

**BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION**

In the Matter of YMax Communications Corp.'s	)	
Tariff Filing to Revise its Intrastate Switched Access	)	<b>Case No. TO-2013-0042</b>
Services Tariff, P.S.C. MO. Tariff No. 2.	)	Tariff No. JC-2013-0026

**MCI TELECOMMUNICATIONS SERVICES, INC. DBA VERIZON BUSINESS  
SERVICE'S REQUEST FOR LEAVE TO FILE COMMENTS**

Comes Now MCI Telecommunications Services, Inc. dba Verizon Business Services ("Verizon") and pursuant to 4 CSR 240-2.075(11) seeks leave to file comments regarding this matter, as follows:

1. Verizon is interested in this matter as a telecommunications company that could be subjected to the charges included in YMax Communications Corp.'s ("YMax") proposed tariffs, and acceptance of its comments would be desirable and relevant, in that such comments would allow the Commission additional perspectives from telecommunications providers. Pursuant to rule 2.075(11), Verizon's proposed brief comments are included in this pleading.

2. On July 10, 2012, YMax filed tariff revisions that purport to incorporate the requirements of the FCC's VoIP-PSTN intercarrier compensation regime established in its November 18, 2011 Order.<sup>1</sup> On August 3, 2012, the AT&T Companies filed a motion to suspend and investigate YMax's tariff because it would allow YMax to charge for switched access functions it does not provide, in violation of FCC Orders. On August 7, Commission Staff recommended a sixty-

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<sup>1</sup> *Connect America Fund, et al.*, 26 FCC Rcd 17663 (Nov. 18, 2011) ("FCC Order").

day suspension of the tariff. Verizon supports AT&T's motion and the Staff's tariff suspension.

3. Although YMax claims that its tariff filing complies with the FCC Order, YMax's proposed tariff language is directly contrary to the FCC Order and rules. As the Commission explained, its rules are "intended to prevent double billing and charging for functions not actually provided."<sup>2</sup> Rule 51.913(b) expressly states that it "does not permit a local exchange carrier to charge for functions not performed by the local exchange carrier itself or the affiliated or unaffiliated provider of interconnected VoIP service or non-interconnected VoIP service." 47 C.F.R. § 51.913(b). YMax's tariff, if implemented, would violate this Rule because it could be interpreted to permit YMax to charge full access rates for using "any Facilities provided by" YMax, regardless of whether they are functionally equivalent to switched access services.<sup>3</sup> In other words, as AT&T has explained, YMax's tariff would arguably allow it to collect full switched access rates for switched access functions that neither it (nor any VoIP partner) provides.

4. This is exactly the interpretation of the FCC Rule that YMax advanced and the FCC rejected. In a February 27, 2012 Clarification Order, the FCC's Wireline Competition Bureau made clear that Rule 51.913(b) expressly prohibits a carrier from charging for functions that nei-

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<sup>2</sup> *YMAX Clarification Order*, DA 12-298 (FCC Feb. 27, 2012) (attached hereto as Ex. A).

<sup>3</sup> See YMax proposed revisions to MO Tariff No. 2, Section 1, Definitions and Abbreviations, First Revised Page 6 (defining "End Office Switch") and Section 2.9.3.A.2; this language would allow YMAX to charge full access even though neither it nor its retail VoIP partner delivers calls to a called party.

ther it nor a VoIP partner performs.<sup>4</sup> Because YMax's tariff purports to allow it to do just that, the Commission should reject it, or at least suspend it, as AT&T and the Staff have asked it to do, and as several other states have already done.

WHEREFORE, Verizon requests the Commission to accept its comments.

CURTIS, HEINZ,  
GARRETT & O'KEEFE, P.C.

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**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing was emailed this 7th day of August, 2012, to counsel of record for the parties in this proceeding.

/s/ Carl J. Lumley

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<sup>4</sup> *YMAX Clarification Order.*