September 19, 2014

**MODERNIZING THE COMMUNICATIONS ACT:**
**UNIVERSAL SERVICE POLICY AND THE ROLE OF THE FCC**

Verizon welcomes this opportunity to provide comment on the fifth in a series of white papers regarding the efforts by the Committee on Energy and Commerce to modernize the laws governing the communications and technology sectors. As the Committee recognizes, the last several years have seen "rapid change in communications technologies" and "shifts in consumer preferences" that have had a significant "impact on competition" in the communications ecosystem. Universal service policy should reflect the changed marketplace. For its part, the Federal Communications Commission ("FCC") also has been tracking these developments and has begun reforming the universal service program to bring it in step with the marketplace by making subsidies explicit and subsidizing broadband in a way that does not affect competition.

## I. A Narrowly Focused Universal Service Program Fulfills Needs in Targeted Circumstances.

With changes in technology and consumer preferences and a rise in intermodal competition, Americans in virtually every part of the country today are able to connect and communicate in a variety of ways via a host of different providers. Even in rural areas, consumers typically can choose from multiple voice and broadband providers, including many that are providing service without universal service subsidies. Moreover, new technologies – including wireless and satellite – have expanded the options for serving customers in areas that were costly to serve using wireline technologies. Due to the increased competition in the marketplace and the expansion of choices for service, there are fewer instances in which universal service subsidies are necessary and fewer instances in which providers must shoulder associated regulatory obligations.

But there may still be discrete, isolated areas or some consumers who would not have service in the absence of subsidies. Therefore, using federal subsidies to achieve universal service principles may still be appropriate in certain targeted circumstances. For instance, subsidies may still be necessary in circumstances where the cost to deploy service is prohibitively expensive or where consumers or other public service institutions need assistance in obtaining service. In general, however, the Universal Service Fund should function as a backstop, only in cases where there is clear evidence that services are not available or affordable.

In addition, the Committee correctly observes that there are several other federal programs that support buildout of communications facilities. Other federal agencies – like the National Telecommunications and Information Administration (which oversaw the Broadband Technology Opportunities Program) and the Rural Utility Service (which oversees lending programs and oversaw the Broadband Initiatives Program) – already provide funding for communications projects in various areas. The universal service program therefore should only be used to fill in gaps in places where these other federal programs do not already satisfy needs.

## II. Universal Service Funding Should Be Provided in a Rational, Thoughtful Manner.

Universal service funding must be provided in a thoughtful and efficient manner – particularly since the cost of that funding ultimately is paid for by contributions from consumers and businesses. In particular, government funding to promote further buildout is appropriate only if there is no unsubsidized competitor already in place providing the desired service and no unsubsidized competitor plans to fill that need in future as part of its business case. Moreover, funding should go only to one provider in a particular area – thereby maximizing the funding available to other areas where no provider exists. To maximize efficiency, the universal service program should rely on competitive processes (e.g., competitive bidding) to the greatest extent possible to select the provider that will receive universal service subsidies.

Universal service obligations should not be imposed on providers. The provision of universal service in high cost areas involves significant construction costs and operating and maintenance expenses. Universal service obligations also carry significant administrative costs; for example, providers bear the costs associated with processing Lifeline applications and conducting annual recertification. Consequently, only those providers that *choose* to participate in federal universal service programs, in exchange for the provision of sufficient support, should bear universal service obligations.

## III. Universal Service Policy Is Already on the Right Course.

The FCC already has recognized many of these policy concerns and, in 2011, adopted its Universal Service Fund/Intercarrier Compensation Transformation Order ("*USF/ICC Transformation Order*") to address these and other changes that have occurred in the marketplace.[1] The *USF/ICC Transformation Order* fundamentally overhauled the universal service program, modernizing the ways in which providers receive funding in several important respects.

Chief among the order's reforms was washing away much of the implicit subsidy framework that existed under legacy telephone systems and legacy regulation. The *USF/ICC*

[1] *See Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*; WC Docket Nos. 10-90, 07-135, 05-337, 03-109, CC Docket Nos. 01-92, 96-45, GN Docket No. 09-51, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) ("*USF/ICC Transformation Order*").

*Transformation Order* instead implemented an explicit subsidy framework, under which the nature, extent and source of subsidies are clear – reducing many of the inefficiencies and competitive distortions that existed under the old framework. Key to that approach was a companion reduction in regulated carrier-to-carrier traffic rates (i.e., "intercarrier compensation") that served, historically, as a source of implicit subsidies that created myriad inefficiencies and arbitrage opportunities. Going forward, any future universal service subsidies likewise should be explicit in order to promote transparency and create the proper market incentives.

The *USF/ICC Transformation Order* and subsequent FCC proceedings also have addressed the appropriate circumstances in which government funding should be provided to subsidize the buildout and provisioning of services. Consistent with the discussion above, the FCC generally has made Connect America Fund ("CAF") funding available in those unserved areas where there is not already a business case to make those services available without subsidy. Similarly, the FCC has sought comment on various reforms linking universal service funding to corresponding regulatory obligations – and eliminating such obligations for those providers that do not receive such funding.

## CONCLUSION

Verizon generally supports the current direction that the FCC has taken with respect to universal service policy, and looks forward to working with the Committee as it continues to update communications law and policy for the modern era.