

**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C. 20554**

In the Matter of	)	
	)	
July 3, 2012	)	
Annual Access Charge Tariff Filings	)	WCB/Pricing File No. 12-09
	)	

**OPPOSITION OF VERIZON<sup>1</sup>**  
**TO THE DC PUBLIC SERVICE COMMISSION'S APPLICATION FOR**  
**REVIEW OF ARC ORDER ON RECONSIDERATION, DA 12-1231**

The latest District of Columbia Public Service Commission ("DC PSC" or "PSC") Application for Review represents the DC PSC's *third* attempt to inappropriately inject a policy dispute into this tariff proceeding.<sup>2</sup> The PSC objects to any Access Recovery Charge (ARC) in the District.<sup>3</sup> Nonetheless, as the PSC knows – and as Verizon and the Wireline Competition Bureau have made clear to the PSC multiple times – there is no dispute that Verizon's tariffs comply with the Commission's new ARC rules. Unless and until the Commission changes those rules, there is no basis to overturn Verizon's ARC calculations. The Commission should deny the PSC's Application for Review.

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<sup>1</sup> The Verizon companies participating in this filing ("Verizon") are the Verizon Telephone Companies, which include (a) Verizon Delaware LLC; Verizon Maryland Inc.; Verizon New England Inc.; Verizon New Jersey Inc.; Verizon New York Inc.; Verizon Pennsylvania Inc.; Verizon Virginia LLC; and Verizon Washington, D.C. Inc.; and (b) Verizon California Inc.; Verizon Florida LLC; Verizon North LLC; Verizon South Inc.; and GTE Southwest Incorporated d/b/a Verizon Southwest.

<sup>2</sup> Application for Review of the Wireline Competition Bureau's Order on Reconsideration, DA 12-1231 of Betty Ann Kane, Chairman of the Public Service Commission of the District of Columbia, *July 3, 2012 Annual Access Tariff Filing*, WCB/Pricing No. 12-09 (Aug. 31, 2012) ("Application for Review").

<sup>3</sup> See, e.g., Petition for Reconsideration of the Public Service Commission of the District of Columbia, *Connect America Fund, et al.*, WC Docket No. 10-90, *et al.* (Dec. 28, 2011) ("Reconsideration Petition").

## DISCUSSION

1. The Bureau properly dismissed the DC PSC's objections to Verizon's tariffs and ARC calculations twice before. While conceding that Verizon's tariffs comply with the Commission's new ARC rules, the PSC originally requested that the Commission reject Verizon's tariffs on June 25.<sup>4</sup> The PSC's original request merely rehashed points made in its earlier Reconsideration Petition in which the PSC categorically objected to ARC fees in the District and to the Commission's decision in the *USF-ICC Transformation Order*<sup>5</sup> allowing companies to calculate the ARC on a holding company level. See DC PSC Comments at 1-3; Application for Review at 1-2, 6-7. Specifically, the DC PSC objects to ARC fees in the District because Verizon does not charge an ARC in Virginia (local rates in some Verizon Virginia exchanges are already at or above the Commission's rate benchmark). *Id.* The Bureau correctly rejected the DC PSC's June 25<sup>th</sup> request, finding that the PSC's "comments" were "more properly characterized as a request for reconsideration...which the DCPSC has already requested." <sup>6</sup>

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<sup>4</sup> Comments of the Public Service Commission of the District of Columbia, *Verizon Telephone Companies Tariff Nos. 1, 11, 14, and 16*, WCB/Pricing File No. 12-07; Transmittal No. 1191 (June 25, 2012) ("DC PSC Comments"); see also Reply of Verizon to the Comments of the Public Service Commission of the District of Columbia, *July 3, 2012 Annual Access Charge Tariff Filings; Verizon Telephone Companies Tariff FCC Nos. 1, 11, 14, 16*, WCB/Pricing File No. 12-07; Transmittal No. 1191 (June 28, 2012) ("Verizon Reply Comments") (opposing DC PSC Comments).

<sup>5</sup> *Connect America Fund, et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) ("*USF-ICC Transformation Order*").

<sup>6</sup> *July 3, 2012 Annual Access Charge Tariff Filings*, Order, WCB/Pricing No. 12-09, DA 12-1037, ¶ 2 n.9 (July 2, 2012) ("*Suspension Order*").

Next the DC PSC filed a redundant, untimely Petition for Suspension of Verizon's ARC tariffs on July 30 (petitions for suspension were due June 25).<sup>7</sup> Again, the Bureau correctly rejected the July 30 PSC filing as yet another attempt to inject the PSC's policy dispute with the new ARC rules into this tariff proceeding – and also because the Petition for Suspension was more than a month late.<sup>8</sup> “Because this petition was not timely filed we dismiss it here. . . . However, the DCPSC has filed a petition requesting reconsideration of section 51.915(e)(3) of the Commission's rules, which remains pending and is the appropriate vehicle for the Commission to address these issues.” *Reconsideration Order*, ¶ 4 n.10. The Bureau is right: Whatever the merits of the DC PSC's objections to the new ARC rules, reconsideration is the proper venue, not the present proceeding regarding Verizon's ARC tariffs that comply with the rules.

2. Even if the Commission were to consider the merits of the Application for Review in this tariff proceeding (which the Commission should not do) there is no basis to reverse the Commission's decision in the *USF-ICC Transformation Order* allowing carriers to charge the ARC at the holding company level. Nothing has changed to warrant a finding by the Commission that its new ARC rules “should be overturned or revised.” Application for Review at 2 (citing 47 C.F.R. § 1.115(b)(2)(iii)).

In adopting the new ARC rules and giving carriers flexibility to apply the charges at the holding company level, the Commission made a rational policy judgment to “spread the recovery

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<sup>7</sup> Petition for Suspension of the Verizon Access Recovery Charge Tariff Filed by Betty Ann Kane, Chairman of the Public Service Commission of the District of Columbia, *Verizon Telephone Companies Tariff Nos. 1, 11, 14, 16*, Transmittal No. 1191, (filed July 30, 2012) (“Suspension Petition”).

<sup>8</sup> *July 3, 2012 Annual Access Charge Tariff Filings*, Order on Reconsideration, WCB/Pricing No. 12-09, DA 12-1231 (Aug. 1, 2012) (“*Reconsideration Order*”).

of Eligible Recovery among a broader set of customers, minimizing the increase experienced by any one customer.” *USF-ICC Transformation Order*, ¶ 910. And this is precisely what Verizon was able to accomplish by calculating and implementing the ARC at the ILEC holding company level. Nationwide, where it applies Verizon’s residential ARC was set at \$0.36 per line, well below the \$0.50 Commission maximum. Verizon’s multi-line business ARC is also well below the \$1.00 maximum, set at \$0.86 per line nationwide where the charge applies.

The Commission also sought to ensure that price cap carriers would actually be able to recover lost intercarrier compensation revenues from their own end-users to the greatest extent possible in order to limit the potential impact of recovery on the Universal Service Fund (USF). *Id.* Here, too, the Commission was successful vis-à-vis Verizon; all of Verizon’s “eligible recovery” will be recouped from its own customers, not from the USF. Lastly, the Commission wanted to avoid “consumer confusion resulting from too many variations” in end-user charges. *Id.* at n.1792. Verizon adhered to this Commission objective by charging, or not charging, the ARC on a statewide basis in each Verizon ILEC state.

In addition, while it is true that there are no lost intrastate revenues to recover in the District, the purpose of the ARC is broader. Ultimately, the Commission’s plan in the *USF-ICC Transformation Order* is to phase all access charges down to bill-and-keep, including intrastate, interstate, and reciprocal compensation charges. Verizon will lose interstate and reciprocal compensation revenues in *all* of its ILEC jurisdictions – including the District – in later years of the intercarrier compensation reform plan. And District consumers will have the same protections under the Commission’s rules, including the Commission’s \$30 rate ceiling, as consumers in all jurisdictions.

3. The DC PSC’s suggestion that the Bureau “did not resolve” the lawfulness of Verizon charging an ARC in the District but not in Virginia, and that there is more generally a question about the ARC rules “that has not been previously resolved by the Commission,” is plainly wrong. Application for Review at 2, 5-6 (citing 47 C.F.R. § 1.115(b)(2)(ii)). As discussed above, the Bureau *did* resolve the PSC’s objections – twice – finding that the PSC’s real dispute is with the new rules themselves, not with Verizon’s tariffs. *Suspension Order*, ¶ 2 n.9; *Reconsideration Order*, ¶ 4 n.10. And there is no dispute that the Bureau’s application of the new ARC rules in this instance was correct. The DC PSC admits just that. *See* DC PSC Comments at 1-2 (acknowledging that new rule 47 C.F.R. § 51.915(e)(3) “*permits* companies to calculate the ARC on a holding company basis. . .[ILECs] *are permitted* to assess the ARC on end users *in any* of their jurisdictions, not just a jurisdiction in which they experience revenue reductions.”) (emphasis added); *see also* Application for Review at 6-7 (conceding the same with respect to Verizon ARC fees in the District and Virginia and asking the Commission to change the rules).

Pursuant to the *USF-ICC Transformation Order* carriers have the flexibility to charge or not charge the ARC for a variety of reasons. The Commission made clear that carriers are “*not* required to charge the ARC” and observed that in some situations carriers indeed would likely not be able to charge an ARC “in whole or in part based on competitive constraints or other considerations, or may choose not to.” *USF-ICC Transformation Order* ¶ 908 (emphasis in original).

Verizon is not charging an ARC in Virginia because—as indicated in the workpapers attached to Verizon’s tariff materials—there are local rates in certain Verizon exchanges in Virginia that would exceed the \$30 rate ceiling and are thus ineligible for the ARC. *See* 47

C.F.R. § 51.915(b)(12). As an administrative matter, it would have been difficult and costly to implement different ARC rates on an exchange-by-exchange basis, particularly within the same state. Consistent with the Commission's objective to avoid customer confusion from variation in end-user charges, Verizon also determined to charge, or not charge, the ARC on a statewide basis. These were rational decisions and entirely consistent with the Commission's ARC rules and objectives in the *USF-ICC Transformation Order*.

\* \* \*

For these reasons, the Commission should deny the DC PSC's Application for Review.

Respectfully submitted,

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