Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	
Universal Service	)	CC Docket No. 96-45
	)	
Valor Telecommunications of Texas, L.P.	)	
Request for Waiver of Section 54.305	)	
of the Commission's Rules	)	

ORDER

Adopted: January 4, 2005 **Released:** January 10, 2005

By the Commission:

I. INTRODUCTION

1. In this Order, we deny in part and grant in part a request by Valor Telecommunications of Texas, L.P. (Valor), a rural incumbent local exchange carrier formed through the acquisition of approximately 315,000 lines from GTE in 2000, for waiver of section 54.305 of the Federal Communications Commission's (Commission) rules.[1] In particular, we grant Valor a limited waiver of section 54.305 of the Commission's rules to allow it to receive additional safety valve support consistent with the modifications to the safety valve mechanism that we adopt today in a companion order.[2] This limited waiver will allow Valor to receive additional safety valve support for the costs that it incurred in its first year of operation, as well as in subsequent years that the Rural Task Force plan is in place.[3]

II. BACKGROUND

2. *Section 54.305*. Section 54.305 of the Commission's rules provides that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost

[1] Valor Telecommunications of Texas, L.P., Petition for Waiver of Section 54.305 of the Commission's Rules, CC Docket No. 96-45, filed April 30, 2003 (Petition).

[2] *Federal-State Joint Board on Universal Service, National Telephone Cooperative Association, Petition for Reconsideration*, Order and Order on Reconsideration, CC Docket No. 96-45, FCC 05-01 (rel. January 10, 2005) (*NTCA Reconsideration Order*).

[3] The safety valve support mechanism was adopted as part of the Rural Task Force's five-year plan for providing modified embedded cost support to rural carriers. *See Federal-State Joint Board on Universal Service,* CC Docket No. 96- 45, Report and Order, 12 FCC Rcd 8776, 8942-43 (1997) (*Universal Service First Report and Order*), as corrected by Federal-State Joint Board on Universal Service, Errata, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997*), affirmed in part, reversed in part and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5th Cir. 1999), *cert. denied*, 530 U.S. 1210 (2000), *cert. dismissed*, 531 U.S. 975 (2000).

universal service support for which the acquired exchanges were eligible prior to their transfer.[4] Section 54.305 was adopted in the *Universal Service First Report and Order* as an interim measure aimed at discouraging carriers from transferring exchanges merely to increase their share of high-cost universal service support.[5] The Commission was concerned that, while support is calculated for carriers based on separate rural and non-rural mechanisms, potential universal service payments may unduly influence a carrier's decision to purchase exchanges from other carriers.[6]

3. In the *Rural Task Force Order*, the Commission found that section 54.305 should be retained, but modified it to provide "safety valve" support to rural carriers that make substantial investment after acquiring exchanges.[7] While the Commission reiterated its support for section 54.305's intended purpose of discouraging carriers from transferring exchanges merely to increase their share of high-cost universal service support, the Commission also recognized that section 54.305 may have the unintended consequence of discouraging rural carriers from acquiring high-cost exchanges from carriers with low average costs and preventing rural carriers from receiving support for new investments in recently-acquired high-cost exchanges.[8]

4. Specifically, the Commission found that safety valve support should be provided for up to 50 percent of any positive difference between the rural incumbent local exchange carrier's index year expense adjustment for the acquired exchanges and subsequent year expense adjustments.[9] The Commission further found that, for purposes of determining a rural carrier's safety valve support, the index year expense adjustment shall be defined as the high-cost loop support expense adjustment for the acquired exchanges calculated at the end of the company's first year of operating the exchanges.[10] The total safety valve support available to all eligible study areas is limited to no more than five percent of rural incumbent local exchange carrier support available from the annual high-cost loop fund.[11]

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[4] 47 C.F.R. § 54.305. For example, if a rural carrier purchases an exchange from a non-rural carrier that receives support based on the Commission's high-cost support mechanism for non-rural carriers the loops of the acquired exchange shall receive the same per-line support as calculated under the non-rural mechanism, regardless of the support the rural carrier purchasing the exchange may receive for any other exchanges. The mechanism for non-rural carriers directs support to carriers based on the forward-looking economic cost of operating a given exchange. *See* 47 C.F.R. § 54.309. Rural carriers, on the other hand, receive high-cost loop support based on the extent to which their reported average cost per loop exceeds 115 percent of the nationwide average cost per loop. *See* 47 C.F.R. §§ 36.601-36.631.

[5] *See Universal Service First Report and Order*, 12 FCC Rcd at 8942-43, para. 308.

[6] *Id.*

[7] *See Federal-State Joint Board on Universal Service; Multi- Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11282, para. 97 (2001), as corrected by Errata, CC Docket Nos. 96-45, 00-256 (Acc. Pol. Div. rel. June 1, 2001) (*Rural Task Force Order*).

[8] *See id*.

[9] *See id.* at 11285, para. 98.

[10] *See id.* at 11285, para. 99.

[11] If the total amount of eligible safety valve support in a given year exceeds the five percent cap, the percentage used to calculate safety valve loop cost expense adjustment will be reduced until all safety valve support fits under the five percent cap. That is, in such years, carriers eligible for safety valve support will receive less than 50 percent

5. Valor's Petition for Waiver. On September 1, 2000, Valor purchased approximately 315,000 access lines in 197 exchanges formerly owned by GTE.[12] These lines were removed from GTE's two Texas study areas and consolidated into a new study area for Valor.[13] Section 54.305 limits Valor's high-cost universal service support to the per-line support levels that GTE received prior to the transfer of the exchanges.[14] Valor seeks a waiver of section 54.305 to receive high-cost support based on the average cost of all of its access lines, including the acquired lines at issue here, rather than limiting the per-line level of support for the acquired lines to the amount of support for which they were eligible prior to their transfer.

6. Valor argues that it faces a "combination of unique circumstances" that warrant a waiver of section 54.305.[15] Valor states that it acquired from GTE a highly depreciated network that requires substantial modernization to provide quality services at affordable rates for its customers.[16] Valor describes in its Petition a five-year program that it has undertaken to upgrade and modernize the network and claims that, absent additional support, it will not be able to complete its five-year program in a timely manner.[17] Valor contends that the limited support it receives based on the support that GTE was receiving prior to the acquisition does not accurately reflect the average cost of the lines at the time of the transfer because of "extraordinary" cost reductions taken by GTE immediately prior to the transfer.[18] Valor claims that it was not aware at the time of sale that GTE had recognized net pension plan gains of $57.2 million stemming from a lump-sum settlement of pension obligations in association with an employee-reduction program.[19] According to Valor, these pension plan gains significantly lowered GTE's operating costs and thus its average loop cost, which lowered the support levels for GTE at the time of the sale.[20]

7. Valor further states that since it began operations in 2000, it has incurred substantial capital expenditures, in part due to circumstances beyond its control.[21] For example, Valor claims that it

of the positive difference between the subsequent year expense adjustment and the index year expense adjustment. *See id*. at 11288-89, paras. 107-09.

[12] Petition at n.6.

[13] *See Valor Telecommunications of Texas, L.P., and GTE Southwest Incorporated, Joint Petition for Waiver of the Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules*, CC Docket No. 96-45, Order, 15 FCC Rcd 15816 (Acc. Pol. Div. 2000).

[14] Valor currently receives $850,000 annually pursuant to section 54.305, *i.e.*, the same support that GTE received prior to the sale of the exchanges.

[15] Petition at 8.

[16] *Id.*

[17] *Id.* In Valor's Petition, it estimated that a grant of its waiver would allow it to receive support in the amount of $10.2 million annually. In a subsequent *ex parte* letter, Valor revised that estimate to $1.5 million. Letter from Gregory Vogt, Counsel for Valor, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45 (filed February 24, 2004).

[18] Petition at 8.

[19] *Id.* at 11.

[20] *Id.* at 11-12.

[21] *Id.*

had incomplete cost information at the time of the acquisition and that it incurred costs to connect remote switches to its own network where the relevant host switches remained with GTE. Valor also asserts that it incurred additional costs as a result of conditions imposed by the Texas Public Utility Commission.[22] Valor further claims to have incurred substantial costs as the result of an ice storm in December 2000 and that it invested over $1 million in the telecommunications infrastructure of Crawford, Texas in order to meet the telecommunications needs of the White House Communications Agency at the President's ranch outside Crawford, Texas. Valor submits that, as a result, it had total capital expenditures of $56.6 million in calendar year 2001, an amount approximately 43 percent greater than what it spent in 2002.[23]

8. Valor asserts that safety valve support "will not accurately reflect the level of investment required to modernize and upgrade the network acquired from GTE."[24] Valor argues that, because safety valve support is calculated based on the difference between the "index year" expense adjustment and the "subsequent year" expense adjustment, its unusually high expenses in 2001, its index year, artificially reduce its safety valve support.[25] Valor also notes that the safety valve mechanism was not yet in place when it acquired the lines from GTE in 2000.

9. The Wireline Competition Bureau released a Public Notice seeking comment on the Petition on April 20, 2004.[26] AT&T, the Cellular Telecommunications & Internet Association (CTIA), Sprint Corporation, and Western Wireless filed comments in opposition to Valor's Petition and Valor filed a reply in response to those oppositions.[27] The United States Telecom Association (USTA) filed comments in support of Valor's petition and the Independent Telephone & Telecommunications Alliance (ITAA) filed comments urging the Commission to provide relief to Valor and other similarly-situated carriers by granting the NTCA pending petition for reconsideration of the safety valve mechanism.[28]

10. Generally, the Commission's rules may be waived for good cause shown.[29] The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.[30] In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.[31] Waiver

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[22] *Id.* at 13.

[23] *Id.* at 11.

[24] *Id.* at 12.

[25] *Id.*; *see also supra* para. 7.

[26] *See Wireline Competition Bureau Seeks Comment on Valor Telecommunications of Texas, L.P. Petition for Waiver of Section 54.305 of the Commission's Rules, Pleading Cycle Established*, Public Notice, DA 03-1458 (rel. April 20, 2003). Comments were filed on May 30, 2003, and reply comments were filed on June 16, 2003.

[27] *See Federal-State Joint Board on Universal Service, Valor Telecommunications of Texas, L.P., Petition for Waiver of Section 54.305 of the Commission's Rules,* CC Docket No. 96-45, CTIA Comments at 1-4; AT&T Opposition to Petition for Waiver of Section 54.305 at 1-9; Western Wireless Comments in Opposition to Valor Petition for Waiver at 1-10; Opposition of Sprint Corporation at 1-5.

[28] USTA Reply Comments at 1-6; ITTA Reply Comments at 1-8. As discussed below, the Commission is releasing a companion order addressing NTCA's petition for reconsideration. *See infra* para. 14

[29] 47 C.F.R. § 1.3.

[30] *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.

III. DISCUSSION

11. For the reasons set forth below, we find that Valor has not demonstrated special circumstances that would warrant a complete waiver of section 54.305 of the Commission's rules. However, we grant Valor a waiver of section 54.305 so that it can receive additional support consistent with the modifications to the safety valve mechanism that we adopt today in the companion *NTCA Reconsideration Order*.[32]

12. We are not persuaded that Valor's claims regarding GTE's highly depreciated network, the need for substantial network upgrades, or the fact that the transferred support does not accurately reflect the average cost of its lines constitute special circumstances. The Commission previously has stated that carriers seeking a waiver of section 54.305 must bear a heavy burden.[33] Valor had the opportunity to evaluate, before purchasing these exchanges from GTE, the state of the network, the costs it would need to incur for any upgrades, and the amount of transferred support that it would receive. We are not convinced that Valor could not have identified all of these issues prior to making its decision to purchase the lines from GTE.[34] To the extent Valor claims that it faces higher costs than most price caps carriers because it serves "overwhelmingly rural lines," Valor should have taken this into account when deciding to purchase these lines. Indeed, Valor had an obligation to take into account all factors that could have had an impact on its ability to operate the lines effectively, particularly given the representations Valor made to the Commission at the time in its request for waiver of the study area boundary freeze.[35]

13. When Valor sought a study area waiver from the Commission so that it could create a separate study area for the lines it acquired from GTE, Valor certified that grant of the study area waiver

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[31] *WAIT Radio*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied,* 409 U.S. 1027 (1972); *Northeast Cellular*, 897 F.2d at 1166.

[32] *NTCA Reconsideration Order*.

[33] *See, e.g., Mescalero Apache Telecom, Inc., Request for Waiver of Section 54.305 of the Commission's Rules,* CC Docket No. 96-45, FCC 01-13, 16 FCC Rcd 1312 (2001) (*Mescalero*). *Mescalero*, which predates the adoption of the safety valve mechanism, is the only instance in which the Commission has granted a waiver of section 54.305. The Commission concluded that Mescalaro, a newly-formed, tribally-owned carrier, warranted a deviation from the general rule because, among other things, Mescalaro intended to bring additional service to a reservation where 52 percent of the residents on the reservation were without telephone service. *Cf Federal-State Joint Board on Universal Service, Blackduck Telephone Company and Arvig Telephone Company, Joint Petition for Waiver of the Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules and Related Waiver of Section 54.305 of the Commission's Rules*, CC Docket No. 96-45, DA 02-3386, 17 FCC Rcd 24602 (Com. Car. Bur. 2002) (denying waiver of section 54.305 on the ground that Blackduck's concerns regarding the sufficiency of support for carriers operating newly-acquired lines was addressed in the newly adopted safety valve mechanism).

[34] *See* Valor Reply Comments at 8 (arguing that it "devoted the same level of resources in its due diligence activities as any reasonable acquiring carrier would have invested").

[35] *See Valor Telecommunications of Texas, L.P., and GTE Southwest Incorporated, Joint Petition for Waiver of the Definition of "Study Area" in the Appendix-Glossary of Part 36 of the Commission's Rules,* CC Docket No. 96-45, DA 00-1908, 15 FCC Rcd 15816 (Acct. Policy Div. 2000).

would not have an impact on the universal service fund because of the limitations set forth in section 54.305 of the Commission's rules.[36] Valor also stated that granting the waiver would serve the public interest because customers would receive additional and improved services from a carrier "specializing in meeting communications needs of rural and small urban communities."[37] As such a carrier, Valor clearly knew or should have known that high-cost loop support would be an important source of funds for the operation of an exchange with high-cost loops and that it would be eligible only for the support that GTE was receiving for those lines prior to the sale. Carriers acquiring lines have the responsibility to fully explore the consequences of section 54.305 before consummating the acquisition of an exchange.[38]

14. We agree with Valor in part, however, that it may not receive adequate support under the safety valve mechanism.[39] More generally, we conclude that Valor's Petition highlights a deficiency in the safety valve mechanism and raises concerns similar to those raised by NTCA in its pending petition for reconsideration of the *Rural Task Force Order*.[40] Accordingly, in a companion order adopted today, we grant NTCA's petition for reconsideration and amend section 54.305 of our rules to provide that rural carriers that acquire high-cost exchanges may receive safety valve support for the investment made in the first year of operating the acquired exchanges.[41] The modified rule provides that the index year expense adjustment for purposes of determining safety valve support for the first year of operation shall be defined as the seller's expense adjustment for the twelve-month period prior to the sale of exchanges. The Commission's action in the companion *NTCA Reconsideration Order* does not modify the existing safety valve mechanism for support beginning in an acquiring carrier's second year of operation.[42] As we state in the *NTCA Reconsideration Order*, "these actions better satisfy our policy goals of ensuring that acquiring carriers receive sufficient high-cost support and preserving the purpose of section 54.305 of discouraging carriers from transferring exchanges merely to increase their share of high-cost universal service support."[43]

15. While the rule adopted in the companion order will apply prospectively, the costs Valor incurred in its first year of operation as a result of a severe ice storm in December 2000 constitute special circumstances warranting a limited waiver of section 54.305. We therefore grant Valor a waiver of section 54.305 so that it can receive support for its first year of operations based on its actual costs relative to GTE's costs, consistent with the modifications we make today to the safety valve mechanism.[44]

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[36] Valor Telecommunications of Texas, LP and GTE Southwest Incorporated, Joint Petition for Waiver of the Definition of "Study Area" in the Appendix – Glossary of Part 36, CC Docket No. 96-45, at 6 (filed April 24, 2000).

[37] *Id.* at 7.

[38] *See, e.g.,, Fremont Telecom Company, Petition for Waiver of Sections 36.611 and 36.612 of the Commission's Rules,* AAD 97-56, DA 98-127, 13 FCC Rcd 12318 (Acct. & Audits Div. 1998) (Upholding the principle that the waiver process is not a remedy for imprudent business decisions made by acquiring carriers).

[39] Petition at 12. *See also* ITTA Reply Comments at 4-5.

[40] National Telephone Cooperative Association, Petition for Reconsideration and Clarification, CC Docket Nos. 96-46, 00-256, filed July 5, 2001; *see also* ITTA Reply Comments at 7-8.

[41] *See NTCA Reconsideration Order.*

[42] *NTCA Reconsideration Order* at para. 18.

[43] *NTCA Reconsideration Order* at para. 1.

[44] Valor may choose to establish its first year of operations beginning with fourth quarter 2000 or first quarter 2001. In addition, because we are providing Valor relief consistent with the modifications we are making to the safety valve mechanism, we decline to grant Valor multi-year relief, as requested by Valor in its April 7, 2004 *ex parte*

Allowing Valor to receive the benefits of the modified safety valve mechanism by granting a waiver of section 54.305 provides relief that is appropriately tailored to Valor's circumstances in its first year of operation.[45] Further, by providing support to Valor for investments made in its first year of operation, Valor will be able to benefit from the modification of the safety valve rule despite the timing of its acquisition, which occurred prior to the adoption of the safety valve mechanism in the *Rural Task Force Order*.[46] Accordingly, Valor may receive safety valve support for its first year of operations using GTE's expense adjustment for the twelve-month period prior to the sale of the exchanges as its index year expense adjustment. Consistent with the rule adopted in the companion order, Valor may receive safety valve support in subsequent years using its first-year costs to determine a new index year expense adjustment .[47]

16. Because we provide relief to Valor consistent with the modifications to the safety valve mechanism, we decline to adopt Valor's proposal for adjusting its index year that was set forth in its November 6, 2003 *ex parte* letter.[48] We note, however, that even if we had not modified the safety valve mechanism, we would have rejected Valor's proposal. Valor's proposal that its index year be based on its "annualized" costs for the last quarter of 2000 would be highly subjective and inconsistent with the intent of our rules. The Commission's rules require that a carrier's index year be based on either the first calendar year after the transfer of exchanges (for carriers filing their cost data annually pursuant to section 36.611 of the Commission's rules), or the first quarter following the transfer (for carriers filing quarterly data pursuant to section 36.612).[49] Likewise, we believe that Valor's proposal to exclude new costs to

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letter. *See* Letter from Gregory J. Vogt, Counsel for Valor, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45 (filed April 7, 2004).

[45] This action is consistent with the prior grant of Valor's request for waiver of the application of the X-factor in the price cap indices formula set forth in section 61.45(b)(1)(i) of the Commission's rules. *Valor Telecommunications of Texas and Valor Telecommunications of New Mexico Petition for Waiver of the Operation of the X-Factor in the Price Cap Indices Formula Set forth in § 61.45(b)(1)(I),* Order, WCB/Pricing File 02-11, DA 02-1325, 17 FCC Rcd 10646, 10650, para. 14 (Wireline Comp. Bur. 2002). *See also* 47 C.F.R. § 61.45(b)(1)(i). In that case, relying in part on the ice storm, Valor was granted a waiver of the X-factor for 2001.

[46] In its reply comments, Valor claims that strict application of the rules would be inequitable because the safety valve rule was adopted in the middle of Valor's index year. *See* Valor Reply Comments at 5. We recognize that, because the modifications to the safety valve mechanism apply to the first year of operations only, the limited waiver of section 54.305 does not address Valor's concerns regarding the level of support it will receive in subsequent years. The action we take today, however, strikes a reasonable balance between preserving the policy rationale underlying section 54.305 and providing Valor some relief from the extraordinary costs it incurred in its first year of operations.

[47] *NTCA Reconsideration Order* at para. 18. The Commission does not modify the existing safety valve mechanism as set forth in the *Rural Task Force Order* for support beginning in an acquiring carrier's second year of operation. For the second year of operation, the acquiring carrier will use its first-year costs to determine a new index year expense adjustment, and from its second year onwards will receive 50 percent of the differential between its new index year expense adjustment and subsequent year expense adjustments, as per the current safety valve mechanism. In addition, the total amount of safety valve support available to all eligible study areas will continue be limited to no more than five percent of rural incumbent local exchange carrier support available from the annual high-cost loop fund.

[48] *See* Letter from Gregory Vogt, Counsel for Valor, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45 (filed November 6, 2003) (November 6, 2003 *Ex Parte*).

[49] 47 C.F.R. § 54.305(c).

calculate an adjusted index year expense adjustment would be inappropriate.[50] Excluding "new" costs from the calculation would be a difficult, and most likely an arbitrary means of deriving an index year expense adjustment, and distinguishing such new costs from routine or recurring costs would be a highly subjective process. For these reasons, we find Valor's proposal unacceptable.

17. Finally, we disagree with Valor that a waiver of section 54.305 of the Commission's rules would be consistent with Commission precedent. Valor erroneously relies on case law that predates the Commission's adoption of section 54.305 to support its claim that "capping high-cost loop support for a *limited* time is sufficient to accomplish the goals of [s]ection 54.305."[51] The precedent cited by Valor involved permanent caps that were placed on individual carriers in the context of study area waiver requests to prevent carriers from underestimating universal service support in order to secure Commission approval of such requests. In removing those caps, the Commission concluded that the caps, which had been in place for three years, had "served their purpose by preventing the carriers from underestimating the effect the transfer of exchanges would have on the high-cost loop support mechanism immediately following the transfer."[52] The Commission also found that retaining the permanent caps could have the unintended effect of hindering a carrier's incentives and abilities to upgrade its networks.[53] In contrast, section 54.305 was adopted as a regulatory measure to prevent "gaming" during the period when rural and non-rural carriers would be receiving support based on two distinct support mechanisms.[54] Moreover, the Commission addressed criticisms regarding the effect of section 54.305 limitations on investment incentives when it adopted the safety valve mechanism in the *Rural Task Force Order*.[55]

18. In adopting the safety valve mechanism, the Commission did not limit the amount of time that section 54.305 would apply to acquired lines. To the extent Valor is relying on the *Cap Removal Orders* to support a claim that the limitations set forth in section 54.305 of the Commission's rules should expire three years after a transaction has occurred, we agree with Sprint that such a claim is more appropriately raised in the context of a rulemaking proceeding.[56] We find that the precedent cited by Valor does not provide a basis for granting Valor a waiver of section 54.305 of the Commission's rules three years after consummation of the transfer.

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[50] *See* November 6, 2003 *Ex Parte.*

[51] Petition at 5, *citing Petitions for Waiver and Reconsideration Concerning Section 36.611. 36.612, 61.41(c)(2), 69.605(c), 69.3(e)(11) and the Definition of "Study Area" Contained in Part 36 of the Appendix-Glossary of the Commission's Rules Filed By Copper Valley Telephone et al.,* Memorandum Opinion and Order on Reconsideration, DA 99-1845, 1999 WL 700555 (F.C.C.) (Com. Car. Bur. 1999) (*1999 Cap Removal Order*).

[52] *1999 Cap Removal Order* at para. 9.

[53] *Id*.

[54] *Universal Service First Report and Order,* 12 FCC Rcd at 8942-43, para. 308.

[55] *See supra* note 7.

[56] Petition at 5; Sprint Comments at 4-5.

IV. ORDERING CLAUSE

19. Accordingly, IT IS ORDERED, pursuant to sections 1-4, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and section 1.3 of the Commission's rules, 47 U.S.C. § 1.3, that the petition for waiver of section 54.305 of the Commission's rules, 47 C.F.R. § 54.305, filed by Valor Telecommunications of Texas, L.P., on April 30, 2003, IS DENIED IN PART and GRANTED IN PART to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary