

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Universal Service Contribution Methodology)	WC Docket No. 06-122
)	
Verizon Wireless Petition for Limited Waiver)	
Of Safe Harbor Single Election Requirement)	
And Criteria for Consolidated Filing of)	
Universal Service Revenue Reports)	

ORDER

Adopted: May 1, 2009

Released: May 1, 2009

By the Acting Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant a petition by Verizon Wireless for a limited waiver of certain universal service FCC Form 499 revenue filing requirements.¹ Specifically, as described below, we waive temporarily universal service revenue reporting requirements set forth pursuant to section 54.711 of the Commission’s rules and the FCC Form 499 instructions and worksheets to allow Verizon Wireless to file a consolidated revenue data report for affiliated entities it acquired in its mergers with Alltel and Rural Cellular Corporation (RCC).² We also waive reporting requirements to allow Verizon Wireless to report revenues for all affiliated companies using a weighted average of actual and safe harbor revenues. We find good cause exists to grant these waivers due to the special circumstances arising from Verizon Wireless’s merger.³

II. BACKGROUND

2. Section 254(d) of the Communications Act of 1934, as amended (the Act) mandates that “[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms

¹ Verizon Wireless Petition for Limited Waiver of Safe Harbor Single Election Requirement and Criteria for Consolidated Filing of Universal Service Revenue Reports, WC Docket No. 06-122 (filed Apr. 20, 2009) (Verizon Wireless Petition).

² 47 C.F.R. § 54.711; Telecommunications Reporting Worksheet, FCC Form 499-Q Instructions for Completing the Quarterly Worksheet for Filing Contributions to Universal Service Support Mechanisms, 7-8 (2009) (FCC Form 499-Q Instructions), <http://www.fcc.gov/Forms/Form499-Q/499q.pdf>; Telecommunications Reporting Worksheet, FCC Form 499-A Instructions for Completing the Worksheet for Filing Contributions to Telecommunications Relay Service, Universal Service, Number Administration, and Local Number Portability Support Mechanisms, 8-9 (2009) (FCC Form 499-A Instructions), <http://www.fcc.gov/Forms/Form499-A/499a-2009.pdf>.

³ 47 C.F.R. § 54.711.

established by the Commission to preserve and advance universal service.”⁴ The Commission has established, in a series of separate proceedings, procedures to fund universal service support mechanisms based on end-user revenues.⁵ In the *Second Order on Reconsideration*, the Commission set forth the specific methodology for contributors to compute their universal service fund contributions, and required contributors to report their end-user telecommunications revenues to the Universal Service Administrative Company (USAC) in accordance with the instructions and requirements set forth in the Telecommunications Reporting Worksheet (FCC Form 499).⁶

3. The Commission has adopted a number of orders to reduce the administrative burdens for certain categories of contributions. For example, the Commission allows wireless carriers to report their revenues based on a safe harbor percentage that approximates the percentage of interstate revenue generated by each category of wireless telecommunications provider.⁷ The safe harbor was adopted to minimize administrative burdens for those wireless providers that asserted that they could not identify, without substantial difficulty, the amount of their revenues that are interstate as opposed to intrastate.⁸ In addition, the Commission adopted a rule that allows wireless providers to report revenues on a consolidated basis if they meet ten specific conditions.⁹

⁴ 47 U.S.C. § 254(d). The Commission adopted the additional principle that the federal support mechanism should be competitively neutral, neither unfairly advantaging nor disadvantaging particular service providers or technologies. See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 12 FCC Rcd 8776, 8801-03, paras. 46-51 (1997) (*Universal Service First Report and Order*) (subsequent history omitted).

⁵ See, e.g., *Universal Service First Report and Order*, 12 FCC Rcd 8776; *Federal-State Joint Board on Universal Service, Access Charge Reform*, Sixteenth Order on Reconsideration and Eighth Report and Order in CC Docket No. 96-45 and Sixth Report and Order in CC Docket No. 96-262, 15 FCC Rcd 1679, 1685, para. 15 (1999) (establishing a single contribution for all universal service support mechanisms based on interstate and international revenues).

⁶ *Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 97-21, Report and Order and Second Order on Reconsideration, 12 FCC Rcd 18400, Appendix B (1997) (*Second Order on Reconsideration*). Telecommunications Carriers are required to file the Telecommunications Report Worksheet quarterly (FCC Form 499-Q) and annually (FCC Form 499-A); 47 C.F.R. § 54.711(a); see also FCC Form 499-A Instructions and FCC Form 499-Q Instructions.

⁷ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252, 21257, para. 11 (1998) (*First Wireless Safe Harbor Order*).

⁸ *Id.* at 21255, para. 6.

⁹ *Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 98-171, 90-571, 99-200, 95-116, 98-170, NSD File No. L-00-72, Further Notice of Proposed Rulemaking and Report and Order, 17 FCC Rcd 3752, 3802, paras. 199-20 (2002). Consolidated filing will be permitted only if the filing entity certifies that all of the following conditions are met: (1) a single entity oversees the management of the affiliated systems; (2) a single entity sends bills to customers and these bills identify a single entity (or trade name) as the service provider, rather than identifying the individual legal entities; (3) all revenues are posted to a single general ledger; (4) to the extent that separate revenue and expense accounts exist, they are derived from one consolidated set of books and the consolidated filing must cover all revenues contained in the consolidated books; (5) customers have a single point of contact; (6) the consolidated filer acknowledges that process served on the consolidated filer would represent process served on any or all of the affiliated legal entities; (7) the consolidated filer agrees to document and resolve all slamming complaints that might be served on either the filing entity or any of the affiliated legal entities; (8) the consolidated filer obtains a separate FCC Registration Number (FRN) from those assigned to its affiliated legal entities; (9) the consolidated filer acknowledges that its obligations with regard to universal service, Telecommunications Relay Services, Local Number Portability, the North American Numbering Plan, and regulatory fees will be based on the data provided in consolidated Worksheet filings, that it bears the responsibility to satisfy those obligations, and that all legal entities covered by the filing are jointly and severally liable for such

4. *Verizon Wireless Petition for Limited Waiver*. On April 20, 2009, Verizon Wireless filed a petition requesting that the Commission temporarily waive two of its universal service FCC Form 499 reporting requirements. Verizon Wireless states that the waiver requests arise out of its recent mergers with Alltel and RCC, the technical limitations of the legacy systems of these entities, and stipulations of the merger consent decree and related orders.¹⁰ Specifically, Verizon Wireless requests that the Commission waive, on a limited basis, the requirements that: (1) all affiliated entities must make a single quarterly election whether to use actual or safe harbor revenues for reporting interstate revenues; and (2) only entities that bill customers under a common trade name and have a single point of contact for all customers can file a consolidated revenue report.¹¹ Verizon Wireless argues that it does not have the capability of satisfying these requirements until it has completed the process of migrating former customers of RCC and Alltel onto Verizon Wireless's billing platform.¹² Verizon Wireless expects that the transition process will be completed no later than December 31, 2009.¹³

A. DISCUSSION

5. We find that Verizon Wireless has demonstrated that good cause exists to grant its limited waiver request.¹⁴ As explained below, the need for waiver of these requirements arises out of the specific circumstances of Verizon Wireless's mergers with Alltel and RCC, the technical limitations of the merged carriers' legacy systems, and the merger consent decree. Moreover, the request for waiver is for a limited duration, pending completion of the migration of former Alltel and RCC customers onto the Verizon Wireless system, which will be completed no later than December 31, 2009, and divestiture of certain markets owned by acquired entities. We find that under these circumstances permitting Verizon Wireless to file a consolidated report and to report revenues based on a weighted average of actual and safe harbor revenues is warranted. We also agree with Verizon Wireless that this approach is consistent

obligations; and (10) the consolidated filer acknowledges that it: (A) was not insolvent on the date it undertook to make payments on a consolidated basis or on the date of actual payments to universal service, Telecommunications Relay Services, Local Number Portability, the North American Numbering Plan, and regulatory fees, and did not become insolvent as a result of such undertaking or payments; (B) was not left with unreasonably small capital as a result of such undertaking or payments; and (C) was not left unable to pay debts as they matured as a result of such undertaking or payments. FCC Form 499-Q at 7-8; FCC Form 499-A at 8-9.

¹⁰ Verizon Wireless Petition at 1.

¹¹ FCC Form 499-A Instructions at 8-9; FCC Form 499-Q Instructions at 7-8.

¹² Verizon Wireless Petition at 5, 9.

¹³ *Id.* at 3.

¹⁴ Generally, the Commission's rules may be waived for good cause shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166; 47 C.F.R. § 54.802(a). In addition, the Wireline Competition Bureau "may waive, reduce, modify, or eliminate contributor reporting requirements that prove unnecessary and require additional reporting requirements that the Bureau deems necessary to the sound and efficient administration of the universal service support mechanisms." 47 C.F.R. § 54.711(c).

with the Commission's goals of receiving revenue data that most accurately reflect actual end-user interstate revenues.¹⁵

6. *Single Election Requirement.* Verizon Wireless's request to use a weighted average of actual and safe harbor revenues is warranted under these special circumstances. According to Verizon Wireless the Alltel and RCC systems are not currently capable of reporting actual interstate percentages for customers in the same manner Verizon Wireless reports those percentages for its own customers.¹⁶ Alternatively, applying the safe harbor to allocate revenues from the customers of all of the affiliated entities would likely over-report the company's revenues on the FCC Form 499-Q, requiring a substantial true-up after Verizon Wireless reports its actual revenue on its FCC Form 499-A due April 1, 2010.¹⁷ As Verizon Wireless notes, the disparity in reporting could cause uncertainty in the projected universal service fund revenues, which would ultimately cause the contribution factor to be adjusted upward in one quarter and then downward in a subsequent quarter.¹⁸ Doing so is inconsistent with the principle in Section 254 of the Act that the universal service fund mechanism be specific, predictable, and sufficient.¹⁹

7. *Consolidated Filing.* We also find that good cause exists to permit Verizon Wireless to file a consolidated worksheet that includes the former Alltel and RCC entities, pending completion of the billing conversion and divestiture process. As Verizon Wireless states, customers under the merger are still being migrated to one billing system, and until that occurs, Verizon Wireless cannot meet the requirement that customer bills identify a single entity or trade name as a service provider or the requirement that customers have a single point of contact.²⁰ Eliminating the requirement that Verizon Wireless file numerous reports for all of its acquired entities until December 31, 2009, is consistent with the public interest because it will promote "efficient administration of the universal service support mechanisms."²¹ We therefore waive, until December 31, 2009, the requirement that customers of all affiliated entities receive bills under a single trade name and have a single point of contact.

¹⁵ Verizon Wireless Petition at 6, citing *Universal Service Contribution Methodology*, WC Docket Nos. 06-122, 04-36, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7534, para. 28 (2006) (*2006 Contribution Methodology Reform Order*).

¹⁶ Verizon Wireless Petition at 5. Verizon Wireless also states it is unable to develop traffic studies estimating interstate revenue for RCC and Alltel customers by the May 1, 2009 FCC Form 499-Q filing deadline. *Id.*

¹⁷ Verizon Wireless Petition at 6. Indeed, as these waivers will expire on December 31, 2009, Verizon Wireless must comply with the applicable rules when it files its FCC Form 499-A by April 10, 2010, and any adjustments from the projections that are filed in the FCC Form 499-Q filings that are subject to this waiver will be reflected in that FCC Form 499-A filing.

¹⁸ *Id.*

¹⁹ See *2006 Contribution Methodology Reform Order*, 21 FCC Rcd at 7531, para. 22 (adopting reforms to the universal service contribution mechanism to "fulfill the Commission's obligation to develop a specific, predictable, and sufficient contribution mechanism to preserve and advance universal service").

²⁰ Verizon Wireless Petition at 7. Verizon Wireless has determined that the Alltel and RCC billing system cannot be modified to display the Verizon Wireless trade name. In addition, under the conditions of the merger, the Alltel and RCC divestiture markets must be operated independently until sold. Also, the customer service numbers on Alltel and RCC bills will not become Verizon Wireless call centers until the divestiture properties are sold. Verizon Wireless Petition at 8.

²¹ 47 C.F.R. § 54.71(c). Alltel and RCC have filed separate revenue reports for their affiliated legal entities. Absent grant of a waiver to allow Verizon to file consolidated FCC Forms 499, Verizon would have to file more than 70 separate entity reports for each of the 2009 reporting deadlines. Verizon Wireless Petition at 2, 9.

8. As discussed above, Verizon Wireless asserts that it will have completed integration of Alltel and RCC customers by December 31, 2009.²² We therefore grant these waivers through that date.

III. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), and 254, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that Verizon Wireless's petition for waiver of section 54.711(a) of the Commission's rules, 47 C.F.R. § 54.711(a) IS GRANTED, to the extent described herein.

10. IT IS FURTHER ORDERED that, pursuant to section 1.102(b) of the Commission's rules, 47 C.F.R. §1.102(b), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach
Acting Chief
Wireline Competition Bureau

²² See *supra* para. 4; Verizon Wireless Petition at 3.