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VIA ELECTRONIC FILING

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

RE: Advanced Notice of Proposed Rulemaking to Amend Pennsylvania Universal
Service Fund Regulations
Docket No. L-2023-3040646

Dear Secretary Chiavetta:

Enclosed please find Verizon's Comments regarding the August 24, 2023 Advance Notice of Proposed Rulemaking Order, in the above captioned matter.

Please do not hesitate to contact me with any questions.

Very truly yours,

Suzan D. Paiva

SDP/sau
Enclosure

Via Email

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**BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION**

Rulemaking to Amend 52 Pa. Code §§ 63.161— Docket No. L-2023-3040646
63.171 (relating to Universal Service)

VERIZON COMMENTS

By Advance Notice of Proposed Rulemaking Order (“ANOPR”) entered September 20, 2023 and published in the Pennsylvania Bulletin on November 11, 2023, the Commission notified interested parties that it intends to commence a rulemaking to revise its regulations at 52 Pa. Code §§ 63.161–63.171 relating to the “Pennsylvania Universal Service Fund” (“USF”). As a contributor to the USF from its inception and an active participant in prior proceedings relating to this program, Verizon appreciates the opportunity to submit comments.¹ Verizon’s answers to the Commission’s Appendix A list of questions are attached to these comments.

I. Summary

The Commission should rescind its current regulations and eliminate the USF, an archaic forced transfer of revenue from some regulated companies to the rural incumbent local exchange carriers (“RLECs”). This “fund” was supposed to be a temporary mechanism when it was adopted nearly twenty-five years ago, to help the RLECs transition to a competitive market. The competitive market has long ago arrived. It has been more than a decade now since two different administrative law judges recommended, based on detailed evidentiary records and extensive industry participation, that the USF must be eliminated because it is not justified for universal

¹ For purposes of these comments, “Verizon” includes those affiliates that have contributed to the USF (Verizon does not receive any money from the USF): Verizon Pennsylvania LLC, Verizon North LLC, Verizon Long Distance LLC, MCImetro Access Transmission Services LLC, MCI Communications Services LLC, Verizon Select Services Inc., and XO Communications Services, LLC. In addition, Verizon affiliates Cellco Partnership d/b/a Verizon Wireless and TracFone Wireless, Inc. join in the portion of these comments relating to authority to assess wireless carriers and also join in the comments submitted by CTIA.

service purposes. It is high time that the Commission accepted these recommendations. Developments in the ensuing years have made this revenue transfer to the RLECs indefensible and there is no justification for its existence today.

A different type of forward-looking regulatory policy is needed to advance universal service principles in light of today's highly competitive environment and the huge federal investment now being made in rural networks. The Commission should do what it can within its authority – but without taxing companies or consumers – to reduce outdated regulatory burdens on incumbent and other regulated telecommunications companies, including the current fund recipients. These companies should no longer be subject to outdated regulatory obligations in locations where service is available from another wireline or wireless provider, particularly where construction of those competing networks has been subsidized.

Consideration of any other new or revised set of regulations funded by assessments on carriers or customers is unnecessary, or at the very least highly premature, given the programs and funding that already exist. This includes over \$1.5 billion that is being spent to build broadband networks in rural areas of Pennsylvania through the Broadband Equity, Access, and Deployment Program (“BEAD”), the Capital Projects Fund (“CPF”), the State and Local Fiscal Recovery Fund (“SLFRF”), and others, as administered by the Pennsylvania Broadband Development Authority (“PBDA”) and municipal and county governments.² In addition to that huge investment in rural networks, the federal universal service fund (“FUSF”), which is paid for by surcharges on Pennsylvania customers' bills, already provides low-income discounts under its Lifeline program and financial support to carriers through its High Cost programs. Pennsylvania

² Exhibit B to these comments is a chart from InternetForAll.gov detailing the billions of dollars in federal funds allocated to Pennsylvania for deployment of broadband infrastructure, digital equity and affordability. This chart does not include the funding from the FUSF.

is a net contributor to the FUSF, meaning Pennsylvanians pay more into it than the Commonwealth is currently receiving from the fund. The Federal Communications Commission (“FCC”) and Congress are actively reviewing these universal service programs in light of BEAD and other infrastructure investment and this Commission should monitor those proceedings and participate as needed to maximize Pennsylvania’s receipts from the federal programs.³ No controversial and legally questionable new state programs funded by more taxes on Pennsylvania customers or companies are needed at this time.

II. The Commission Should Eliminate The USF And Rescind Its Regulations.

For the past twenty-three years, the RLECs have received \$32 to \$34 million annually taxed directly from the intrastate revenue of other telephone carriers regulated by this Commission. Although this revenue stream is called a “universal service fund,” or “USF,” that is a misnomer. This Commission recognized as much when it established the fund in 1999, noting that:

Although it is referred to as a fund, it is actually a passthrough mechanism to facilitate the transition from a monopoly environment to a competitive environment – an exchange of revenue between telephone companies which attempts to equalize the revenue deficits occasioned by mandated decreases in their toll and access charges.⁴

The Commission should rescind the regulations codified at 52 Pa. Code §§ 63.161–63.171 rather than attempting to revise them. They are outdated from their very first words – relying on a statute that terminated in 2003.⁵ Like the other relics of the past this fund was created to replace

³ See *Report on the Future of the Universal Service Fund*, WC Docket No. 21-476, Rel August 15, 2022 (“*FCC USF Future Report*”) (available at <https://docs.fcc.gov/public/attachments/FCC-22-67A1.pdf>).

⁴ *Joint Petition of Nextlink Pennsylvania, Inc.*, Docket Nos. P-00991648; P-00991649, 196 P.U.R.4th 172, 93 P.U.C. at 238 (Opinion and Order entered September 30, 1999) (“*Global Order*”), *aff’d sub nom. Bell Atlantic – Pennsylvania, Inc. v. Pennsylvania Pub. Util. Comm’n*, 763 A.2d 440 (Pa. Commw. 2000), *vacated in part on other grounds sub nom. MCI WorldCom, Inc. v. Pennsylvania Pub. Util. Comm’n*, 577 Pa. 294, 844 A.2d 1239 (2004).

⁵ The first words of 52 Pa. Code § 63.161 are: “On July 8, 1993, the General Assembly enacted 66 Pa.C.S. Chapter 30 (relating to alternative form of regulation of telecommunications services) which provides for the

– access charges and toll revenue – the “use by” date of this revenue transfer mechanism has long expired.

The Commission never found that this forced transfer of revenue to the RLECs at the expense of customers of other carriers is anything more than a temporary revenue replacement mechanism for the RLECs, a mechanism the Commission intended to phase out with the development of a competitive telecommunications market. It was supposed to be an interim measure expiring at the end of 2003.⁶ Now, over two decades later, the transition to a competitive telecommunications market is long ago complete, the RLECs have had more than adequate time to appropriately adjust to and prepare for competition, and consideration of perpetuating the revenue transfer should be unthinkable. On the contrary, elimination of the express subsidy codified in these regulations is long overdue.

The Commission conducted two separate evidentiary proceedings more than a decade ago reviewing this fund, with extensive industry participation, but it failed to act on the recommendations of two different ALJs to eliminate the fund. ALJ Kandace Melillo concluded on August 3, 2010 that the RLECs failed to present “evidence that these PA USF payments are

regulatory reform of the telephone industry in this Commonwealth.” That version of the Chapter 30 statute sunset on December 31, 2003.

⁶ The original version of the regulations stated that the “Fund shall expire on December 31, 2003,” consistent with the end date agreed to in the settlement adopted in the *Global Order*. *Global Order* at 144-45 (“The interim funding mechanism that we create through this order will function until December 31, 2003, or until the subsequent in investigation develops a new process, *whichever occurs first*.”) (emphasis added). As noted in the ANOPR, when it adopted the USF the Commission “recognized that the FCC was concurrently examining interconnection, access charges, and universal service issues. Under the expectation that permanent rules would be forthcoming, the PUC set an endpoint of December 31, 2003, for the interim Pa. USF mechanism it established in the *Global Order*.” ANOPR at 19. The FCC adopted permanent rules relating to intra- and interstate access charges in 2011 and the transition to bill-and-keep for those services is complete. *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) (“*ICC Transformation Order*”).

necessary to fulfill RLEC universal service/COLR commitments.”⁷ ALJ Susan Colwell concluded on July 23, 2009 that “[i]nstitutionalizing the PA USF in its present form to provide subsidies to companies who do not have to prove need will not assist the market in reaching its goals and will, instead, provide barriers to entry for new carriers.”⁸ As ALJ Colwell explained, the USF “is not ‘free money’ to be plundered at will and without concern for its origins or for whether it is the best use of the money.”⁹ Yet through the Commission’s inaction the fund recipients have continued to “plunder” this money taxed from other companies.

The reasons why this revenue transfer must end were discussed in detail in the testimony, briefs, and exceptions of the industry participants and in the initial decisions in the proceedings before ALJ’s Colwell and Melillo at Docket I-00040105 and Verizon will not repeat them all here but refers the Commission to the record in that docket. The following summarizes why the USF should be eliminated and the regulations rescinded.

First, it is a misconception to assume that the bulk of this money is going to “mom and pop” telephone companies. It is not. Over 80% of the fund payments go to companies affiliated with large and sophisticated telecommunications conglomerates, mostly owned by private equity funds, including foreign interests. Data from 2016 made public through a right-to-know request shows how the payments are divided among the RLECs, and presumably those proportions have not changed materially. Of the \$34 million in yearly payments, approximately \$29 million is

⁷ *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the Pennsylvania Universal Service Fund, I-00040105* (Recommended Decision Issued August 3, 2010) (“Melillo RD”) at 132.

⁸ *Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers and the Pennsylvania Universal Service Fund, I-00040105* (Recommended Decision Issued July 23, 2009) (“Colwell RD”) at 87-88.

⁹ Colwell RD at 87.

going to large multi-state companies, some of which have undergone significant changes in ownership since this USF was created. Specifically, based on the 2016 data:

- About \$13.3 million of the USF payments per year goes to several RLECs that are part of the Windstream family of companies. Windstream, which has acquired a number of its competitors over the years, operates multiple lines of business nationwide and self-reported \$4.1 billion in revenue in 2023 and “a strong balance sheet with no near-term maturities.”¹⁰ Windstream’s parent company emerged from Chapter 11 bankruptcy in 2020 as a privately held company. Following the FCC’s 2023 waiver of foreign ownership limitations, a total of 66.29% of Windstream is reported to be foreign-owned, including entities tied to Elliott Management Corp., the hedge fund that purchased Windstream’s assets including its Pennsylvania RLECs out of bankruptcy.¹¹
- About \$7.4 million of the USF payments per year goes to the company currently known as Brightspeed, which is reported to be the 5th largest US ILEC.¹² Brightspeed is a privately held entity owned by the investment funds managed by Apollo Global Management, Inc. after Apollo acquired the local operations of CenturyLink (Lumen) in a number of states with the intention of transforming its networks to fiber optics. In May of 2023, Brightspeed announced a significant additional investment by minority owner Mubadala Investment Company, from Saudi Arabia.¹³
- About \$5.4 million of the USF payments per year goes to Consolidated Communications, which bills itself as one of the country’s top 10 fiber providers and recently announced that it has entered a deal to go private by being acquired by New York-based private equity firm Searchlight Capital Partners and Victoria, British Columbia-based investment company British Columbia Investment Management in an all-cash transaction with an enterprise value of approximately \$3.1 billion, including the assumption of debt.¹⁴
- About \$2.7 million of the USF payments per year goes to affiliates of Frontier, whose parent company emerged from bankruptcy in 2021 and is now publicly traded under the name Frontier Communications Parent Inc. Frontier reported \$5.8 billion in revenue for 2022.¹⁵

There is no justification for continuing to require other telecommunications companies to subsidize these sophisticated, multi-state, mostly privately held communications conglomerates.

¹⁰ https://s22.q4cdn.com/358319107/files/doc_downloads/2023/11/3q23_win_overview.pdf

¹¹ The FCC’s approval order is available at <https://docs.fcc.gov/public/attachments/DA-23-475A1.pdf>

¹² <https://www.fiercetelecom.com/broadband/brightspeed-becomes-5th-largest-us-ilec-75b-lumen-deal-wraps>

¹³ <https://www.fiercetelecom.com/broadband/brightspeed-gets-500m-investment-abu-dhabi-firm-mubadala>

¹⁴ <https://www.crn.com/news/channel-news/consolidated-communications-to-go-private-in-3-1b-deal>

¹⁵ <https://www.statista.com/topics/3496/frontier-communications/#topicOverview>

Only about \$5 million dollars a year from the USF is going to the smaller RLECs,¹⁶ and the testimony from Docket I-00040105 showed that even some of these seemingly smaller companies are affiliated with larger multi-state telecommunications providers.¹⁷

Second, all of these companies, large and smaller, are receiving through the USF millions of dollars a year, taxed directly from the revenues of their own competitors, with no requirement to show how they are using this money or to demonstrate the underlying costs or deficits that supposedly justify these subsidies. During the proceedings before ALJs Colwell and Melillo the RLECs were invited to make a financial demonstration and refused to do so, presenting no evidence upon which the Commission could conclude that they are not already able to meet their operating obligations with existing revenues and federal subsidies and instead relying on the general assertion that RLECs face hypothetically higher costs without opening themselves up to an actual examination of their costs and finances. In the case before ALJ Colwell the RLEC witness conceded that he did not “study the revenues or the costs of any of the individual PTA companies” and he “did not form any conclusion as to whether” any particular RLEC’s “overall costs exceed their overall revenues for Pennsylvania regulated services.”¹⁸ The Office of Consumer Advocate’s (“OCA”) witness similarly conceded that he did not examine and did not know whether the RLECs could meet their operating obligations without this additional USF

¹⁶ These calculations are based on the 2016 data released by the Commission in response to a right-to-know request, but would be expected to remain in the same order of magnitude each year. PUC Response to BCAP Right-to-Know Request, PUC RTK 2015-0092 January 27, 2016 https://www.puc.pa.gov/Telecom/pdf/RTK_Request-BCAP012716.pdf. A similar calculation based on older data was provided in the evidentiary record at Docket I-00040105. See Verizon St. 1.0 (Price Direct) Table 1.

¹⁷ See VZ St. 1.0 (Price Direct) at 20-22.

¹⁸ Tr. at 477-478.

support.¹⁹ The RLECs even conceded that many of them are “highly diversified and successful” companies that cannot be characterized as small.²⁰

Third, in the Commission’s own words, the purpose of the USF was to “to facilitate the transition from a monopoly environment to a competitive environment.”²¹ The competitive environment has arrived. While Verizon does not have voice subscriber counts for the RLECs individually or as a group, state-wide data published by the FCC is instructive. In 1999, at the advent of this USF, the FCC reported that there were 8.47 million telephone lines served by incumbent local exchange carriers (“ILECs”) in Pennsylvania, likely all regulated copper landlines at that time. This figure included the RLECs and the two Verizon ILECs (Bell Atlantic and GTE).²² The most recently reported FCC voice subscription data from 2022 shows only 1.58 million ILEC voice subscriptions in total (and only 1.06 million of those are switched lines regulated by the Commission).²³ This represents a line loss for the ILEC segment of 81% and a loss of regulated ILEC landlines of 87%.²⁴

Over those years, the residents and businesses of Pennsylvania did not stop using communications services. Rather, their competitive options in terms of technologies and providers exploded and they took advantage of opportunities to abandon traditional ILEC landlines. The same 2022 FCC report that showed only 1.06 million regulated ILEC voice lines

¹⁹ Tr. at 105-06, 110-111.

²⁰ PTA Exceptions at 4.

²¹ *Global Order*, 93 P.U.C. at 238.

²² FCC Wireline Competition Bureau, Local Telephone Competition at the New Millennium, Data as of December 31, 1999 (Rel. 8/00) (available at https://transition.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/IAD/lcom0800.pdf).

²³ FCC Voice Telephone Services: Status as of June 30, 2022, State Level Subscriptions (“*FCC 2022 Report*”) (available at <https://www.fcc.gov/voice-telephone-services-report>).

²⁴ The ANOPR similarly observes that “[b]etween 2007 and 2021, carriers receiving support from the Pa. USF have seen the number of access lines decrease from 1,099,688 to 328,438, a total decrease of 771,250.” ANOPR at 35. This is a decrease of over 70% just since 2007.

left in Pennsylvania in 2022 also showed 13.9 million wireless voice subscriptions and 3.1 million interconnected VoIP subscriptions.²⁵ Wireless substitution data from the Centers for Disease Control shows that these wireless voice subscriptions are being used to replace landlines, with over 70% of adults nationally reported to be using *only* wireless phones to meet their voice calling needs, rising to over 86% of adults who have cut the cord if one includes those reported to be wireless-mostly.²⁶ Also over this time internet access and broadband connections have greatly expanded, which increase customer voice options as many choose to adopt services such as Apple’s FaceTime, Google Meet, Microsoft Teams, Skype, Zoom and the like to communicate with voice and video over the internet. With over \$1.5 billion dollars in funds to be allocated (or already spent) through the PBDA and local governments for construction of broadband networks in rural and unserved areas to increase access to broadband connections, these competitive options for customers are only increasing.

There is no longer a need for a subsidy mechanism to help RLECs “transition” to a competitive environment. What is needed to adjust to the now fully-competitive market is to provide the incumbent carriers (including the RLECs) with relief from regulatory burdens to allow them to compete efficiently with unregulated services, providers and technologies, as discussed later in these comments. The current USF revenue transfer does not provide any benefit to competition – it is anticompetitive. As the FCC has observed, economically efficient competition and the consumer benefits it yields cannot be achieved as long as carriers seek to recover a disproportionate share of their costs from other carriers, rather than from their own end

²⁵ *FCC 2022 Report*. Half a million of the interconnected VoIP subscriptions were provided by ILECs.

²⁶ See Stephen Blumberg & Julian Luke, Nat’l Ctr. for Health Stats., *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July December 2022* (May 2023) <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202305.pdf>

users.²⁷ Where the RLECs are able to obtain subsidies from other carriers, competition is discouraged and competitors disadvantaged because the competitors must operate without those subsidies, and will also be required – directly or indirectly – to fund those subsidies through their own USF assessments.²⁸

Fourth, as the Commission explained, “the Pa. USF was designed to *temporarily* replace carrier revenue lost to various forms of access charge reductions.”²⁹ Verizon demonstrated before ALJ Colwell more than a decade ago that the RLECs were receiving a windfall in terms of revenue replacement, even by that time, because if they had not reduced their access rates in 2000, or if they had rebalanced the reductions by increasing their own retail rates instead of obtaining the revenue from other carriers through the USF, they would not still be receiving \$34 million per year.³⁰ Today, the windfall is even more extreme given that the FCC has effectively reduced switched access rates to zero with its bill and keep regime and RLEC regulated retail lines have declined by nearly 90%. One particularly unfair aspect of the USF, as the Commission noted in the ANOPR, is that “[t]he formula does not take declines in access line numbers into account. That is, the size of the Pa. USF pool ratchets up, never down,” so the RLECs are still being paid as if the fund was replacing revenue based on line counts and access

²⁷ See, e.g., *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 (*CLEC Rate Cap Order*); 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*”).

²⁸ Competitive distortions from requiring competitors to subsidize ILECs was one of the primary reasons the FCC eliminated access charges in favor of a bill and keep regime. *ICC Transformation Order*, ¶ 9 (“The system creates competitive distortions because traditional phone companies receive implicit subsidies from competitors for voice service, while wireless and other companies largely compete without the benefit of such subsidies.”)

²⁹ ANOPR at 19 (emphasis added).

³⁰ Verizon Reply Exceptions Sept 18, 2009 at 25 (“if nothing else, the Commission would be well-justified in reducing each RLEC’s USF draw by nearly 30% (or alternatively by that RLECs’ individual percentage of line loss since 1999), even if it does nothing else.”)

rates from 1999.³¹ There is no need to continue to “replace” revenue that in today’s regulatory and competitive climate the RLECs would not be receiving if the USF had never been created.

In light of the above facts, there is no justification to keep the current USF regulations and they should be rescinded. Given the Commission’s intention to undertake a rulemaking to review these rules, any new or revised regulations that proposed to keep the current USF mechanism in any form would have to comply with the Regulatory Review Act and would not pass muster. The Regulatory Review Act requires an executive agency “to justify its exercise of the authority to regulate before imposing hidden costs upon the economy of Pennsylvania.”³² Most fundamentally, the agency must demonstrate that a proposed regulation “is consistent with the statutory authority of the agency and with the intention of the General Assembly in the enactment of the statute upon which the regulation is based.”³³ The Public Utility Code, which is the source of the Commission’s authority to regulate telephone services, requires the Commission to review and revise its telecommunications regulations to “take into consideration the emergence of new industry participants, technological advancements, service standards and consumer demand.”³⁴ The Regulatory Review Act also requires a showing that the proposed regulations are in the public interest, which requires evidence of the “[e]conomic or fiscal impacts of the regulation,” such as “[d]irect and indirect costs to . . . the private sector,” “[a]dverse effects on productivity or competition,” the “[n]eed for the regulation,” the “[r]easonableness of requirements,” and “[w]hether the regulation is supported by acceptable

³¹ ANOPR at 20.

³² 71 P.S. § 745.2.

³³ 71 P.S. § 745.5b(a).

³⁴ 66 Pa. C.S § 3019(b)(2).

data.”³⁵ If any party proposes to retain the current regulations in any form, Verizon will address these factors in more detail in its reply comments.³⁶

III. To Advance Universal Service, The Commission Should Reduce Regulatory Burdens.

Unfortunately, many of the questions in Appendix A to the ANOPR raise concerns that the Commission will not take a forward-looking approach to this issue. The outdated concepts of legacy regulation that underpin some of these questions are no longer helpful. Multiple new communications technologies (mobile and fixed wireless, fiber, VoIP, broadband) and droves of unregulated competitors have transformed the market and driven the unprecedented loss of almost 90% of regulated legacy POTS lines in Pennsylvania – and that decline is only going to continue. In short, the market has outpaced that old world regulatory view. This transformation away from legacy networks and legacy regulation will only be accelerated by the over \$1.5 billion investment in rural broadband networks being undertaken by the PBDA and local governments with funding provided by the federal government. The Commission must now employ a modern, forward-looking view to regulation in order to take positive steps toward bringing the benefits of ubiquitous high-speed broadband to all Pennsylvanians.

³⁵ 71 P.S. § 745.5b(b). “Acceptable data” is defined as “empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.” 71 P.S. § 745.3.

³⁶ The Commission notes in the ANOPR that Verizon Pennsylvania LLC (“Verizon PA”) was permitted in 2003 to use a negative Price Change Opportunity (“PCO”) adjustment of \$17.7 million to fund its USF contributions each year. ANOPR at 23. Under this order, Verizon PA paid its USF assessment each year, but in accounting for its PCO bank it was allowed to net that USF payment amount against the negative 2003 PCO balance for that year, rather than reducing its own basic regulated rates. Anticipating that the USF would have to end at some point soon, Verizon PA has been working on eliminating the 2003 PCO from its bank by netting it against rate increases Verizon PA was entitled to make to its regulated rates in more recent PCOs filings (i.e., foregoing rate increases). As of the Commission’s approval of Verizon PA’s 2024 PCO filing, the remaining balance of the 2003 PCO is negative \$431,683 and Verizon PA expects to be able to eliminate the 2003 PCO from its books in the next PCO filing this year. *Verizon Pennsylvania LLC 2024 Price Change Opportunity Filing*, Docket No. R-2023-3043998 (Opinion and Order entered December 21, 2023).

Verizon applauds the Commission’s on-the-ground work to advance universal service objectives and the policy goals of Chapter 30. One step the Commission should take toward this goal is to immediately reduce regulatory burdens on ILECs and other regulated companies, including the current RLEC fund recipients. Now more than ever the Commission should take concrete steps to fulfill the directive in Chapter 30 that “the regulatory obligations imposed upon the incumbent local exchange telecommunications companies should be reduced to levels more consistent with those imposed upon competing alternative service providers.”³⁷ The ILECs have lost almost 90% of their regulated lines since 1999, yet are still held to service obligations of the monopoly telephone company from a bygone era, obligations that come with significant costs that are no longer justified. This is still the case even though the vast majority of locations have abundant alternatives for voice and broadband service from cable companies, fiber providers, multiple wireless carriers, and broadband service. And now, with \$1.5 billion dollars on tap to expand broadband networks to all the unserved and underserved areas of the state, the regulatory environment must catch up with reality.

The Commission need not promulgate new regulations to carry out these changes. It retains authority over the alternative regulation plans of the incumbent companies and can implement these reforms by updating the plans upon agreement of the companies.³⁸ The Commission also has the authority to issue a declaratory ruling to clarify the scope of legal obligations.³⁹ Examples of changes that would make a difference include the following:

³⁷ 66 Pa. C.S § 3011(13).

³⁸ 66 Pa. C.S § 3014(b)(4) (“a local exchange telecommunications company operating under an amended network modernization plan may subsequently petition the commission for approval of further modification of its amended network modernization plan, which the commission may grant upon good cause shown.”)

³⁹ “The commission, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.” 66 Pa.C.S. § 331.

First, the Commission should update alternative regulation plans to eliminate any ongoing obligation for the ILECs to maintain facilities in place or to deploy to the ILECs' retail voice customers a Chapter 30 "broadband" service (1.544 Mbps down and 28 Kbps up) in any location where a faster broadband service is available from any other wireline or wireless provider. Such a change would comport with the statute's goals to "ensure the efficient delivery of technological advances," to "promote and encourage the provision of competitive services by a variety of service providers," to "encourage joint ventures," and to "promote and encourage the provision of advanced services and broadband deployment in the service territories of local exchange telecommunications companies."⁴⁰ Since customers would still have broadband service available, possibly from multiple competitors, and since any technology can be used to satisfy Chapter 30 broadband, this change would allow the ILECs to operate more efficiently without diminishing broadband availability. Where the ILECs have their own fiber networks and/or affiliated wireless broadband coverage they would continue to offer broadband service in the competitive market free of regulatory mandates, and will have more flexibility to extend their fiber networks as participants in the PBDA and other funded broadband expansion programs. In other areas broadband service is more efficiently offered by competitors.

Second, the Commission should classify all incumbent ILEC retail services as "competitive" under Chapter 30 in any location where service is available from another provider of wireline or wireless service as demonstrated by the FCC's Broadband Map, to be updated as the \$1.5 billion broadband expansion progresses. This would exempt all ILEC retail services from rate regulation and tariffing in those areas and can be accomplished through an amendment to alternative regulation plans and/or a declaratory order.

⁴⁰ 66 Pa. C.S § 3011.

Third, the Commission should clarify in a declaratory order that an ILEC is not required to make line extensions to enable it to provide voice services where it does not have existing network facilities and where service is available from another provider of wireline or wireless service. This is common sense, and how the law is applied in many states including Virginia and Delaware.⁴¹ Taking this step would provide a forward-looking framework for ILECs to operate efficiently in Pennsylvania.

The Commission should consider any other actions that would reduce regulatory burdens on ILECs and other regulated companies and allow all providers to compete on even footing. Verizon hopes that more suggestions will be provided in other parties' comments and will address them in its reply comments.

IV. The Commission Should Not Promulgate Any New Regulations That Create Or Maintain A USF Fund Paid For By Carriers Or Their Customers.

A. There Is No Need For A State Fund.

After it rescinds its regulations and eliminates the current revenue replacement USF fund, the Commission should not attempt to adopt any other new or modified regulations involving a state fund paid for by communications carriers or their customers. While there are serious issues relating to the scope of the Commission's legal authority to do so (discussed below), the Commission does not need to reach those questions because the most important factor is one of policy – there is no need for a state universal service fund at this time.

⁴¹ See 26 De. C. § 204 (“Notwithstanding any other provision of law, a telecommunications service provider is not required to establish, construct, maintain, operate or extend its existing facilities where the potential customers to be served have service available from 1 or more alternative providers of wireline or wireless communications.”); Va. Code § 56-54.6.A. (“A competitive telephone company that is an incumbent telephone carrier shall have the duty in its incumbent territory to extend or expand its facilities to furnish retail voice service and facilities when the person, firm, or corporation does not have service available from one or more alternative providers of wireline or terrestrial wireless communications services at prevailing market rates.”)

The interests identified by the Commission, such as discounts for low-income consumers, support for high cost areas, and modernization of rural networks are already being cared for by existing federal funding mechanisms, a substantial portion of which are paid for by surcharges on the bills of Pennsylvania residents. These federal programs are under active review by the FCC and Congress. The Commission should monitor those proceedings rather than getting out in front of them by attempting to create a state fund that is not needed at this time.

One source of existing funding is the FUSF, which is under the jurisdiction of the FCC and is funded by mandatory contributions by companies, including wireline phone companies, wireless phone companies, paging service companies, and certain Voice over Internet Protocol (VoIP) providers, based on a percentage of their interstate and international end-user telecommunications revenues. As the FCC permits, providers generally pass this charge on to their customers as a line item on their bills, so Pennsylvania consumers of the above types of services pay into the fund through an FUSF surcharge. The current assessment factor is 34.6% on intrastate and international services.⁴² As an example, a typical Pennsylvania residential consumer of a Verizon wireline all-distance voice-only plan might be paying in the neighborhood of \$4 to \$5 per month for the FUSF as a surcharge on the bill. The FUSF supports a number of programs including Lifeline discounts to low-income customers and various funds providing high cost support for carriers.

According to the FCC's most recent Universal Service Monitoring Report, in 2021 Pennsylvania received a total of \$142 million from the FUSF for all programs combined.⁴³ For

⁴² FCC Notice, Proposed First Quarter 2024 Universal Service Contribution Factor, CC Docket No. 96-45, December 14, 2023 (available at <https://www.fcc.gov/document/omd-announces-1st-quarter-usf-contribution-factor-346-percent>).

⁴³ FCC Universal Service Monitoring Report 2022, Rel. 2/13/23, Table 1.9 (available at <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>).

Lifeline (low-income discounts) Pennsylvanians received \$26.2 million from the FUSF.⁴⁴ There is no need for this Commission to create a fund to provide additional low-income discounts, and in fact Chapter 30 prohibits imposing new charges on carriers for a state Lifeline fund that is not subsidized by the FUSF, as discussed below.

Ensuring that all customers have access to service is an important issue, but the federal Lifeline program already being paid for by Pennsylvania customers provides discounts for low-income customers on a competitively neutral basis. The federal Lifeline program provides eligible consumers with a discount on monthly bills for voice service, internet service, or a combined telephone/internet service product from a landline or wireless provider, supported by the FUSF.⁴⁵ It is under the jurisdiction of FCC and is administered by an independent non-profit organization called the Universal Service Administrative Company (“USAC”). Lifeline is competitively and technologically neutral so that all companies designated as ETCs in a particular geographic area offer Lifeline discounts and the service can be wireline or wireless. The Commission has a role in the Lifeline program through designating the ETCs and overseeing changes in ETC status, as well as other Chapter 30 detailed activities. Chapter 30 states that this federal Lifeline program is the only governing low-income support mechanism for

⁴⁴ *Id.*

⁴⁵ Originally, the Lifeline program only provided discounts for voice service. In 2011 the FCC updated its universal service programs and expanded the Lifeline discount to support voice and broadband, both fixed and mobile. *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17672 ¶ 17 (2011), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). The FCC subsequently determined to phase-out the voice-only discounts. See 47 CFR § 54.403(a)(2). However, at the urging of many parties, including Verizon, the FCC paused the phase-out because “we believe that it is appropriate for the Commission to further examine whether the phase-out in Lifeline support for voice-only services is still the best path forward.” *Lifeline and Link Up Reform and Modernization*, Order, WC Docket No. 11-42, DA 22-706, at 6-7, paras. 14-17, 2022 FCC LEXIS 4244 (WCB 2022). See also *FCC USF Future Report*, ¶ 67 (“We recommend that, as part of a rulemaking, the Commission consider continuing Lifeline support for voice-only service based on strong support in the record of this proceeding as well as the record and analysis associated with the State of the Lifeline Marketplace Report released in 2021. Numerous commenters describe a continued need for Lifeline program support for voice-only service.”)

telecommunications services funded by carriers in Pennsylvania. Lifeline is defined as this federal program and the statute explicitly prohibits this Commission from imposing “any new Lifeline service discount that is not fully subsidized by the Federal Universal Service Fund.”⁴⁶ In addition, there are affordability obligations incorporated in the BEAD program for eligible consumers in funded areas.

The FUSF also provides support directly to Pennsylvania incumbent carriers that serve certain “high cost” areas of the state. As described by the FCC, the FUSF’s High Cost program, with an annual budget of \$4.5 billion, “provides monetary support to providers of telecommunications services to allow for the provision of voice and broadband services at reasonable prices in rural and insular areas that, due to low population density, difficult terrain, and other factors, might otherwise be prohibitively expensive to serve.”⁴⁷ According to the FCC’s Universal Service Monitoring Report, in 2022 Pennsylvania companies received over \$50 million in high cost support, which includes the traditional high cost funds as well as RDOF and CAF-II support for broadband.⁴⁸ The RLECs receive money from this program and, in the cases before ALJs Colwell and Melillo, they did not present any evidence to demonstrate that their federal High Cost support was not sufficient.

According to a recent report by the Congressional Research Service,

Historically, the High Cost Program subsidized voice service to ensure universal access to phone lines; the program is transitioning to provide support for broadband through its Connect America Fund (CAF). According to the USAC, the High Cost Program provides support through more than a dozen separate legacy funds that support voice service, [citing legacy funds include Frozen High Cost Support, High

⁴⁶ 66 Pa. C.S. § 3019(f).

⁴⁷ *FCC USF Future Report*, ¶30.

⁴⁸ FCC Universal Service Monitoring Report 2022, Rel. 2/13/23, Table 1.9 and Updated 2022 High-Cost Claims with True-Ups thru April 2023 (Excel) (available at <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>). This support is not limited to the RLECs. Verizon received approximately \$1 million of the \$50 million in Pennsylvania.

Cost Loop, Intercarrier Compensation Recovery, and Interstate Common Line Support] and modernized funds that support broadband service expansion in rural areas. The modernized funds include, for example, the Alternative Connect America Cost Model (ACAM)—a voluntary option for rate-of-return carriers (i.e., small independent telephone companies). According to USAC, ‘carriers that elected this option receive predictable monthly payments to provide voice and broadband service to all funded locations over the program’s 10-year support term (2017-2026).’ Carriers must meet specified broadband deployment milestones during the 10-year support term.⁴⁹

Recently, TDS Telecom announced that it elected to receive extended support for 24 states from the Alternative Connect America Model (A-CAM), which will allow it to expand its fiber network in its RLEC territories, and as a result of this election both the RLEC and any other company would be prohibited from seeking BEAD finds for those locations.⁵⁰ Other RLECs have also made this election.⁵¹

Another and more significant program that eliminates the need for this Commission to create any carrier or customer funded USF at this time is the over \$1.5 billion in federal funding to be administered by PBDA and local governments to modernize and build out broadband networks in rural and unserved areas of the state. Attached as Exhibit B to these comments is a chart from InternetForAll.gov detailing billions of dollars in federal funds allocated to Pennsylvania for deployment of broadband infrastructure, digital equity, and affordability. It is premature for this Commission to consider any new universal service mechanism while the federal programs are actively underway.

⁴⁹ Congressional Research Service, The Future of the Universal Service Fund and Related Broadband Programs July 11, 2023 at 2-3 (available at <https://crsreports.congress.gov/product/pdf/R/R47621>).

⁵⁰ <https://www.fiercetelecom.com/broadband/tds-scoops-extended-cam-support-24-states>.

⁵¹ According to the FCC, several companies in Pennsylvania elected A-CAM support including Armstrong Holdings, Inc., North Penn Telephone Company, Ironton Telephone Company, Laurel Highland, TelAtlantic, TDS, North-Eastern Pennsylvania Telephone Company, Townes Telecommunications (owner of Pymatuning), and Venus Telephone Company. <https://docs.fcc.gov/public/attachments/DOC-397408A1.pdf>

The FCC and Congress have recognized that the build out that will result from this unprecedented investment in rural networks will require a fundamental rethinking of all universal service programs. The Infrastructure Investment and Jobs Act directed the FCC to submit to Congress “a report on options of the Commission for improving its effectiveness in achieving the universal service goals for broadband in light of this Act . . . and other legislation that addresses those goals.”⁵² According to the FCC “[w]e anticipate the BEAD Program will make substantial investments in broadband infrastructure and that such investments will impact how the [FCC] will define and meet its High Cost program goals. Consequently, we recommend that the [FCC] initiate a proceeding to consider the future support needs of networks serving high-cost and other hard to serve areas. The [FCC] should consider if, when, and under what circumstances continuing support is necessary to develop, sustain, and improve broadband operations and how best to determine which carriers may need such support and in what amounts.”⁵³

There is no reason for this Commission to look into creating any new state fund while all of this federal money is being invested for the same purpose and while the FCC and Congress are actively investigating the future of their own universal service programs. It makes even less sense to create a new state high cost or similar fund by taxing the revenue of the very same competitors that will be bidding to build out these broadband networks, which are also the very same companies whose customers pay into the FUSF. Creation of a “duplicative” state specific carrier subsidy fund might also result in reducing Pennsylvania’s payments from the existing federal fund in the future, so that more money obtained from Pennsylvania customers through

⁵² *FCC USF Future Report*, ¶ 1 (citing Section 60104(c) of the Infrastructure Investment and Jobs Act).

⁵³ *FCC USF Future Report*, ¶ 41.

the FUSF surcharges might instead go to other states.⁵⁴ Even now, Pennsylvania is the third largest net contributor to the FUSF, which means that our citizens pay far more into the FUSF than the state receives back through the various universal service programs.⁵⁵ According to the FCC’s 2022 Universal Service Monitoring Report, for the year 2021 Pennsylvania companies and customers paid \$383 million into the FUSF while, for all the FUSF programs taken together, Pennsylvania received \$142 million.⁵⁶ This indicates that approximately \$241 million taxed from Pennsylvanians in 2021 was used by the FUSF in other states and/or for other purposes.⁵⁷ The Commission should take no action to create a state fund at this time and instead should monitor the ongoing proceedings at the federal level and participate as needed to ensure that Pennsylvania receives its maximum possible allotment from the FUSF.

B. There Are Significant Legal Restrictions On This Commission’s Authority To Create A State USF.

While there is no policy basis for this Commission to retain, expand, or reformulate a state USF at this time, if it nonetheless determines to continue this rulemaking then it should be aware of several significant legal restrictions on its ability to act in this area.

As a threshold matter, federal law does not preempt a “State” from having a mechanism that requires carriers to contribute on a nondiscriminatory basis to preserve and advance universal service, as long as it complies with federal limitations and does not duplicate federal assessments. Under Section 254(f) of the Communications Act:

⁵⁴ See, e.g., *FCC USF Future Report* at 12-13 (Observing that “some states, such as Texas and Pennsylvania, have their own state-specific USF, in which funds are used for universal service efforts at the state and local level. These state USF funds could be duplicative of federal USF efforts. States without a state-level USF programs, however, may rely exclusively on the federal USF funding.”)

⁵⁵ FCC Universal Service Monitoring Report 2022, Rel. 2/13/23, Table 1.9 (available at <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>). The amount of Pennsylvania net deficit in 2021 was third behind only California and Florida.

⁵⁶ *Id.*

⁵⁷ *Id.*

A State may adopt regulations not inconsistent with the Commission's [FCC's] rules to preserve and advance universal service. Every telecommunications carrier that provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, in a manner determined by the State to the preservation and advancement of universal service in that State. A State may adopt regulations to provide for additional definitions and standards to preserve and advance universal service within that State only to the extent that such regulations adopt additional specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms.⁵⁸

The term "State" in Section 254(f) refers to the Pennsylvania legislature.⁵⁹ While federal law does not preempt Pennsylvania from having its own universal service program, any authority this Commission could have to adopt regulations to fund such a program must be provided to it by the legislature. Under Pennsylvania law, as a "creature of statute," this Commission "has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication."⁶⁰ The General Assembly has not authorized the Commission to enact many of the changes to the USF discussed in the questions attached as Appendix A to the ANOPR.

First, the Commission does not have the authority to expand the contributing base to include wireless carriers because it does not regulate wireless carriers, which are expressly excluded from the definition of "public utility," as defined in the Public Utility Code.⁶¹ The Pennsylvania Supreme Court has repeatedly recognized that wireless carriers are not "regulated

⁵⁸ 47 U.S.C. § 254(f).

⁵⁹ The term "State" under the federal act means the state itself. 47 U.S.C. §153(47). "State commission" is a separately defined term and Section 254(f) does not delegate or provide any power to the "state commission." 47 U.S.C. §153(48) (defining "state commission" as "the commission, board, or official (by whatever name designated) which under the laws of any State has regulatory jurisdiction with respect to intrastate operations of carriers.")

⁶⁰ *Feingold v. Bell of Pennsylvania*, 383 A.2d 791, 794 (Pa. 1977) (emphasis added).

⁶¹ 66 Pa. C.S. § 102 (2)(iv) ("The term ['public utility'] does not include . . . Any person or corporation, not otherwise a public utility, who or which furnishes mobile domestic cellular radio telecommunications service.").

by the [PUC].”⁶² In fact, even the Commonwealth Court’s decision affirming the creation of the *Global Order*’s interim revenue transfer USF fund agreed that the Commission properly excluded wireless carriers from contributing because “an entity engaged in wireless communications exclusively, i.e. any person ‘not otherwise a public utility, who or which furnishes mobile domestic cellular radio telecommunications service’ is not within the definition of ‘Public utility’ subject to PUC jurisdiction. 66 Pa.C.S. § 102(2)(iv).”⁶³ Nothing in the Public Utility Code authorizes the Commission to require wireless carriers to contribute to a fund managed by this Commission.

Second, the General Assembly has not authorized this Commission to regulate VoIP services or VoIP providers or to impose fees on them to support legacy telephone services. It is true that the FCC, in interpreting what was left to the states under 47 U.S.C. 254(f), found that “States” could impose universal service contribution obligations on interconnected VoIP service providers as long as the state’s requirements do not conflict with federal law or policies or duplicate federal assessments.⁶⁴ Again, however, this is authority left to the “State” in the form of the General Assembly, not a direct grant of any authority by Congress to this Commission. In the VoIP Freedom Act, the General Assembly stated as its policy that VoIP services should be free from Commission regulation because “[t]he economic benefits, including consumer choice, new jobs and significant capital investment, will be jeopardized and competition minimized by the imposition of traditional State entry and rate regulation on voice-over-Internet protocol and

⁶² *Crown Communications v. Zoning Hearing Bd.*, 705 A.2d 427, 431 (Pa. 1997). *See also Crown Castle NG East v. Pennsylvania Public Utility Commission*, 234 A.3d 665 (Pa. 2020).

⁶³ *Bell Atlantic –Pennsylvania, Inc. v. Pennsylvania Pub. Util. Comm’n*, 763 A.2d 440, 499 (Pa. Commw. 2000), *vacated in part on other grounds sub nom. MCI WorldCom, Inc. v. Pennsylvania Pub. Util. Comm’n*, 577 Pa. 294, 844 A.2d 1239 (2004).

⁶⁴ *In re Universal Serv. Contribution Methodology*, 25 FCC Rcd 15651, 15658 (F.C.C. November 5, 2010).

Internet protocol-enabled services.”⁶⁵ The General Assembly has not explicitly granted authority to this Commission to assess these unregulated services – particularly when they are provided by entities that are not otherwise regulated by this Commission. The limited exception in the VoIP Freedom Act at 73 P.S. § 2251.6(1)(iii) preserving the Commission’s authority to “enforce applicable Federal or State statutes or regulations” relating to “Universal service fund fees” does not actually authorize the Commission to create such fees. This would require action by the legislature. Even if the Commission found that this exception authorizes it to assess VoIP revenues of companies that provide other regulated services and are therefore certificated by the Commission, there is no authority for the Commission to assess or enforce assessments against unregulated and uncertificated providers of VoIP services. The Commonwealth Court’s holding that wireless carriers were properly excluded as contributors to the original USF because they are not public utilities suggests that the same would be true of unregulated VoIP providers that also are not public utilities.⁶⁶ Any attempt to assess the VoIP revenue of only a subset of providers (the certificated carriers that happen also to provide VoIP services) would run afoul of the federal limitations of 47 U.S.C. § 254(f) that state commission requirements must be implemented on a competitively neutral and nondiscriminatory basis.⁶⁷

Third, but by no means least, the current version of Chapter 30 of the Public Utility Code does not authorize this Commission to create a new more expansive universal service fund. The Commonwealth Court in 2000 affirmed the Commission’s authority to create the interim revenue

⁶⁵ 73 P.S. § 2251.2.

⁶⁶ *Bell Atlantic –Pennsylvania, Inc. v. Pennsylvania Pub. Util. Comm’n*, 763 A.2d at 499.

⁶⁷ This lack of competitive neutrality is made even more confusing by the Commission’s statement that with respect to the current USF “some carriers have voluntarily provided intrastate VoIP revenues,” but “this practice has not been universal.” *Pennsylvania Universal Service Fund Annual Rate Adjustment*, Docket No. M-00001337 (Opinion and Order entered December 8, 2022) at 7.

transfer fund in the *Global Order* based on language from the old and now expired version of Chapter 30 that “[t]he commission shall establish such additional requirements and regulations as it determines to be necessary to ensure the protection of consumers.”⁶⁸ That statute expired and was replaced in 2004 by the current version of Chapter 30. It is telling that the legislature in 2004 chose not to include any language explicitly authorizing the creation of a universal service fund or assessment of carrier revenue for that purpose, even though that issue had just been before the Commonwealth Court. The legislature omitted any mention of a state USF even though the new statute extensively addressed the subject of “Lifeline” service as a federal program funded by the FUSF and also created different funds for other purposes. The language from the old Chapter 30 relied upon by the Commonwealth Court in 2000 was changed by the legislature in 2004 to say that the Commission retains certain powers and duties relating to the regulation of “telecommunications carriers” (defined as *only* those subject to the jurisdiction of the Commission) “to establish such additional requirements as are *consistent with this chapter* as the commission determines to be necessary to ensure the protection of customers.”⁶⁹ The new Chapter 30 explicitly prohibited the Commission from imposing “any new Lifeline service discount that is not fully subsidized by the Federal Universal Service Fund,”⁷⁰ meaning that a state Lifeline or other USF program with new funding obligations not fully subsidized by the FUSF would not be “consistent with this chapter.” Further, the new Chapter 30 stated as a matter of policy that “the regulatory obligations imposed upon the incumbent local exchange telecommunications companies should be reduced to levels more consistent with those imposed

⁶⁸ Expired 66 Pa. C.S. § 3009(b)(3).

⁶⁹ 66 Pa. C.S. § 3019(b)(3) (emphasis added).

⁷⁰ 66 Pa. C.S. § 3019(f).

upon competing alternative service providers.”⁷¹ Since the Commission cannot assess wireless and VoIP providers who directly compete with incumbent carriers, it would violate this statement of policy if it created a fund assessed only on regulated carriers, just as this would also violate the competitive neutrality and nondiscrimination requirements of Section 254(f) under federal law.

Finally, any regulations creating a new, modified, or expanded USF would have to comply with the Regulatory Review Act, which requires an executive agency “to justify its exercise of the authority to regulate before imposing hidden costs upon the economy of Pennsylvania.”⁷² The Commission would have to demonstrate that the fund “is consistent with the statutory authority of the agency and with the intention of the General Assembly in the enactment of the statute upon which the regulation is based,”⁷³ which it could not satisfy for the reasons discussed above. The Regulatory Review Act also requires a showing that the proposed regulations are in the public interest, which requires evidence of the “[e]conomic or fiscal impacts of the regulation,” such as “[d]irect and indirect costs to . . . the private sector,” “[a]dverse effects on productivity or competition,” the “[n]eed for the regulation,” the “[r]easonableness of requirements,” and “[w]hether the regulation is supported by acceptable data.”⁷⁴ As discussed earlier in these comments, a new or expanded fund is not needed at this time and would not pass muster under these standards.

⁷¹ 66 Pa. C.S § 3011(13)

⁷² 71 P.S. § 745.2.

⁷³ 71 P.S. § 745.5b(a).

⁷⁴ 71 P.S. § 745.5b(b). “Acceptable data” is defined as “empirical, replicable and testable data as evidenced in supporting documentation, statistics, reports, studies or research.” 71 P.S. § 745.3.

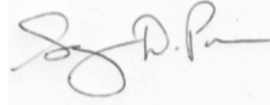
There could be other legal infirmities depending on what the Commission or other parties might propose and Verizon does not waive any legal arguments that are not stated in these comments.

V. Conclusion

Verizon thanks the Commission for the opportunity to comment on these important issues. For the foregoing reasons the Commission should:

1. Rescind the regulations at 52 Pa. Code §§ 63.161–63.171 relating to the “Pennsylvania Universal Service Fund” and eliminate the current USF. If any party proposes a phase out period, particularly for smaller RLECs, Verizon will respond in its reply comments.
2. Reduce regulatory burdens on ILECs, including the fund recipients, with the forward-looking measures described in these comments. Specifically, the Commission should make clear that:
 - In any location where a faster broadband service is available from another wireline or wireless provider, the ILEC is not required to offer a 1.5 Mbps service under Chapter 30.
 - In any location where voice service is available from another wireline or wireless provider, the ILEC is not required to make line extensions to serve areas where it does not have an existing network.
 - In any location where voice service is available from another wireline or wireless provider, all ILEC services are classified “competitive” under Chapter 30.
3. Close this rulemaking without adopting any additional carrier or customer funded state universal service fund.
4. Monitor the proceedings on the federal level relating to federally-funded low-income, high cost, rural broadband and other programs that could affect the future need to address universal service issues at the state level.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Suzan D. Paiva". The signature is written in a cursive style with a horizontal line extending to the right.

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Dated: February 9, 2024

VERIZON RESPONSE TO APPENDIX A QUESTIONS

1. Definitions at 52 Pa. Code § 63.162:

- a. **Should the Pennsylvania Public Utility Commission (PUC) amend the Section 63.162 definition of “basic universal service” to reach beyond *telephone* service, which would align it with federally applicable principles (e.g., *Connect America Fund et al., Report and Order and Further Notice of Proposed Rulemaking*, 26 FCC Rcd 17663 (2011))?**

Verizon Response:

The Commission should rescind the entire set of current regulations rather than revising them, including rescinding the definitions at 52 Pa. Code § 63.162. The Commission should promote universal service by reducing outdated regulatory burdens on incumbent local exchange companies and monitoring ongoing federal proceedings, as set forth in Verizon’s comments. Should the Commission decide to promulgate regulations in the area of universal service in the future then it would need to work within the limits of its own jurisdiction, which is not coextensive with the jurisdiction of the FCC.

- b. **Should the PUC amend the definition of “contributing telecommunications providers”?**

Verizon Response:

The Commission should rescind the entire set of current regulations rather than revising them, including rescinding the definitions at 52 Pa. Code § 63.162. The Commission should promote universal service with a model that does not rely on carrier contributions, as discussed in Verizon’s comments. If carrier contributions are nonetheless considered, then see the specific responses below.

- i. **Should the definition include interconnected VoIP under 73 P.S. § 2251.6?**

Verizon Response:

No. The Commission does not have authority to require interconnected VoIP providers to contribute to a fund, as set forth in Verizon’s comments. The limited exception at 73 P.S. § 2251.6(1)(iii) does not authorize the Commission to assess these unregulated services but only preserves enforcement authority if there were an applicable and authorized state or federal requirement. Moreover, since the Commission does not regulate all VoIP providers, any assessment attempt on a partial set of such providers would violate the nondiscrimination and competitive neutrality requirements of 47 U.S.C. 254(f).

- ii. **Should the definition include wireless providers?**

Verizon Response:

No. The Commission does not have authority to require wireless providers to contribute to a fund because they are not public utilities under 66 Pa. C.S. § 102 (2)(iv), as determined by the Commonwealth Court and discussed in more detail in Verizon’s comments.

- c. **Should the PUC establish its own definition of “telecommunications carrier” independent of federal law as interpreted by the Federal Communications Commission (FCC)?**

Verizon Response:

No. Chapter 30 of the Public Utility Code contains a definition of “telecommunications carrier” as “an entity that provides telecommunications services *subject to the jurisdiction of the commission*,” (emphasis added), with “telecommunications service” defined as “the offering of the transmission of messages or communications for a fee to the public.” 66 Pa. C.S. § 3012 (definitions) (emphasis added). The Commission is bound by the definition in its enabling statute and cannot exceed its jurisdiction.

2. Carrier of last resort (COLR) or provider of last resort (POLR)

- a. Should the regulations clarify or define COLR or POLR obligations for Fund Recipients? If so, what do you suggest?**

Verizon Response:

The Commission should rescind the entire set of current regulations and should promote universal service by reducing outdated regulatory burdens on incumbent local exchange companies. As discussed in Verizon’s comments there should not be a state “fund” or carrier “fund recipients” and therefore no need to determine what obligations might be imposed on fund recipients.

- b. Should there be only one provider with COLR or POLR obligation in a designated area and how should they be chosen?**

Verizon Response:

The Commission should rescind the entire set of current regulations and there should not be a state fund. As to COLR or POLR, the Commission has recognized that ILEC service obligations “[are] not . . . equivalent to the COLR mandate associated with electric and/or gas utilities,” noting that *any* carrier classified as an eligible telecommunications carrier (“ETC”) under federal law has the same obligation to serve and that ETC designation need not cover an entire ILEC serving area and may be relinquished.¹ Since the COLR obligation derives from ETC status, federal law governs how many ETCs can be designated for a given area. 47 CFR 54.201(c).

3. Competitive market for basic universal service

- a. Does requiring some, but not all, federally defined telecommunications carriers to contribute to the Pa. USF support a competitive market for basic universal service? Why or why not?**

Verizon Response:

No and it also violates the non-discrimination and competitive neutrality limitations of 57 U.S.C. § 254(f). However, as discussed in Verizon’s comments, this Commission does not have the authority to establish a universal service fund that complies with Section 254(f) because the jurisdiction provided to it by the General Assembly is limited. In any event, a competitive market for communications services already exists and there is no need for a state fund to “support” it.

¹ *Rulemaking to Amend Chapter 63 Regulations so as to Streamline Procedures for Commission Review of Transfer of Control and Affiliate Filings for Telecommunications Carriers*, Docket No. L-00070188 (Opinion and Order entered April 29, 2010) at 9-10. *Rulemaking to Amend Chapter 63 Regulations so as to Streamline Procedures for Commission Review of Transfer of Control and Affiliate Filings for Telecommunications Carriers*, Docket No. L-00070188 (Opinion and Order entered April 29, 2010) at 9-10.

b. Is such a regime non-discriminatory under state or federal law?

Verizon Response:

See response above.

c. Should the classification of the contributing entities to the Pa. USF be aligned with FCC Form 499 classifications?

Verizon Response:

No. The Commission should rescind the entire set of current regulations and should promote universal service by reducing outdated regulatory burdens on incumbent local exchange companies and monitoring ongoing federal universal service proceedings. There is no need to realign the classification of contributing entities because there should not be a fund. Moreover, the Commission does not have the authority to assess all of the same contributing entities as the FCC does, so this question is moot.

4. Should the Commission model its own approach to universal service using the current federal approach which requires a recipient of universal service to construct a voice network that can provide voice but also internet service at federal speeds and requires recipients to stand ready to provide voice and internet service at a required speed as a condition of receiving universal service as a POLR service and COLR network obligations?

Verizon Response:

No. The Commission should rescind the entire set of current regulations and there should not be a state fund. The programs funded by the Federal Universal Service Fund (“FUSF”) are sufficient on their own and the Commission has no basis or authority to attempt to duplicate the FUSF under state law, as discussed in Verizon’s comments. Moreover, the FCC and Congress are actively considering what changes may be needed to universal service programs in light of the billions of dollars of investment being made in rural networks and this Commission should not try to get ahead of them.

5. Would Federal USF and intercarrier compensation reforms under *the Connect America Fund Order* and the *Universal Service Reform Order* affect the need for continuing and/or expanding the operational scope and the purposes of the Pa. USF? Why or why not?

Verizon Response:

The Commission should rescind the entire set of current regulations and there should not be a state fund. The programs funded by the FUSF are sufficient on their own and the Commission has no basis or authority to attempt to duplicate the FUSF under state law, as discussed in Verizon’s comments. Moreover, the FCC and Congress are actively considering what changes may be needed to universal service programs in light of the billions of dollars of investment being made in rural networks and this Commission should not try to get ahead of them.

6. Would state law or Federal law prohibit the PUC from expanding the scope of the Pa. USF to high cost or low-income support? Why or why not?

Verizon Response:

Yes. These legal restrictions are discussed in detail in Verizon’s comments. In summary, Chapter 30

explicitly prohibits the Commission from imposing “any new Lifeline service discount that is not fully subsidized by the Federal Universal Service Fund,” which means it cannot mandate new state USF obligations funded by assessments on carriers or customers. 66 Pa. C.S. § 3019(f).

7. **Should the Commission’s proposed provision of universal service support be conditioned on a recipient providing voice and internet services at federal speeds to all consumers in a designated area, particularly if VoIP and Broadband Internet Access Service (BIAS) are classified as telecommunications under federal law?**

Verizon Response:

The Commission should rescind the entire set of current regulations and there should not be a state fund. Accordingly, this question is moot.

8. **Should the Commission alter its current structure, in which support is provided in the entire service territory (service area) of an Incumbent Local Exchange Carrier (ILEC) service territory, in favor of another approach? If so, how could the Commission achieve that consistent with federal law?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

9. **Should the Pa. USF have a dedicated purpose or designation for providing support to eligible recipient carriers? Why or why not? What criteria should the PUC use for this purpose?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- a. **Should the PUC use a cost model or other method for ascertaining the level of support distributions to eligible carriers? Why or why not? If so, how should the model operate?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- b. **Should such a cost model or other method be already generally acceptable and in use, e.g., used by the FCC in ascertaining federal USF high-cost support for eligible carriers? Why or why not?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- c. **Should the level of support to eligible carriers be determined based on revenue, e.g., because of intrastate intercarrier compensation reforms, rate rebalancing, residential rate benchmarks, etc.? Why or why not?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- d. **Should the level of support to eligible carriers operate as “supplemental support” to any Federal high-cost support? Why or why not?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- e. **Should Pa. USF support continue even if a corresponding Federal support mechanism expires? Why or why not?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF. The Commission should monitor the federal universal service programs, as well as the progress of the \$1.5 billion broadband buildout overseen by PBDA and localities, before considering any state action.

- f. **Should the level of Pa. USF support to eligible carriers be ascertained on the basis of need and associated criteria, including but not limited to:**
- i. **An overall rate of return benchmark that is periodically adjusted and applicable on both the regulated and unregulated operations of the eligible Pa. USF recipient carriers?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- ii. **An overall rate of return benchmark that is periodically adjusted and applicable only on the intrastate jurisdictional operations of the eligible Pa. USF recipient carriers?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- iii. **A cost and revenue relationship where network access costs are determined by cost model or other acceptable method and revenues are inclusive of retail and wholesale telecommunications services and unregulated services?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- iv. **Should unregulated services and operations exclude both costs and revenues of video content delivery?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- v. **A cost and revenue relationship that is limited to the eligible recipient's intrastate regulated telecommunications operations?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- vi. **Other criteria?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- g. **What reporting requirements should exist?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- i. **Should reporting be in conjunction with, or supplemental to, Federal USF (inclusive of CAF fund use) reporting requirements as revised by the *Universal Service Reform Order*?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- ii. **Should PUC reporting requirements ensure that carriers utilize Pa. USF support distributions for intended and relevant purposes, and not for the support of unrelated operations or activities of the recipient carrier? For example, should recipients provide details on how Pa. USF distributions are used for the support of network facilities that are jointly utilized by both regulated and unregulated retail and wholesale services that are provided by the recipient carrier?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and

there should not be a state fund. Accordingly, this question is moot.

10. **Is it prudent to augment the Pa. USF by providing support so that consumers can purchase voice and/or internet service to further the federal universal service mandate of Section 254, 47 U.S.C.A. § 254, that there must be comparable rates for comparable services in rural and urban areas and Pennsylvania’s universal mandate set out in Chapter 30, Pa.C.S. §§ 3001 *et. seq.***

Verizon Response:

No. The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. The FUSF programs, which are paid for by substantial surcharges on the bills of Pennsylvania customers of wireline, wireless and VoIP services, are sufficient for this purpose. Pennsylvania is already a net contributor to the FUSF. Further, Chapter 30 prohibits the Commission from imposing “any new Lifeline service discount that is not fully subsidized by the Federal Universal Service Fund,” which means it cannot mandate new state USF obligations funded by PUC assessments on carriers or customers. 66 Pa. C.S. § 3019(f).

11. **Should the Pa. USF provide low-income residential service support?**

Verizon Response:

No. See response to question 10.

- a. **If no, why not?**

Verizon Response:

No. See response to question 10.

- b. **If yes, in what form?**

Verizon Response:

No. See response to question 10.

- i. **How might this support be coordinated with Federal USF low-income support already provided by eligible carriers that are recipients of Pa. USF disbursements and the federal eligibility requirements for low-income end-user consumers?**

Verizon Response:

See response to question 10.

- ii. **What eligibility rules or limitations should apply?**

Verizon Response:

See response to question 10.

12. **Should the Pa. USF provide high-cost support?**

Verizon Response:

No. The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. The Commission should monitor the federal universal service programs, as well as the progress of the \$1.5 billion broadband buildout overseen by PBDA and localities, before considering any state action.

- a. **Should the PUC use a cost model or other method for ascertaining whether eligible carriers require support? If a cost model is proposed, provide public access to a web or excel-based template.**

Verizon Response:

No. The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- b. **Should such a cost model or other method be already generally acceptable and in use?**

Verizon Response:

No. The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- c. **Should the level of high-cost support be based on revenue, e.g., because of intrastate intercarrier compensation reforms, rate rebalancing, residential rate benchmarks, etc.?**

Verizon Response:

No. The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- d. **Should the level of high-cost support to eligible carriers operate as “supplemental support” to any Federal high-cost support?**

Verizon Response:

No. The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- e. **Should Pennsylvania high-cost support continue even if corresponding Federal USF high-cost support mechanisms expire?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF. The Commission should monitor the federal universal service programs, as well as the progress of the \$1.5 billion broadband buildout overseen by PBDA and localities, before considering any state action.

- f. **Should the level of Pa. USF high-cost support to eligible carriers be ascertained on the basis of need and associated criteria including:**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question, including all of the subparts below, is moot.

- i. **An overall rate of return benchmark that is periodically adjusted and applicable on *both* the regulated and unregulated operations of the eligible Pa. USF recipient carriers?**
 - ii. **An overall rate of return benchmark that is periodically adjusted and applicable only on the intrastate regulated operations of the eligible Pa. USF recipient carriers?**
 - iii. **A cost and revenue relationship where network access costs are determined by cost model or other acceptable method and revenues are inclusive of retail and wholesale telecommunications services and unregulated services?**
 - iv. **Unregulated services and operations exclusive of costs and revenues of video content delivery?**
 - v. **A cost and revenue relationship that is limited to the eligible recipient's intrastate regulated telecommunications operations?**
 - vi. **Other criterion or criteria?**
- g. **Reporting requirements**
- i. **Should reporting be in conjunction with, or supplemental to, Federal USF (inclusive of CAF fund use) reporting requirements, as revised by the *Universal Service Reform Order*? Why or why not?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- ii. **Should reporting requirements ensure that Pa. USF support distributions are utilized for the intended and relevant purposes and not for the support of unrelated operations or activities of the recipient carrier? For example, should recipients provide details on how Pa. USF distributions are used for the support of network facilities that are jointly utilized by both regulated and unregulated retail and wholesale services that are provided by the recipient carrier? Why or why not?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

13. **Should a recipient of Pa. USF support be required to document its network and service cost costs in a public on-the-record proceeding to ensure an accurate demonstration of the support to be draw from the Fund?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

14. **Size of the Pa. USF**

- a. **Should the Pa.USF continue to use the support floor contained in the November 10, 1997 Joint Petition In Settlement adopted in the *Global Order*, Docket Nos. P-00991648, P-0991649, (September 30, 1999)? Why or why not?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- b. **Should the PUC adjust the support floor for each eligible recipient carrier based on factors such as intrastate carrier access charge reform or additional proposed uses of the Pa. USF? Why or why not? What factors should be used?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

15. **Computational formula of 52 Pa. Code § 63.165**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question including all its subparts is moot.

- a. **Should the PUC alter the computational formula of 52 Pa. Code § 63.165?**
- b. **Should the formula allow for negative access line growth? If so, how?**
- c. **Should the calculation reflect current Fund Recipient access line counts?**
- d. **Should the calculation be adjusted for exogenous events for each eligible recipient carrier for factors such as intrastate access charge reform or additional proposed uses of the Pa. USF?**
- e. **Should the computational formula be modified so that the levels of Pa. USF support distributions to each eligible carrier can be periodically adjusted within a**

calendar year with corresponding adjustments to the Pa. USF contribution levels? For example, other state-specific USFs and the Federal USF permit for quarterly adjustments in both the contribution payments and support payment disbursements during a calendar year.

16. **How may the regulations address technological advances, especially regarding contributing telecommunications provider and fund recipient reporting procedures?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

17. **What are the linkages and interactions of the existing Federal and Pa. USF. Address at a minimum the following areas:**

- a. **Should the Pa. USF contribution mechanism align with the corresponding contribution mechanism of the revised Federal USF? If they do not align, provide concise discussion of what legal and technical issues may arise and how such issues may be resolved.**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- b. **If the FCC adopted a telephone numbers-based contribution system for the Federal USF, should the Pa. USF contribution mechanism follow that approach?¹**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

- c. **Describe the legal and technical issues that may arise for the operation of the Pa. USF if, as a result of the FCC Federal USF Contribution Base FNPRM, the Federal USF contribution mechanism crosses jurisdictional boundaries through, e.g., assessment of intrastate revenues. Provide a concise discussion of the relevant issues for the Pa. USF mechanism and their potential resolution.**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. If the FCC determines to assess revenue previously thought to be intrastate, then the State (General Assembly) could not assess the same revenue.

18. **How would alterations to the Pa. USF affect broadband deployment under current obligations?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. As discussed in Verizon's comments, as part of its forward-looking effort to reduce regulatory burdens on ILECs it should clarify that Chapter 30 broadband deployment obligations no longer apply in any location where faster broadband is available from another wireless or wireline provider.

19. **Are non-jurisdictional services provided by affiliates of telecommunications providers that hold certificates of public convenience (CPCs) for regulated services within Pennsylvania relevant to the size or scope of the Pa. USF? Why or why not? Is provision of VoIP services relevant? Why or why not?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

20. **Should the Commission's support for the networks and services needed to advance universal service in Pennsylvania continue to be recovered via assessments on services from retail intrastate revenues alone, or should the contribution base be expanded to include revenues from all regulated and unregulated services provided over a supported network, including wholesale revenues and other services, given that the supported network can provide, among other things, regulated and unregulated services such as wireless backhaul transport and internet service?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. In any event, the Commission does not have authority to assess these additional revenues.

21. **Should the Commission continue prohibiting a stand-alone surcharge on individual consumers to recover the cost of universal service?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. If there ever is a state USF assessment in the future, the Commission should not prohibit a surcharge on consumers.

22. **Should the 1% uncollectable additive referenced in 52 Pa. Code § 63.165 be moved from 1% to 5% to reflect the PUC's current practice? Why or why not?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

23. **Should the PUC establish a monetary penalty for those companies that do not timely submit an assessment form? Why or why not? If so, what would an appropriate fee be for a late filing? Would other enforcement action be appropriate?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

24. **Should the PUC consider revising the current late payment fee of 1.5% per month for failure to make timely payments? Why or why not? If so, what should the fee be going forward? Should there be a built-in adjustment factor?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

25. **Should the PUC revise the regulations to require a lump sum, quarterly or monthly payment of Pa. USF assessments? What thresholds would be appropriate for each remittance interval?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

26. **Should the PUC revise the regulations to change the de minimis threshold from \$120 as set forth in 52 Pa Code § 63.169(c) to another amount? Why or why not? If so, to what amount?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

27. **Should the PUC require a contributing carrier to the Pa. USF to provide documentation when reporting a certain minimum threshold? Why or why not? What would be an appropriate threshold? What should the mechanism be?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Accordingly, this question is moot.

28. **What should be done to address the current practice whereby only currently-certificated carriers and certain eligible telecommunications carriers are required to report and pay Pa. USF assessments on intrastate VoIP revenues?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Moreover, as discussed in Verizon's comments, the Commission does not have the authority to assess VoIP revenue and any attempt to do so would necessarily be discriminatory.

29. **What would be an appropriate process to ensure that all intrastate VoIP providers are properly reporting and being assessed?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Specifically, the Commission should not assess VoIP revenue.

30. **What mechanism, other than certification of VoIP providers, can the Commission use to implement the universal support provisions of the VoIP Freedom Bill and ensure compliance with the provisions of the Code and the VoIP Freedom Bill?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Specifically, the Commission should not assess VoIP revenue and the Commission does not have the authority to require certification of VoIP providers.

31. **Should the PUC allow VoIP providers that do not hold a CPC to voluntarily contribute to the USF? Why or why not? If so, what should the mechanism be?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Specifically, the Commission should not assess VoIP revenue.

32. **Should a company that has abandoned jurisdictional service but that continues to provide VoIP service be required to contribute to the USF? Why or why not? If so, how?**

Verizon Response:

The Commission should rescind the entire set of current regulations and eliminate the current USF, and there should not be a state fund. Specifically, the Commission should not assess VoIP revenue and the Commission does not have the authority to require certification of VoIP providers.

33. **How should the Commission address the issues outlined in Chairman Dutrieuille's statement in the *Application of Sprint Communications Company L.P. for approval of abandonment of services*, Docket No. A-2021-3028993 (August 25, 2022) in this proceeding?**

Verizon Response:

The Commission should not attempt to regulate or assess companies that offer VoIP services outside this Commission's jurisdiction and does not have the authority to do so.

34. **Does competition remain a valid focus when it comes to supporting networks and services given that over 95% of today’s consumers are served by the “last mile” network owned by two industries, i.e., telephone and cable, with cable and fiber networks lacking an open access mandate for competitors under federal law and precedent?**

Verizon Response:

To the extent this question presumes that there is no competition for communications services, there is absolutely no basis for this presumption. The premise that “over 95% of today’s consumers” are served by “last mile” cable and fiber networks is not sourced or cited. Given that the Centers for Disease Control reports that over 70% of adults rely only on wireless phones to meet their voice calling needs, and that robust 4G and 5G wireless broadband connections are available in Pennsylvania, there are likely to be a substantial portion of consumers relying on wireless networks.² Moreover, when it comes to wireline services, the FCC’s most recent voice subscriptions report states that there are 412 different providers of wireline voice service (switched access lines and interconnected VoIP subscriptions) operating in the Commonwealth.³ As noted in Verizon’s comments, voice services today are provided by a wide variety of wireless and wireline providers, mostly unregulated, and customers can also meet their calling needs over a broadband connection with services such as Apple’s FaceTime, Google Meet, Microsoft Teams, Skype, Zoom and the like without even subscribing to a voice service. The fact that ILECs have lost approximately 90% of their regulated lines since the USF was established is evidence that the market for voice and data services is highly competitive.

² See Stephen Blumberg & Julian Luke, Nat’l Ctr. for Health Stats., *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, July December 2022* (May 2023) <https://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless202305.pdf>

³ FCC Voice Telephone Services: Status as of June 30, 2022, State Level Provider Counts (“*FCC 2022 Report*”) (available at <https://www.fcc.gov/voice-telephone-services-report>)



BIDEN-HARRIS ADMINISTRATION
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PENNSYLVANIA
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**INVESTING IN
 AMERICA**

Across the United States, almost 8.5 million locations lack access to high-speed Internet service. **The Biden Administration's Investing in America agenda aims to bridge this divide and connect everyone in America with affordable, reliable, high-speed Internet service.** Last year, the Administration launched the **Internet for All** initiative with \$65 billion from President Biden's Bipartisan Infrastructure Law, \$25 billion from the President's American Rescue Plan, and several other high-speed Internet programs. **Internet for All** will deliver high-speed Internet infrastructure to every corner of the country, enable working families to afford service, and ensure that everyone has the digital skills and devices they need to fully utilize the Internet. Together, we will close the digital divide and grow our economy from the bottom up and middle out.

Total State Funding:

\$1,776,854,539.64

INFRASTRUCTURE

PA Funding Amount	Program Description	Awarding Agency
\$1,161,778,272.41*	The Broadband Equity, Access, and Deployment (BEAD) Program provides \$42.45 billion from President Biden's Bipartisan Infrastructure Law to expand high-speed Internet access by funding planning, infrastructure deployment, and adoption programs across the country. *\$5,000,000.00 already awarded for Internet infrastructure planning.	NTIA, Department of Commerce
\$45,235,000.00*	The Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program, funded by President Biden's American Rescue Plan Act, delivers \$350 billion to state, territorial, local, and Tribal governments across the country to support their response to and recovery from the COVID-19 pandemic, including high-speed Internet deployment. *Figure represents dedicated high-speed Internet funding.	Department of the Treasury
\$200,000,000.00*	The Capital Projects Fund (CPF) provides \$10 billion from President Biden's American Rescue Plan to states, territories, freely associated states, and Tribal governments to fund critical capital projects that enable work, education, and health monitoring in response to the public health emergency, including high-speed Internet infrastructure. *Figure represents dedicated high-speed Internet funding.	Department of the Treasury
\$20,463,175.24	The Broadband Infrastructure Program (BIP) provided \$288 million for states and Internet providers to expand Internet access to areas without service, especially to rural areas.	NTIA, Department of Commerce



DIGITAL EQUITY

PA Funding Amount	Program Description	Awarding Agency
\$115,430,309.51	The Emergency Connectivity Program funded by President’s Biden’s American Rescue Plan Act provides \$7.171 billion to support Internet services and connected devices for students, school staff, and library patrons in communities across the country.	Federal Communications Commission
\$1,604,131.73	The Digital Equity Act provides \$2.75 billion to establish three grant programs that promote digital equity and inclusion.	NTIA, Department of Commerce
\$7,958,318.99	The Connecting Minority Communities Pilot Program (CMC) provided \$268 million to help colleges and institutions that serve minority and Tribal communities.	NTIA, Department of Commerce

AFFORDABILITY

PA Funding Amount	Program Description	Households Enrolled in PA
\$224,385,332.00	The Affordable Connectivity Program (ACP) provides \$14.2 billion from President Biden’s Bipartisan Infrastructure Law to provide eligible households with a discount of up to \$30/month (\$75/month on qualifying Tribal lands) for high-speed Internet service, and up to \$100 discount toward a desktop, laptop, or tablet computer offered by participating Internet service providers.	632,643

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