

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

In the Matter of )  
)  
1998 Biennial Regulatory Review X )  
Streamlined Contributor Reporting ) CC Docket No. 98-171  
Requirements Associated with Administration )  
of Telecommunications Relay Services, North )  
American Numbering Plan, Local Number )  
Portability, and Universal Service Support )  
Mechanisms )

**COMMENTS  
OF  
THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION, INC.**

The Personal Communications Industry Association, Inc. (APCIA),<sup>1</sup> through counsel and pursuant to Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, hereby respectfully submits its Comments in response to the Notice of Proposed Rulemaking (ANPRM) and Notice of Inquiry (ANOI) in the above-captioned proceeding.<sup>2</sup>

**I. BACKGROUND**

In this proceeding, the Commission seeks to combine various forms completed by telecommunications carriers into a single form. In addition to a combined form, the Commission's

---

<sup>1</sup>PCIA is an international trade association representing the interests of both commercial and private users and businesses involved in all facets of the personal communications industry. PCIA's Federation of Councils include: the Paging and Messaging Alliance, the PCS Alliance, the Wireless Broadband Alliance, the Mobile Wireless Communications Alliance, the Site Owners and Managers Association, and the Private System Users Alliance. In addition, PCIA is the FCC-appointed frequency coordinator for the Business Radio Service, the 800 and 900 MHz Business Pools, 800 MHz General Category frequencies, and for the 929 MHz paging frequencies.

<sup>2</sup>FCC 98-233, released September 25, 1998.

proposed major changes include proposals to: (1) adopt a single location for filing contribution data; (2) encourage electronic filing of worksheets; (3) revise certain minimum contribution requirements; and (4) utilize a single revenue basis for the various funds. In the NOI portion of this proceeding, the Commission seeks comments on establishing a single point of contact for billing and collection for the various funds.

## **II. COMMENTS**

### **1. The Commission's Notice Of Proposed Rulemaking**

The completion of the various carrier forms X Forms 431, 457, 496 and a number portability form yet to be defined X is one of the most onerous tasks facing wireless carriers. The varying times during the year in which each form must be filed, the various contribution standards and the differing regulations regarding which entities must complete each form has resulted in countless hours of reading directions, telephoning Commission personnel and consulting with legal representatives and trade association personnel, to attempt to discern appropriate guidelines, and in general has increased frustration throughout the industry. Regardless of the wisdom of carrier contributions to the various funds, the confusion generated by the various forms has stymied the legitimate efforts by carriers to honestly and completely respond to the questions posed.

The difficulty in preparing and filing numerous forms has been particularly troublesome for small carriers, especially small Specialized Mobile Radio (ASMR≡) and paging carriers that were previously classified as Private Radio Systems. Small carriers do not have the staff resources to spend significant amounts of time deciphering the sometime confusing questions on the forms and/or to keep track of the numerous filing deadlines. The form requirements have placed an enormous regulatory burden on such operators. For the first time, these carriers have been required to comply

with a myriad of forms that are not only difficult to understand for companies without the resources to have full-time accounting personnel, but also that have in some cases led to carrier contributions in excess of the revenue generated by the carrier's interconnect business.

Specifically, most small SMR operators are only able to carry a small amount of interconnect traffic because of limited available spectrum. Yet these carriers must contribute to the federal universal service fund based upon the total amount of their telecommunications revenue, not just the interconnect portion. As a result, numerous small SMR operators have actually been forced to pay into the universal service fund an amount that is greater than their interconnect revenue. Such operators have in some cases elected to eliminate interconnect as a service option, which ultimately reduces competition in the marketplace and is a disservice to the public.

In light of the burdens imposed by the current multiplicity of forms and filing deadlines, PCIA wholeheartedly supports the Commission's proposals in this proceeding. The concept of combining the forms and standardizing the filing dates will significantly reduce the burden on small carriers, as well as for larger carriers. Simplifying these reporting obligations certainly is consistent with the objectives of Section 11 of the Communications Act of 1934, as amended.<sup>3</sup>

---

<sup>3</sup>47 U.S.C. §161.

While PCIA commends the Commission's objectives in this proceeding, it is troubled by the fact that the proposed new Form 499 (Line 215) will require information on surcharge revenues collected by carriers in order to meet their universal service contribution obligations and then will include these revenues in the carrier's contribution base.<sup>4</sup> This information currently is required by Line 48 of Form 457. As PCIA has explained in two previous petitions filed with the Commission, including the surcharge amounts in the contribution base leads to an impermissible double recovery and a significant increase in the quarterly contribution factors adopted by the Commission.<sup>5</sup>

PCIA has repeatedly objected to including the amounts collected by means of a surcharge to meet universal service obligations in the contribution base as inconsistent with Section 254 of the Communications Act of 1934, as amended,<sup>6</sup> and the Commission's universal service scheme. PCIA has been joined by a number of other commenters in its objections. Metrocall, Inc. (AMetrocall) also filed a petition for reconsideration of the addition of line 48 to Form 457 and the inclusion of the line 48 amounts in the filer's contribution base.<sup>7</sup> In addition, every party filing in response to the PCIA and Metrocall petitions for reconsideration of the recent Form 457 change agreed that the

---

<sup>4</sup>See, NPRM & 22.

<sup>5</sup>See, Personal Communications Industry Association Petition for Reconsideration, CC Doc. Nos. 97-21, 96-45 (filed Aug. 31, 1998); Personal Communications Industry Association Petition for Reconsideration, CC Doc. No. 96-45 (filed July 17, 1997). See also, Reply of the Personal Communications Industry Association on Petitions for Reconsideration, CC Doc. No. 96-45 (filed Sept. 3, 1997).

<sup>6</sup>47 U.S.C. § 254.

<sup>7</sup>Metrocall, Inc. Petition for Reconsideration, CC Doc. Nos. 97-21, 96-45 (filed Aug. 31, 1998).

Commission=s inclusion of the surcharge receipts in the contribution base is inconsistent with the statutory scheme and contrary to the public interest.<sup>8</sup>

---

<sup>8</sup>GTE Comments in Support of Petitions for Reconsideration, CC Doc. Nos. 97-21, 96-45 (filed Sept. 10, 1998); Comments of MCI WorldCom, Inc. (AMCI WorldCom≡), CC Doc. Nos. 97-21, 96-45 (filed October 13, 1998); Comments of the United States Telephone Association (AUSTA≡), CC Doc. Nos. 97-21, 96-45 (filed Oct. 13, 1998); Reply Comments of Arch Communications Group, Inc. (AArch≡), CC Doc. Nos. 97-21, 96-45 (filed Oct. 23, 1998)(AArch Reply Comments≡); Reply Comments of RSL COM USA, Inc., CC Doc. Nos. 97-21, 96-45 (filed Oct. 23, 1998).

The commenting parties concurred that including the amounts collected from end users to meet universal service obligations in the contribution base improperly increases the quarterly contribution factors nominally adopted by the Commission, the amounts to be paid by individual carriers, and the amounts to be recouped from end users. In addition, Arch points out that carrier revenues derived from universal service pass-through payments do not meet the definition of Acontributors= end-user telecommunications revenues≡ contained in Section 54.709(a) of the Commission=s Rules,<sup>9</sup> and thus may not be included in the contribution base without a substantive rulemaking.<sup>10</sup> MCI WorldCom and USTA both raise serious concerns that the Commission=s approach results in discriminatory treatment among carriers and is not competitively neutral.<sup>11</sup>

To date, the Commission has failed to provide any justification for including surcharge receipts in the contribution base. The NPRM likewise is silent on any public interest justification for this action, its consistency with the Congressional objectives, the statutory requirements or the Commission=s own universal service rules, or a recognition of the spiraling universal service obligations imposed on carriers and their customers. As the record before the Commission in CC Docket No. 96-45 fully demonstrates, including amounts collected from customers in order to meet carrier universal service obligations is not consistent with the public interest. The Commission

---

<sup>9</sup>47 C.F.R. § 54.709(a).

<sup>10</sup>Arch Reply Comments at 2.

<sup>11</sup>MCI WorldCom Comments at 2; USTA Comments at 2-3.

accordingly should promptly cease its practice of requiring carriers to include universal service pass-through amounts in their contribution base.

PCIA does not object to the disclosure of revenue collected by carriers for these pass-through costs in general. Such action would be consistent with the Commission's intention in CC Docket No. 98-170 to ensure that customers' bills provide complete and accurate information.<sup>12</sup> However, PCIA does object to the inclusion of pass-through costs in the contribution base.

With the exception of Line 215 on the proposed combined form, PCIA does not have significant objections to the rest of the Commission's proposal. Each of the proposals will benefit carriers and reduce significantly the burdens of completing the forms on an individual basis. A single revenue basis, elimination of the minimum contributions, a uniform schedule and location for filing as well as an ability to use the new form for designation of an agent for service are all worthwhile proposals.

## 2. The Commission's Notice Of Inquiry

PCIA agrees with the Commission's goal to further reduce carrier regulatory burdens, as proposed in the NOI portion of this proceeding. PCIA supports the Commission's proposal to create a single billing and collection agent for the multiple funds. PCIA does not believe that there would be any increase in fraud as a result of consolidating the billing function. In fact, the level of compliance should be increased, as carriers will likely be less prone accidentally to miss filing dates

---

<sup>12</sup>Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 98-232, released September 17, 1998.

and/or mis-report revenues. PCIA supports the Commission's continued effort to streamline its system and clarify the carrier requirements.

In paragraph 55 of the NPRM, the Commission proposes to delegate authority to the Common Carrier Bureau Chief to make future changes to the worksheet. While PCIA supports delegating such authority, PCIA strongly believes that the Wireless Telecommunications Bureau must have a more significant role regarding the creation and implementation of new worksheets. In the past, PCIA has held numerous discussions with Common Carrier Bureau personnel in an effort to assist the Bureau staff with its responsibilities. However, such efforts, through no fault of the CCB staff, have not always been successful. For example, there remain many small carriers and resellers that have no knowledge of their reporting obligations.<sup>13</sup> In other cases, the worksheets were extremely unclear as to which SMR operators were required to file.<sup>14</sup> PCIA sincerely believes that

---

<sup>13</sup>Typically, small carriers do not have personnel dedicated to the review of the Commission's public pronouncements. Furthermore, in cases where small carriers have knowledge of FCC requirements, many of the documents in the proceeding have been very difficult for small carriers to understand.

<sup>14</sup>For example, a SMR operator classified as PMRS (because it is not interconnected with the PSTN) located in Los Angeles, California would not have to file a federal universal service form, because its signal does not cross state lines. In contrast, a SMR operator classified as PMRS located in Washington, DC would have to file a federal universal service form, because the station's signal crosses state lines. This distinction is unclear in the worksheet.

structured coordination between the Common Carrier Bureau and the Wireless Telecommunications Bureau will significantly aid the level of compliance and accuracy for all wireless carriers.

### **III. CONCLUSION**

WHEREFORE, the premises considered, it is respectfully requested that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

PERSONAL COMMUNICATIONS  
INDUSTRY ASSOCIATION

By: Mark Golden, Senior Vice President  
Industry Affairs

500 Montgomery Street, Suite 700  
Alexandria, Virginia 22314  
(703) 739-0300

#### OF COUNSEL:

Alan S. Tilles, Esquire  
David E. Weisman, Esquire  
Shulman, Rogers, Gandal, Pordy & Ecker, P.A.  
11921 Rockville Pike, Third Floor  
Rockville, Maryland 20852-2743  
(301) 230-5200

Date: October 30, 1998