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BEFORE THE  
Federal Communications Commission  
WASHINGTON, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Changes to the Board of Directors	)	CC Docket No. 97-21
of the National Exchange Carrier	)	
Association, Inc.	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	

COMMENTS OF THE  
CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

The Cellular Telecommunications Industry Association ("CTIA")<sup>1</sup> respectfully submits its comments in support of the Petition for Reconsideration filed in the above-captioned proceeding<sup>2</sup> by Comcast Cellular Communications and Vanguard Cellular Systems, Inc. ("Petitioners").

The Petitioners ask the Commission to reconsider the Report and Order and adopt annual assessment cycles for universal service contribution factors, rather than

<sup>1</sup> CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers Commercial Mobile Radio Service ("CMRS") providers, and includes forty-eight of the fifty largest cellular, broadband PCS, and mobile satellite providers. CTIA represents more broadband PCS carriers and more cellular carriers than any other trade association.

<sup>2</sup> See In the Matters of Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service, Report and Order and Second Order on Reconsideration, CC Docket No. 97-12, CC Docket No. 96-45, FCC 97-253 (released July 18, 1997) ("Report and Order").

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adjusting contribution factors on a quarterly basis.<sup>3</sup> The Petitioners also request that the Commission provide adequate notice and guidance on the appropriate methodologies and assumptions that CMRS providers should use to complete the Universal Service Worksheet.<sup>4</sup> CTIA supports the Petitioners' requests.

**I. THE COMMISSION SHOULD CONSIDER INDUSTRY BUSINESS PRACTICES IN THE ASSESSMENT OF UNIVERSAL SERVICE FUND CONTRIBUTION FACTORS.**

Specifically, CTIA agrees that the Commission's assessment and adjustment of universal service fund contribution factors must provide certainty and also should take into account the wireless industry's practice of using annual cycles for business planning, budgeting, and forecasting. As the Petitioners correctly note, business plans and financial forecasts generally are developed a year in advance. The short notice of the first quarterly payment and subsequent quarterly adjustments does not provide carriers with adequate time to plan effectively and budget sufficient revenues to meet their universal service obligations, particularly if the projected demands for universal service funding fluctuates dramatically from

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<sup>3</sup> See Petition for Reconsideration of Comcast Cellular Communications, Inc. and Vanguard Cellular Systems, Inc. ("Petition"), In the Matter of Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service, CC Docket No. 97-12, CC Docket No. 96-45, (filed September 2, 1997) at 2, 3-4.

<sup>4</sup> Petition at 2, 9-10.

quarter to quarter. By mandating quarterly adjustments, the Commission transforms the contribution factor into "a moving target" for many CMRS providers that structure their financial and business plans on an annual basis. The unintended consequence of using quarterly adjustments is substantial uncertainty for CMRS providers as they attempt to predict their universal service obligations and properly recover these charges from their customers.

**II. THE COMMISSION MUST PROVIDE CMRS PROVIDERS WITH CLARIFICATION AND GUIDANCE ON THE UNIVERSAL SERVICE WORKSHEET.**

CTIA also supports the Petitioners' request for reasonable notice and regulatory guidance on the appropriate methodologies and assumptions that CMRS providers should use to complete the Universal Service Worksheet. The Universal Service Worksheet raises several critical and unique issues for CMRS providers.<sup>5</sup> While CTIA has sought clarification, the Commission has yet to provide a written response to CMRS providers on these issues. Absent the Commission's clarification of the worksheet requirements, there is a substantial likelihood that CMRS providers will not report their revenues to the Commission in a consistent manner. Despite good faith efforts to comply with the worksheet

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<sup>5</sup> See Letter from Randall S. Coleman, Vice President for Regulatory Policy and Law, CTIA, to Ms. Jeanine Poltroniere, Associate Chief, Wireless Telecommunications Bureau (August 21, 1997) ("CTIA Letter of Clarification"). In the CTIA Letter of Clarification, CTIA requested clarification and guidance on nine critical issues raised by the Universal Service Worksheet.

requirements, CMRS providers could substantially over-report or under-report their revenues in certain categories identified in the worksheet. Given the magnitude of carriers' contributions, these variations in revenue reporting could have significant competitive consequences by raising (or lowering) a carrier's rates vis-à-vis its competitors.

The Commission has instructed all reporting entities to rely on good faith estimates if they do not possess actual data on interstate/intrastate revenues.<sup>6</sup> While CTIA appreciates the Commission's willingness to be flexible in light of the significant uncertainties CMRS carriers must resolve on a good faith basis to complete the Universal Service Worksheet, CTIA urges the Commission to provide specific guidance on the CMRS issues raised by the Universal Service Worksheet. The Commission's formal view on these issues is essential so that the assumptions and methodologies used in making good faith estimates are consistent with the Commission's expectations of reliable and accurate data for establishing the universal service program. CTIA agrees with the Petitioners that the Commission must respond to the critical issues of methodology raised in CTIA's Letter of Clarification in

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<sup>6</sup> See In the Matters of Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service, Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, CC Docket No. 97-12, CC Docket No. 96-45, FCC 97-292 (released August 15, 1997) ¶21.

order to ensure uniformity in completing the worksheet and ultimate assessments.<sup>7</sup> As the Petitioners correctly note, reliance upon different methodologies, even in good faith, will create inequities in contributions.<sup>8</sup> Not only will it be extremely difficult and time-consuming for the Commission to resolve such inequities after the fact, as noted above, they can have competitive consequences in the CMRS marketplace.

The Commission has stated that failure to comply with the worksheet requirements could result in penalties to the offending entity.<sup>9</sup> With the substantial uncertainty surrounding the appropriate assumptions and methodologies and absent specific guidance from the Commission, CMRS providers should not be penalized for good faith efforts in completing the Universal Service Worksheet. Accordingly, CTIA supports the Petitioners' request that the Commission confirm what the Public Notice appears to state; that all worksheet data furnished in good faith will not subject the reporting entity to non-compliance penalties. CTIA also requests that the Commission provide CMRS providers with an adequate opportunity to amend their worksheets subsequent to the Commission's response.

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<sup>7</sup> Petition at 10.

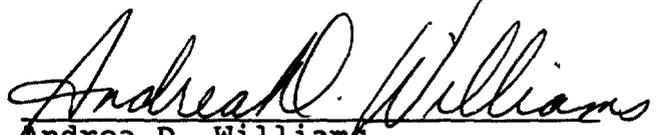
<sup>8</sup> Petition at 10

<sup>9</sup> See Public Notice, "FCC Announces Non-substantive Changes to Universal Service Worksheet Instructions Released on August 4, 1997," DA No. 97-1671A (released August 11, 1997).

**CONCLUSION**

For the reasons stated above, CTIA supports the Petitioners' requests and urges the Commission to respond promptly to the critical and unique CMRS-related issues raised in CTIA's Letter of Clarification.

Respectfully submitted,



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