

Exhibit A

(Included as Attachment 1)

Attachment 1

YMax Response to AT&T Protest of Maryland Tariff Revision

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June 12, 2012

Via E-File and Overnight Delivery

Mr. David J. Collins
Executive Secretary
Public Service Commission of Maryland
William Donald Schaefer Tower
6 St. Paul St., 16th Floor
Baltimore, MD 21202-6806

**Re: ML No. 138987: YMax Communications Corp.'s Tariff Revisions to
Implement the Access Provisions of the FCC's Intercarrier Compensation
Order**

Dear Mr. Collins:

This letter responds, on behalf of YMax Communications Corp. ("YMax"), to the Complaint filed with the Commission by AT&T Communications of Maryland, LLC, and TCG Maryland ("AT&T") on May 17, 2012 (M.L. #139367), and the letter supporting AT&T's Complaint filed with the Commission by Verizon on May 30, 2012 (M.L. #139619). For the reasons explained below, the comments of AT&T and Verizon should be dismissed and YMax's tariff revisions should be permitted to take effect on July 1, as scheduled.

YMax submitted revisions to its MD Tariff No. 2 on April 30, 2012, in order to comply with the new requirements of the FCC's Intercarrier Compensation reform order¹ governing VoIP-PSTN traffic. This tariff transmittal incorporated numerous revisions designed to implement the FCC's requirement that VoIP-PSTN traffic be billed at interstate access rates, and the FCC's VoIP symmetry rule. As AT&T itself acknowledges, the FCC stated clearly its intention that local exchange carriers should be entitled to receive access charges on traffic terminated over VoIP facilities to the same extent as on traffic terminated over traditional TDM networks. (AT&T Complaint at para. 4, page 3.)

Unfortunately, AT&T and Verizon are actively starting to undermine the VoIP symmetry rule by refusing to pay access charges for calls that originate or terminate on VoIP networks. This is particularly surprising because AT&T and Verizon themselves are two

¹ *In re Connect America Fund, etc.*, FCC 11-161, 26 FCC Rcd 17633 (2011) ("*FCC Reform Order*").

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Mr. David J. Collins
June 12, 2012
Page 2

of the very largest VoIP providers themselves who originate and terminate calls “over the top.” These two companies are talking out of both sides of their mouths, because their ILECs continue to bill and collect switched access charges from other carriers for calls that they terminate using IP technology to different subsidiaries, often separately certificated. To take it a step further, they switch their customers around their various subsidiaries to game the system and make a mockery of what the FCC has done in access reform.

AT&T and Verizon do not even address, much less protest, most of the tariff revisions submitted by YMax. Their arguments focus entirely on a single sentence in section 2.2.6(A)(2): “As long as the Company is listed in the database of the Number Portability Administration Center as providing the calling party or dialed number, then the provision by the Company of any portion of the transport or termination of VoIP-PSTN Access Traffic shall be considered the functional equivalent of the access service typically provided by an incumbent local exchange carrier, regardless of the technology or network structure employed by the Company or the VoIP Service provider to perform that function.” AT&T and Verizon both claim that this sentence is inconsistent with the declaratory ruling issued by the FCC’s Wireline Competition Bureau on February 27, 2012.²

In order to avoid any doubt as to the legality of its tariff, YMax is willing to remove the sentence quoted above, although it will continue to rely on the FCC’s rules stating that a local exchange carrier’s ability to impose access charges does *not* depend on the technology or network structure employed by the carrier or by a VoIP service provider to perform the functions associated with access service. As the FCC stated, its rules “focus specifically on whether the exchange of traffic occurs in TDM format (and not IP format), *without specifying the technology used to perform* the functions subject to the associated intercarrier compensation charges.”³ YMax attaches hereto a proposed revised tariff page 9-1 that replaces this one provision.

With this modification, YMax’s tariff revisions are substantially identical to those previously filed by numerous other carriers and permitted to take effect without suspension or investigation, including Bandwidth.com (tariff revisions filed Feb. 8, 2012; eff. Mar. 10, 2012), Comcast Phone of Northern Maryland, Inc. (tariff revisions filed Dec. 14, 2011, ML #135990; eff. Jan. 11, 2012), Global Crossing Local Services, Inc. (tariff revisions filed Feb. 24, 2012; eff. Mar. 25, 2012), and tw telecom of Maryland llc (tariff revisions filed Jan. 13, 2012).

The FCC’s rules are clear that a CLEC, like YMax, is entitled to bill switched access charges whenever it, or an affiliated or unaffiliated provider of VoIP services, performs the “functional equivalent” of an element of ILEC switched access service. YMax

² *In re Connect America Fund, etc.*, DA 12-298 (released Feb. 27, 2012).

³ *FCC Reform Order*, para. 969 (emphasis added).

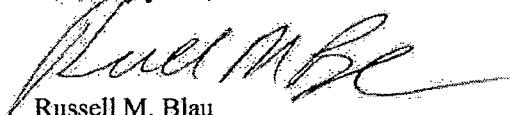
Mr. David J. Collins
June 12, 2012
Page 3

operates a network of Class 5 end office switches nationwide, including one in Baltimore, that connect to AT&T, Verizon and others via TDM. These switches perform the functional equivalent of ILEC end office switching, which is the function of setting up and maintaining a switched voice path between an end user and an interexchange carrier for the duration of a call, including necessary signaling between the switch and the end user and between the switch and other switches in the network. Sometimes, but not always, an ILEC provides the "common line" element of switched access service, which is a dedicated loop facility between the end office switch and the end user. These loop facilities are being used less and less as more modern technologies are deployed. The common line, however, is a separate and distinct element of switched access service, which YMax neither employs nor bills for. YMax only bills for those elements (end office and transport) that it does provide.

YMax's tariff should be permitted to become effective like each of the other filings noted above, and AT&T's and Verizon's protests should be dismissed. In the alternative, if the Commission believes that AT&T or Verizon has presented any issue that still needs to be investigated even after YMax has voluntarily revised its tariff as described above, then YMax requests that the Commission schedule an evidentiary hearing on such issues as quickly as possible so that any doubt as to the legality of its proposed tariff provisions can be resolved.

YMax also wants the Commission to know that it will ask the FCC to intervene on matters such as this with the States. Bandwidth.com and Level 3 Communications have recently asked the FCC to intervene on very similar matters, and to reject AT&T's erroneous interpretation of the VoIP traffic rules.

Sincerely yours,



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Counsel for YMax Communications Corp.

cc: Carlos Candelario
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