

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
1998 Biennial Regulatory Review –)	CC Docket No. 98-171
Streamlined Contributor Reporting)	
Requirements Associated with Administration)	
of Telecommunications Relay Service, North))	
American Numbering Plan, Local Number)	
Portability, and Universal Service Support)	
Mechanisms)	
)	
Telecommunications Services for Individuals)	CC Docket No. 90-571
with Hearing and Speech Disabilities, and the)	
Americans with Disabilities Act of 1990)	
)	
Administration of the North American)	CC Docket No. 92-237
Numbering Plan and North American)	NSD File No. L-00-72
Numberings Plan Cost Recovery Contribution)	
Factor and Fund Size)	
)	
Number Resource Optimization)	CC Docket No. 99-200
)	
Telephone Number Portability)	CC Docket No. 95-116
)	
Truth-in-Billing and Billing Format)	CC Docket No. 98-170

**REPLY COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION**

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SUMMARY

The universal service contribution mechanism that USTA advocates is a hybrid connections-based mechanism that would assess carriers providing both switched local access and switched interstate transport based on connections, assess carriers only providing switched local access based on connections, and assess carriers providing only switched interstate transport based on revenues. This hybrid connections-based mechanism is currently the best mechanism among proposed options for ensuring that every provider of telecommunications and telecommunications services contributes to universal service support on an equitable and nondiscriminatory basis and for ensuring sufficient universal service funding.

A universal service collections mechanism based solely on interstate revenues cannot ensure sustainability of the universal service fund. Bundling and substitution of services are making distinctions between interstate and intrastate revenues unworkable as the basis for collecting universal service support. Universal service contributions mechanisms based on telephone numbers or physical connections that only assess a flat fee per connection are unworkable because, contrary to Section 254(d) of the Communications Act, they relieve certain carriers of their obligation to contribute to universal service. While there may be no perfect contribution mechanism, the hybrid connections-based mechanism is the best mechanism among those under consideration in this proceeding.

The FCC must adopt a USF contribution mechanism that ensures that all providers of retail interstate telecommunications and telecommunications services, including broadband providers, are required to contribute to universal service and that they contribute in an equitable and nondiscriminatory manner.

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THE UNITED STATES TELECOM ASSOCIATION**

Pursuant to sections 1.415 and 1.419 of the rules of the Federal Communications Commission (FCC),¹ the United States Telecom Association (USTA),² through the undersigned hereby submits its reply to the comments filed in the proceeding docketed above.

¹ 47 U.S.C. §§ 1.415 and 1.419.

² USTA is the nation's oldest trade organization for the local exchange carrier industry. USTA's carrier members provide a full array of voice, data, and video services over wireline and wireless networks.

I. INTRODUCTION

In its Report and Order and Second Further Notice of Proposed Rulemaking,³ the FCC sought comment on a revenues-based contribution proposal and three connections-based contribution proposals with several variations. While a number of commenters supported continued use of a revenues-based mechanism and some supported a telephone number-based mechanism, many others, including USTA, recognized the need for some type of connections-based mechanism. The connections-based mechanism for contributions to the universal service fund supported by USTA is a hybrid mechanism that would assess carriers providing both switched local access and switched interstate transport based on connections, assess carriers providing switched local access only based on connections, and assess carriers providing switched interstate transport only based on revenues. A carrier that provides nonswitched connections either to interstate private lines or switched interstate long distance services would contribute to universal service by multiplying the number of network connections by a full connection unit by the factor assigned for the bandwidth capacity. USTA refers to this as the hybrid connections-based mechanism.⁴ The hybrid connections-based mechanism is a means of ensuring that all participants in the interstate telecommunications market contribute to the federal universal service fund (universal service or USF) in an equitable and nondiscriminatory manner

³ *Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990; Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size; Number Resource Optimization; Telephone Number Portability; Truth-in-Billing and Billing Format, Report and Order and Second Further Notice of Proposed Rulemaking*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (rel. Dec. 13, 2002) (Second Further Notice).

⁴ See USTA Comments at 4. USTA advocates the second variation of the connections-based mechanism set forth in the Second Further Notice at ¶ 92.

as required by section 254(d) of the Telecommunications Act of 1996 (the 1996 Act).⁵ In the telecommunications market of the twenty-first century, voice telephony is not the sole domain of incumbent local exchange carriers. More and more Americans use their cell phones as a substitute for their traditional wireline telephone. The cable industry is adding new voice and broadband customers each month. Internet protocol (IP) telephony is commercially available. As the providers of voice and data services continue to diversify, so too must the pool of contributors to universal service. USF contributions by a broad, diverse group of telecommunications and telecommunications services providers works best when administered in accordance with this hybrid connections-based mechanism because it minimizes the contribution required of each contributor, spreads the responsibility to support universal service equitably and ensures that the federal universal service support mechanism is both sustainable and sufficient into the future.

II. DISCUSSION

A. The Hybrid Connections-Based Mechanism Would Assess Carriers Providing Both Access and Transport Based on Connections and Carriers Providing Transport Only Based on Revenues.

All carriers do not offer both switched local access and switched interstate transport nor do they always capture a customer for the provision of both access and transport when they offer both services. As a result, there is a need for the bases of universal service contributions to be split between connections and revenues. The hybrid connections-based mechanism assesses connections-based contributions on three components: the number of connections to the network,

⁵ Section 254(d) provides, "Every telecommunications carriers that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service." 47 U.S.C. § 254(d).

a connection unit that is assigned a monetary value,⁶ and the multiple of units (or a factor) assigned to the service provided (*i.e.*, based on the bandwidth capacity of the service). A carrier providing both switched local service (access) and switched long distance service (transport) to an end-user would contribute to universal service by multiplying the number of network connections by a full connection unit by the factor assigned for the bandwidth capacity of the service purchased. A carrier providing only access to an end-user would contribute to universal service by multiplying the number of network connections by one half of a full connection unit by the factor assigned for the bandwidth capacity of the service purchased. A carrier providing only transport to an end-user would contribute to universal service based on a percentage of its interstate retail revenues. Likewise, a carrier providing occasional-use interstate telecommunications services (e.g., dial-around long distance service, prepaid calling card long distance service, or long distance operator service) would contribute to universal service based on a percentage of its interstate retail revenues. Finally, a carrier providing non-switched connections either to interstate private line services or to switched long distance services would contribute to universal service by multiplying the number of network connections by a full connection unit by the factor assigned for the bandwidth capacity of the service purchased.⁷ As Qwest Communications International Inc. (Qwest) points out, the benefit of this hybrid connections-based proposal is that “it would shift the current contribution methodology to a connection basis for all end user access connections and presubscribed long distance, where bundling is most likely to occur.”⁸ In addition, Qwest says, “instead of adopting broad exemptions from contribution requirements, the proposal would continue to collect contributions

⁶ USTA is not advocating, at this time, any particular monetary value that should be assigned for a contribution unit.

⁷ USTA Comments at 7-9.

⁸ Qwest comments at 7.

on a revenue basis for those services that would be most difficult to assess on a connection basis.

In this way, the proposal clearly would satisfy the requirements of section 254(d).”⁹

B. A Revenues-Based Mechanism will not Ensure Sustainability of the Federal Universal Service Fund.

USTA advocates allowing carriers that provide only interstate long distance service to contribute to universal service based on revenues because this resolves the problem that interexchange carriers (IXCs) contend they have in identifying information as to the number and capacity of connections that IXCs’ end-user customers have to the network while continuing to provide an equitable and nondiscriminatory basis on which contributions to universal service will be assessed on all providers of interstate telecommunications services. Some commenters have suggested that if a revenues-based mechanism is needed to complement a connections-based mechanism, then a connections-based mechanism should not be necessary at all.¹⁰ Such suggestions ignore that in the highly competitive and ever-changing telecommunications market of the twenty-first century, a revenue-based contribution mechanism that conforms to Section 254 is not sustainable. Since 1997, contributions have been assessed on carriers as a percentage of their revenues from their retail interstate telecommunications services. In recent testimony before the Senate Subcommittee on Communications, Commissioner Kathleen Abernathy noted several trends that have combined to put pressure on the current revenues-based USF contribution mechanism. First, Commissioner Abernathy noted that long distance revenues have been flat since about 1997 as a result of price competition and substitution of wireless services and email. Because universal service contributions are assessed only on interstate retail revenues today, this has not allowed for an increase in the revenue base, which has caused the USF

⁹ *Id.*

¹⁰ *See, e.g.*, Supplemental Comments of National Association of State Utility Consumer Advocates at 23.

contribution factor to rise steadily as demand for universal service support has increased. Second, the Commissioner noted the prevalence of bundled service plans. Popular flat-rate, all-distance pricing plans for voice services are growing. Third, she noted that many carriers offer business customers bundles that include local and long distance voice services, Internet access, and customer premises equipment. These bundles of services are rendering distinctions between interstate and intrastate telecommunications services meaningless and unworkable as a means of collecting USF support.¹¹ Another trend putting pressure on the current revenues-based USF mechanism is the growth of voice-over-Internet protocol services and other services that are sometimes considered information rather than telecommunications services which, as such, are not assessed USF contributions. As bundling and substitution of services continue, it will be increasingly difficult to isolate interstate revenues, and the pressure on universal service will continue to build.

C. The Hybrid Connections-Based Mechanism is the Best Means of Ensuring Equitable and Nondiscriminatory Assessments on all Providers of Telecommunications Services and Sustainability of the Universal Service Fund.

AT&T Corp. (AT&T), Sprint Corporation (Sprint), and WorldCom, Inc. (WorldCom) argue that a hybrid connections-based mechanism is discriminatory because it creates an artificial competitive advantage in favor of vertically integrated carriers – carriers that provide both access and transport as a bundled package.¹² They argue that vertically integrated carriers would be assessed universal service contributions on a flat-rate, non-traffic sensitive basis while

¹¹ Kathleen Q. Abernathy, Written Statement of Kathleen Q. Abernathy, Commissioner, Federal Communications Commission, on Preserving and Advancing Universal Service Before the United States Senate Committee on Commerce, Science and Transportation Subcommittee on Communications (April 2, 2003) at 8.

¹² AT& T Comments at 53; Sprint Comments at 15; WorldCom Comments at 40. *See also* Comments of Choteau Telephone Company, H&B Telephone Communications, Inc.,

the non-vertically integrated carriers – those providing transport only – would be assessed on a volume-sensitive basis. This, they say, would give high-volume, long-distance users an incentive to use a carrier that provides both access and transport rather than to procure transport from a non-vertically integrated provider because such customers could determine the break-even point between the connections-based charge applied by the carrier providing both access and transport and the revenues-based charge applied by the carrier providing transport only.¹³

While there may be some validity to this argument, non-vertically integrated providers would likely not suffer to the degree some commenters would have us believe. More and more, wireline services are becoming less time and distance-sensitive. Companies such as Verizon¹⁴ and MCI¹⁵ are offering packages that include local and long distance service for a single price. There is nothing in the hybrid connections-based mechanism to stop other companies from following suit and offering local and long distance service as part of a package.

Among the alternatives, the hybrid connections-based mechanism is preferable. As discussed above, an interstate revenues-based contribution mechanism cannot ensure the long term sustainability of the universal service fund.¹⁶ A mechanism that bases contributions on telephone numbers is unworkable because interexchange carriers do not have assigned telephone numbers for their interstate toll services and; therefore, they would not contribute equitably to universal service if a contribution mechanism based on telephone numbers were adopted.¹⁷ A

Moundridge Telephone Company, Inc., Pine Telephone Company, Inc., Pioneer Telephone Associations, Inc., and Totah Telephone Company, Inc., Twin Valley Telephone, Inc. at 19.

¹³ See also Comments of The American Public Communications Council at 23 (arguing that the hybrid connections-based mechanism would drive pay phone service providers and other low-volume users of long distance to use separate providers when their preference might be to use a single provider for both access and transport).

¹⁴ See http://www.verizon.com/foryourhome/sas/res_cat_VZPackages.asp.

¹⁵ See <http://www.mci.com>.

¹⁶ See also USTA Comments at 3.

¹⁷ See *Id.* at 5.

connections-based mechanism that would assess a flat fee on carriers only having physical connections relieves IXC's of the obligation to contribute to universal service.¹⁸ A variation on the hybrid connections-based mechanism could be to assess transport-only providers on a flat-rate, connections basis, rather than on a revenue basis. This variation, however, has been criticized by IXC's who say that it would be difficult to implement because IXC's do not have access to necessary information regarding the number and capacity of the connections their customers have to the network and that they cannot easily obtain this information from local exchange carriers. Of the alternatives available, then, the hybrid connections-based mechanism is the best for assessing USF contributions on all providers of interstate telecommunications services on an equitable and nondiscriminatory basis as required by section 254(d) of the 1996 Act and for ensuring sustainability of universal service.

D. Contributions Based on the Price Elasticity of Carriers' Interstate Telecommunications Services is Inappropriate

Nextel Communications, Inc. (Nextel) argues that the demand for wireless service is highly elastic while the demand for wireline service is inelastic and that the least distortional USF contributions policy is one that has the most inelastic services pay the greatest portion of funding.¹⁹ Similarly, j2 Global Communications, Inc. (j2) argues that any change to the current system should be representative of the principles of Ramsey pricing.²⁰ Nextel and j2's premise is incorrect: Wireline service is not inelastic. More and more wireline customers are substituting wireless for wireline service. Almost one in five Americans use their cell phone as their primary

¹⁸ *Id.*

¹⁹ *See also* Nextel Comments at 19-21.

²⁰ *See* j2 Comments at 7. The theory behind Ramsey pricing is that prices to different groups are set at varying levels above incremental costs depending on the demand elasticities of the group. Those groups with an inelastic demand are charged higher prices than those with an elastic demand.

telephone.²¹ Significantly more Americans are expected to follow suit in the next five to ten years.²² Non-switched broadband service is widely available to end users from local exchange carriers and cable service providers, and it supports voice telephony service offered by service providers unaffiliated with the broadband provider. For example, Vonage Digital Voice, a company that markets itself as “the Broadband Phone Company,” offers unlimited local, regional, and domestic long distance service plus service to Canada for \$39.99 a month to customers that have preexisting broadband Internet access.²³ The cable industry is adding 100,000 new voice telephony customers every month.²⁴ Cox Communications (Cox), a major cable service multi-system operator is now the twelfth-largest “telephone company” in the nation.²⁵ Cox prices cable telephony at ten percent below the local exchange provider in many locales. In Omaha, Nebraska, for example, Cox charges \$15.89 for the first residential line while the local exchange provider charges \$18.15.²⁶ Price elasticity for telephone company-provided wireline voice service might be lower than it is for wireless carriers, but any difference in elasticity is fast disappearing as the wireline voice market is increasingly subject to vigorous competition, especially from wireless providers. Furthermore, to the extent there are differences in elasticity, they are accounted for by the hybrid connections-based contribution mechanism. Once a wireless provider loses a customer, the wireless provider loses the connection and the basis for a universal service assessment. To the extent that a wireless carrier’s contribution

²¹ Michelle Kessler, *18% See Cell Phones as Their Main Phones*, USA Today (Jan. 31, 2002), at <http://www.usatoday.com/money/tech/2002-02-01-cell-phones.htm>.

²² *Id.*

²³ See www.vonage.com.

²⁴ Reinhardt Krause, *Cable’s Program Extends Beyond TV, Voice Via Cable Gains, AT&T Broadband, Cox Have Taken Small Share Away From Local Bells*, Investor’s Business Daily, May 16, 2002, at 6. AT&T Broadband and Cox are reported to be signing up 1.25 million new telephone customers annually.

²⁵ Jane Black, *Cox: Flying High – and Solo?*, BusinessWeek Online, (Jan. 31, 2002), at http://www.businessweek.com/bwdaily/dnflash/jan2002/nf20020131_3093.htm.

obligation varies with the number of connections it gains or loses, any difference in price elasticity between wireless service and wireline service is irrelevant since the wireless carrier's universal service obligation varies in relationship to changes in the number of its connections.

Applying the principles of Ramsey pricing to a universal service contribution mechanism is inappropriate. The adoption of a contribution mechanism pursuant to Section 254(d) has absolutely nothing to do with the concept of loading more costs on consumers who need a service and have fewer alternatives to that service (Ramsey pricing). The task of adopting a universal service contribution mechanism must be about the adoption of a fair and equitable distribution of the responsibilities imposed by Section 254(d) on all providers of interstate telecommunications services. Further, USTA submits that all providers of interstate telecommunications, including all providers of broadband, should also contribute to the support of universal service. As the National Rural Telecom Association (NRTA) and the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) point out, the “[f]ailure to assess all facilities-based broadband Internet access providers perpetuates an unwarranted competitive disadvantage for wireline providers that is already distorting the marketplace.”²⁷

E. The Hybrid Connections-Based Mechanism Does Not Require IXCs to Incur Additional Billing Costs

AT&T, Sprint, and WorldCom complain that under the hybrid connections-based mechanism, the non-vertically integrated IXC must bear the costs of billing zero- and low-volume customers that it would not normally bill on a monthly basis.²⁸ They say that the long-distance provider would have to generate a monthly bill either incurring an additional billing

²⁶ See <http://www.cox.com/Omaha.Telephone/Telephone%20Savings%20Calculator.asp>.

²⁷ Comments of NRTA and OPASTCO at 12.

²⁸ AT&T Comments at 47; Sprint Comments at 13; WorldCom Comments at 41.

expense solely attributable to universal service or bill customers in a multi-month bill, which creates customer confusion and the appearance of high line charges. Nothing in the hybrid connections-based mechanism, however, dictates when carriers bill their customers. Under the hybrid connections-based mechanism, IXCs that only provide transport contribute to universal service based on their receipt of applicable revenues, whenever that may be.

III. CONCLUSION

USTA urges the FCC to adopt the hybrid connections-based mechanism, which assesses USF contributions based on carriers' provision of access and transport services and allows contributions to be made on a revenues-basis in limited circumstances. USTA maintains that this mechanism is the best means for sustaining the universal service fund and ensuring adherence to the statutory requirement that USF contributions be assessed in an equitable and nondiscriminatory manner on all carriers providing interstate telecommunications services.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that a copy of Reply Comments of the United States Telecom Association was served on this 18th day of April 2003 by electronic delivery or first class, postage prepaid mail to the persons listed below.



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