

Data Request Questions

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- 1. Please identify your company's number of Universal Service loops in Florida. Please identify (estimate if necessary) the split between primary and non-primary Universal Service loops in Florida.

The phrase "primary and non-primary Universal Service loops" is vague and ambiguous. Verizon will use the current subscriber line charge definition of "primary" and "non-primary" to answer this data request. Verizon cannot distinguish between "primary" and "non-primary" business lines, and therefore Verizon will include all business lines in the "primary" line count. Subject to the foregoing clarifications, Verizon responds as follows:

- 2,223,140 High Cost Loops in service end-of-period Sept. 2003

[Proprietary data follows]

REDACTED

- 2. By federal Universal Service High-Cost program, please identify how much support your company received in calendar year 2003, and projected amounts for 2004 within your study area in Florida.

Verizon receives disbursements only from the interstate access support fund. The Company does not receive disbursements from the interstate common line, high cost loop, local switching service or the long-term support funds.

[Proprietary data follows]

REDACTED

- CMP \_\_\_\_\_
- COM \_\_\_\_\_ 3.
- CTR \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL \_\_\_\_\_
- OPC \_\_\_\_\_
- MMS \_\_\_\_\_
- RCA \_\_\_\_\_
- SCR \_\_\_\_\_
- SEC   1
- OTH \_\_\_\_\_

Has your company taken a position on any of the issues addressed in either the Federal Communications Commission's (FCC's) referral Order (FCC 02-307) or the Federal- State Universal Service Joint Board's (Joint Board's) Recommended Decision (FCC 04J-1)? If yes, has your company filed either comments, reply comments, or ex parte comments with the USJB? If yes, please indicate the date(s) the comment(s) were filed with the FCC.

Yes. The chart below lists the responsive comments that Verizon has filed with the FCC. The comments themselves are attached hereto for Staff's convenience.

DOCUMENT NUMBER-DATE

07643 JUL 14 03

FPSC-COMMISSION CLERK

## Chronological List of Responsive Comments Filed at the FCC

	<u>Date</u>	<u>Description</u>	<u>FCC Website Source</u>
1	5/5/03	Comments in FCC 03J-1	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6514083804">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6514083804</a>
2	6/3/03	Reply Comments	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6514157032">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6514157032</a>
3	8/1/03	Ex Parte	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6514288511">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6514288511</a>
4	8/1/03	Ex Parte	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6514288572">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6514288572</a>
5	12/19/03	Ex Parte	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6515382833">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6515382833</a>
6	1/26/04	Ex Parte	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6515583706">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6515583706</a>
7	2/3/04	Reply Comments	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6515682867">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6515682867</a>
8	5/7/04	Opposition	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6516183788">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6516183788</a>
9	5/28/04	Comments	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6516199656">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6516199656</a>
10	6/21/04	Comments	<a href="http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6516214454">http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&amp;id_document=6516214454</a>

4. Have you filed comments, reply comments, or ex parte comments as part of an association? If yes, please provide date(s) the comment(s) were filed with the FCC and name of association.

Verizon participates in many associations and may or may not agree with every position stated by the associations.

Although Verizon is a member of USTA, Verizon does not necessarily agree with every position asserted by USTA. For example, USTA states that all lines should continue to be supported. Verizon believes that all high cost lines should not be supported in the future.

5. Have any of those positions changed since the release of the Joint Board's recommended decision? If so, please describe any changes in your company's positions.

No, Verizon has not changed its position since the release of the Joint Board's recommended decision. However, Verizon is concerned that the Joint Board's "hold harmless" proposal (NPRM, paragraphs 106-107) will not effectively control the growth of the high cost fund – the most important reason for a primary line limitation.

6. Do you foresee administrative difficulties that may be encountered in implementing a primary line proposal? Do you believe such difficulties are insurmountable? Please explain.

Yes. There are likely to be administrative difficulties associated with implementing a primary line proposal. For example, establishing a workable definition of the term "primary" line will be difficult. It is difficult to apply a "primary" line concept to households that have more than one family living at the same address. It is also difficult to apply this concept to any business lines, since business lines are categorized as either being "single line" or "multiline business."

Administering the fund in a cost effective manner will be difficult. These challenges are evident when comparing the fund administration today versus what it would be like under a "primary line" proposal. Today, the USF provides support for "all high cost lines." Under a "primary line" approach, the Administrator has to be assured that fund disbursement is based on "primary lines" for the primary carrier. Balloting each customer in order to determine the customer's choice of "primary line carrier" may be required.

Establishing an effective and efficient dispute resolution process will be difficult. Today, there is no dispute resolution process since all high cost lines are funded in accordance with the appropriate mechanism. Since only one carrier's "primary high cost line" should be funded in this approach, carriers, as well as the Administrator, must exercise extreme care in determining which "line and carrier" is entitled to Federal High Cost support.

Determining how to share customer data without running afoul of privacy laws will be difficult. Since the Administrator will require specific customer information, like Name, Address, Telephone Number, etc, the carrier will have to make sure that permission to provide the information is provided by the customer. Even if it is technically feasible to overcome these difficulties, it will not be cost effective to do so.

7. Does the level of any administrative implementation difficulty vary depending upon which of the three Scope of Support proposals is adopted? Please explain.

Yes. Verizon is still reviewing the three primary line proposals contained in the Joint Board's Recommended Decision. While this analysis is not complete, Verizon has tentatively concluded that the Joint Board's hold harmless proposal may be burdensome to implement. For example, if the hold harmless calculation requires annual review, a proceeding might be necessary. Further, this alternative does little to contain the fund size.

8. Currently, there are four pending petitions at the FCC seeking competitive ETC designation in various service territories in Florida. (See Attachment 2)<sup>1</sup> One proposal made by the Joint Board to the FCC would "rebase" high-cost universal service support -- that is, it would restate current total high-cost support on only

primary lines. Assuming that competitive ETCs serve within your service territory, do you anticipate losing any high-cost support? If so, approximately how much?

Yes, Verizon anticipates that it would lose high cost support. However, it is difficult to estimate how much without knowing how the support would be "rebased." It is instructive to note that AT&T Wireless, NPCR d/b/a Nextel, Alltel Communications and Sprint have petitions pending with the FCC for approximately \$45.4M in rural and \$38M in non-rural support. See Verizon comments, CC 96-45, at 3-7 and Attachment B.

9. Some parties have suggested that mandatory geographic deaveraging support in rural study areas, upon competitive ETC entry, may address some of the concerns relating to the growth of the high-cost fund. Does your company have a position on this proposal? If so, please elaborate.

Yes. Verizon is against mandatory geographic deaveraging. As the FCC has recognized, the logistics to accomplish this goal can be burdensome, and can impose significant costs on rural carriers. See *Federal-State Joint Board on Universal Service*, Fourteenth Report and Order, CC Docket No. 96-45, FCC 01-157, paragraphs 146 and 148 (May 23, 2001).

In addition, deaveraging existing support may *increase* the fund size. If billing addresses are used to determine the primary line, wireless carriers could game the system by requesting that end users designate high cost areas as their billing address.

10. The Joint Board recommended that the FCC establish "guidelines" for states to consider when designating a carrier as an ETC. Do you believe the FCC could establish mandatory factors that states must consider in light of the decision in the *Texas Office of Public Utility Counsel v. FCC* at the Fifth Circuit Court of Appeals? Please elaborate.

Yes. As a legal matter, the Commission has the ability to set voluntary guidelines, but would face potential legal challenges if it made such guidelines mandatory and refused to allow states to set additional guidelines. See *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 417 (5th Cir. 1999) ("*TOPUC*") (noting challenges to the FCC's prior attempt to prohibit states from imposing additional eligibility requirements on a carrier seeking ETC status in non-rural areas). The universal service statute contemplates a dual federal-state system, and specifically delegates to the states the authority to designate ETCs in certain areas if it is "consistent with the public interest, convenience, and necessity." 47 U.S.C. 214(e)(6). Congress has delegated to the states the role of making the factual determination of whether that standard has been met. See 47 U.S.C. § 214(e)(2). However, because the statutory phrase "public interest, convenience, and necessity" is ambiguous, the FCC has the authority to interpret the phrase, including the authority to provide factors that it believes should be

considered in the inquiry. See *Chevron USA Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984); *Natural Resources Defense Council, Inc. v. EPA*, 25 F.3d 1063, 1069-70 (D.C. Cir. 1994) (upholding agency's adoption of multi-factor test to administer statutory requirement as a permissible exercise of discretion). That is, while states have the discretion to determine whether the test has been met, the FCC has the ability to tell the states what it believes the test should be. Cf. *United States Telecom Ass'n v. FCC*, 359 F.3d 554, (D.C. Cir. 2004) (striking down FCC's delegation of authority to states to determine whether access to unbundled network elements was "impaired").

Nevertheless, if the FCC did not allow states the ability to impose their own eligibility requirements, its rules would arguably run afoul of *TOPUC*. In *TOPUC*, the court struck down an FCC's rule that prohibited the states from imposing their own requirements for designating ETCs pursuant to 47 U.S.C. § 214 as inconsistent with the statute's language. *Id.* at 418.

11. Is it your view that state commissions should establish minimum requirements based on some or all of the guidelines recommended by the Joint Board? If so, which criteria should state commissions consider? Are there any additional requirements that state commissions should consider?

Yes. Each state should specifically require ETCs to submit *evidence*, not just boilerplate or generalized assertions, about whether it would be in the public interest to grant it ETC status in the particular study area at issue. The analysis must be conducted in both rural and non-rural areas. At a minimum, states should consider:

1. The existing state of competition in the study area, including whether other ETCs are already operating, and whether the potential exists for sufficient competition without the need for high cost support
2. The estimated impact to the high cost fund of the particular petition, and the cumulative impact if similar petitions were granted;
3. Whether the ETC will satisfy existing minimum eligibility requirements as defined in Section 214 of the Telecommunications Act;
4. Whether the ETC has adequate financial resources to provide service, and to remain in service;
5. Whether, in the case of wireless carriers, the petitioner agrees to abide by the CTIA Code of Conduct; and
6. Whether the petitioner has committed to continuing the practice of annual ETC certifications regarding how support is used.

Additionally, as noted in responses above, states should consider the potential dilution of CALLS and the potential for "cream skimming" in rural areas.

12. As part of its decision, the Joint Board recommended that the FCC seek further comment on developing a presumptive per-line support benchmark to guide the

states (and the FCC) in public interest determinations. Under this proposal, designating competitive ETCs in areas receiving per-line support in excess of the benchmark would be a rebuttable presumption that it is not in the public interest to designate additional ETCs because of the effect of such designations on the size of the high-cost fund. Does your company support the development of such a benchmark? If yes, please comment on the basis, calculation, practical impact, and/or examples of any proposed benchmarks based on the per-line basis that your company would support.

Verizon has encouraged the FCC to use the upcoming proceeding to critically examine whether high cost subsidies to multiple ETCs are beneficial in these areas.

Verizon does not have a position on the development of a benchmark *per se*, but encourages regulators to calculate the practical impact any proposal would have on the size of the fund. Not all “benchmark” proposals would address the central issue, which is controlling growth of the high cost fund. In other words, without adopting the suggested Rural Task Force freeze, or some other method to control growth, simply limiting the number of companies that can receive high cost subsidies does not guarantee that the fund size will be similarly limited.

In addition, Verizon is concerned that creating a presumptive “benchmark” might give states the mistaken impression that it would be in the public interest to grant as many ETC designations as are permitted by the presumptive formula. In other words, if the FCC were to say that a state could grant up to three ETCs in a given area without reaching the rebuttable presumption, the states may (erroneously) take that as a mandate to grant *at least* three carriers ETC status in the area. Thus, the effect may be to inadvertently set a floor (which could be overcome, if the rebuttable presumption is met), rather than a ceiling, on the number of ETCs that are designated in certain areas.