

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
FCC Public Notice, Division Announces Release ) CC Docket Nos. 97-21, 96-45  
of Revised Universal Service Worksheet, FCC ) DA No. 98-1519  
Form 457 )

**REPLY COMMENTS OF  
ARCH COMMUNICATIONS GROUP, INC.**

Pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, Arch Communications Group, Inc. ("Arch"), by its attorneys, submits the following reply comments regarding the comments filed by the United States Telephone Association ("USTA") and MCI WorldCom, Inc. ("MCI") in the above-captioned proceeding. Arch concurs with USTA and MCI that the Commission should grant the petitions for reconsideration filed by Metrocall, Inc. ("Metrocall") and the Personal Communications Industry Association ("PCIA").

Metrocall and PCIA seek reconsideration of the Common Carrier Bureau's Accounting Policy Division's ("Division") decision to add new Line 48 to the revised Universal Service Worksheet, FCC Form 457. New Line 48 requires contributors to "report the revenues derived from charges assessed on end-users to recover contributions to state or federal universal service support mechanisms."<sup>1</sup> These revenues are then included in the base used to calculate a carrier's universal service contribution obliga-

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<sup>1</sup> FCC Public Notice, *Division Announces Release of Revised Universal Service Worksheet, FCC Form 457, CC Docket Nos. 97-21, 96-45, DA 98-1519* (July 31, 1998).

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tions. Section 54.709(a) of the Commission's rules states that contributions to the universal service support mechanisms are to be based solely on a "contributors' end-user telecommunications revenues."<sup>2</sup> The revenues a carrier derives from end-user universal service pass-through payments do not, however, meet the rule's definition. Thus, as petitioners and commenters point out, the addition of new Line 48 expands the revenue base upon which universal service obligations are calculated. As such, the new line constitutes a substantive rule change which was not subject to prior public notice and comment in violation of the Administrative Procedure Act ("APA"), 5 U.S.C. § 551, *et. seq.*<sup>3</sup> In other words, as USTA points out, the addition of Line 48 "constitutes a change in public policy affecting universal service that administratively requires an opportunity for interested parties to provide their analysis of the anticipated effects of the proposed policy."<sup>4</sup> Further, inclusion at Line 48 of amounts collected by contributors to meet their funding obligations "results in an improper and double recovery of universal service funds."<sup>5</sup>

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<sup>2</sup> 47 C.F.R. § 54.709(a); *see also* Metrocall Petition at pp. 2-3.

<sup>3</sup> *See* Metrocall Petition at pp. 4-5, PCIA Petition at p. 2; USTA Comments at p. 2, MCI Comments at p. 2. Metrocall also makes a compelling argument that the adoption of Line 48 by the Division exceeds its delegated authority under the APA. Metrocall Petition at pp. 5-6.

<sup>4</sup> USTA Comments at p. 2.

<sup>5</sup> USTA Comments pp. 1-2; PCIA Petition at pp. 2-3.

For the reasons stated above, Arch urges the Commission to grant the petitions for reconsideration filed by Metrocall and PCIA.

Respectfully submitted,

**ARCH COMMUNICATIONS GROUP, INC.**

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October 23, 1998

**CERTIFICATE OF SERVICE**

I, Jo-Ann G. Monroe, hereby certify that on this 23rd day of October 1998, copies of the foregoing Reply Comments of Arch Communications Group, Inc. were served on the following by U.S. first-class, postage-prepaid mail:

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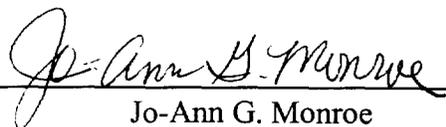
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