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January 17, 2012

Ms. Betty McCauley
Secretary
Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43266-0573

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Re: *LDMI Telecommunications, Inc. d/b/a
Cavalier Telephone d/b/a PAETEC Business
Services d/b/a Cavalier Telephone and TV
VoIP-PSTN Tariff Filed December 23, 2011.
Case No. 11-6023-TP-ATA*

Dear Ms. McCauley:

A number of local exchange carriers in Ohio have revised their intrastate switched access tariffs in order to reflect implementation of the "VoIP-PSTN" intercarrier compensation provisions of the FCC's November 18, 2011 Report and Order on universal service and intercarrier compensation (the "FCC Order").¹ LDMI Telecommunications, Inc. d/b/a Cavalier Telephone d/b/a PAETEC Business Services d/b/a Cavalier Telephone and TV ("Cavalier") has also done so, and its tariff includes provisions that are inconsistent with the FCC Order. Verizon respectfully urges the Commission to require Cavalier to modify those provisions, so that carriers exchanging traffic with Cavalier will receive the full benefits intended by the FCC.

1. Factor Definition. The tariff proposes to determine the volume of traffic to be billed at interstate switched access rates by applying an originating PVU ("OPVU") factor to relevant traffic delivered by Cavalier to its customer, and a terminating PVU ("TPVU") factor to relevant traffic delivered by the customer to Cavalier. The tariff would require the customer to calculate each factor based on the percentage of the specified type of traffic that is "originated . . . in IP format."² However, both the FCC Order and the VoIP-PSTN regulation promulgated pursuant to that order clearly apply to traffic "exchanged between a local exchange carrier and another

¹ *Connect America Fund*, WC Docket No. 01-90, *et al.*, Report and Order and Further Notice of Proposed Rulemaking, (rel. November 18, 2011), ¶¶ 933-975; 47 C.F.R. § 51.913(a).

² See Cavalier tariff at §§ 2.19.10.C., C.1., C.2.

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telecommunications carrier in [TDM] format that *originates and/or terminates* in IP format”³ Indeed, in discussing tariffing of its new regime, the FCC contemplated that “information the terminating LEC has about VoIP customers it is serving” would be used (in addition to the originating carrier’s information about its VoIP usage) “to identify the relevant traffic subject to the VoIP-PSTN intercarrier compensation regime.”⁴ Moreover, requiring the *customer* to supply an OPVU calculation, “with supporting documentation,” to identify the traffic that *Cavalier* originates in IP format⁵ simply makes no sense, aside from being inconsistent with the FCC’s expectation that carriers would identify their own VoIP usage in order to implement the new VoIP-PSTN intercarrier compensation regime.

By excluding otherwise eligible traffic that terminates, but not originates, in IP format, the tariffs would unfairly burden Cavalier’s access customers by applying intrastate access charges to traffic that must be billed under the FCC’s new rules.

2. Factor-Setting Process. Because the FCC Order requires VoIP-PSTN traffic that would otherwise be billed at intrastate switched access rates to be billed at the generally lower interstate rates, carriers have incentives to delay implementation of the new regime in order to preserve existing revenue streams. The Cavalier tariff at issue here takes advantage of that opportunity by refusing to put the customer-submitted OPVU/TPVU factors into effect until they have been “verified” by Cavalier, by providing for “verification audits,” and by generally making the factors apply prospectively only, only once all such verification and auditing procedures have been completed.⁶ These provisions have the effect of preserving the status quo while disputes over the factors are being resolved — and the Cavalier tariff fairly guarantees such disputes because, as noted above, it requires the customer to document Cavalier’s own originating traffic — and thus undermines the FCC’s clear intention to put the new regime into effect as of January 1, 2012.⁷ Moreover, initial factors must be submitted within fifteen days of the tariff’s effective date, or else they will be set at zero (resulting in *all* VoIP-PSTN traffic being billed at intrastate access rates).⁸ This unfairly gives access customers insufficient time to implement the new factor-determination process that is required by the FCC’s VoIP-PSTN

³ 47 C.F.R. § 51.913(a) (emphasis supplied); *see also* FCC Order ¶ 940. Indeed, Cavalier’s tariff recognizes this fact in its definition of Toll VoIP-PSTN Traffic. *See* Cavalier tariff at § 1.

⁴ FCC Order ¶ 963.

⁵ *See* Cavalier tariff at § 2.19.10.C.1.

⁶ *See* Cavalier tariff at § 2.19.10.C.4.

⁷ FCC Order ¶ 939 n. 1890.

⁸ *See* Cavalier tariff at § 2.19.10.D. It appears that under this section, customer-specified initial factors would be applied retroactively only if they are submitted within fifteen days *and* are not disputed by Cavalier.

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regime. Cavalier should be required to give customers a reasonable time to submit initial factors, and should make those factors applicable retroactively to January 1, 2012 once disputes are resolved.⁹

3. Cap on Factor Values. The tariff states that “[i]n the absence of an interconnection agreement, at no time will [Cavalier] allow an OPVU or TPVU factor greater than that applicable State percentage as identified in Paragraph 963 of the FCC Order.”¹⁰ Paragraph 963 allows LECs to specify, as an alternative means of identifying VoIP-PSTN traffic, “that the default percentage of traffic subject to the VoIP-PSTN framework is equal to the percentage of VoIP subscribers in the state based on the Local Competition Report, as released periodically, *unless rebutted by the other carrier.*” (Emphasis supplied.) The tariff violates the order by seeking to prohibit Cavalier’s customers from rebutting the default percentage of VoIP-PSTN traffic, thereby potentially denying them the full benefit of the FCC’s VoIP-PSTN regime.

* * *

Cavalier cannot deviate from the VoIP-PSTN compensation regime ordered by the FCC (regardless of its tariff terms). Verizon asks the Commission to ensure that wholesale customers of Cavalier receive the *full* benefit to which they are entitled by requiring Cavalier to modify its tariff to make the three changes discussed above.

Sincerely,



Barth E. Royer
Attorney for Verizon

cc: Sharon Thomas, Consultant for LDMI
Telecommunications, Inc. d/b/a Cavalier
Telephone d/b/a PAETEC Business Services
d/b/a Cavalier Telephone and TV
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⁹ Similarly, Cavalier should not be permitted to delay the effectiveness of *subsequent* factor changes simply by disputing them. See Cavalier tariff at § 2.19.10.E.

¹⁰ See Cavalier tariff at § 2.19.10.C.5.