and CAF.

As to the Commission's request for "[a]ppropriate and demonstrative methods and quantitative examples" of how the carrier "will determine the federal Eligible Recovery amounts inclusive of the ARC and CAF support," such request is premature because carriers likely have not fully calculated their Eligible Recovery for all jurisdictions and determined whether and where to charge an ARC or to request CAF support.⁸ But this information will be filed with the FCC at the appropriate time. While the FCC has reserved to itself the role of establishing the data reporting requirements and monitoring compliance with this aspect of its order, this Commission should be able to obtain access under proprietary protection to the information filed with the FCC for carriers that operate in Pennsylvania. In addition, in the context of overseeing the intrastate access rate reductions, this Commission will review and monitor the calculation of the revenue decreases from intrastate access rates that will form the basis for a portion of each carrier's calculation of its Eligible Recovery.

B. Interconnection Issues

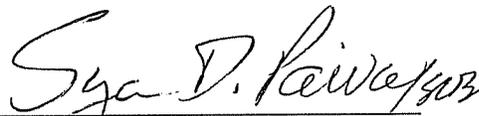
The Commission asks for comment on the "potential modifications that will be required in existing interconnection agreements" to implement the FCC Order. (3/22/12 Order, Question 3). While the Commission may eventually have a role in arbitrating or approving interconnection agreements or amendments relating to the FCC Order, Commission involvement at this stage is premature. The FCC did not alter the existing Section 251/252 negotiation process, and accordingly Commission involvement would only be required if it were requested to arbitrate or approve an agreement or to address a dispute over existing terms. The FCC noted that "state commissions will continue to review and approve interconnection agreements and

⁸ Similarly the Commission's request to know "[w]hether individual federal price cap ILECs operating in Pennsylvania will be utilizing Eligible Recovery and CAF intercarrier compensation support with the concurrent accrual of broadband deployment obligations under the FCC Order standards" is premature. (3/22/12 Order Question 4). For its part, Verizon has not made such determinations at this time.

associated reciprocal compensation rates to ensure that they are consistent with the new federal framework and transition.” (FCC Order ¶ 813). The FCC “decline[d] to require that existing arrangements be reopened in connection with the reforms in this Order,” although it “ma[de] clear that our actions today constitute a change in law” that may require renegotiation or some other dispute resolution to implement under existing agreements. (FCC Order ¶ 815). The FCC also reaffirmed its holding that “incumbent LECs can compel CMRS providers to negotiate in good faith to reach an interconnection agreement.” (FCC Order ¶ 826). But unless and until parties present an ICA issue to the Commission, any Commission action relating to ICAs is premature.

C. Informal Dispute Resolution

Finally the Commission asks about “[t]he use of properly designed informal dispute resolution processes with or without the involvement of Commission Staff for addressing such areas as” . . . “verification of intrastate intercarrier compensation rates and amounts” and “[i]ntercarrier compensation disputes” (3/22/12 Order Question 5). Verizon is not opposed to informal dispute resolution so long as it does not compromise the parties’ rights to obtain access to data or to pursue a formal complaint or other formal resolution to enforce the requirements of the FCC rules or other rights if informal agreement is not reached.



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Dated: April 11, 2012

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