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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
1998 Biennial Regulatory Review --	)	
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	)	
	)	

REPORT AND ORDER

Adopted: July 14, 1999 **Released:** July 14, 1999

By the Commission: Commissioner Furchtgott-Roth issuing a statement.

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I. INTRODUCTION

1. In this Report and Order, we simplify the Commission's filing requirements for communications service providers by replacing several different -- but largely duplicative -- forms with one consolidated form, the Telecommunications Reporting Worksheet. These forms are currently filed at different times and in multiple locations. At present, telecommunications carriers and certain telecommunications service providers must comply with separate reporting requirements for their contributions to finance interstate Telecommunications Relay Services Fund, federal universal service support mechanisms, administration of the North American Numbering Plan (NANP), and the shared costs of long-term local number portability.[1] In each case, a "worksheet" was created to enable the administrators, and in some cases, carriers, to calculate contributions to these mechanisms. We act here to harmonize these multiple contributor reporting requirements and to minimize the administrative burdens for carriers and service providers. Thus, in lieu of making four separate filings in the spring of 2000, reporting carriers will simply file one copy of the new worksheet on April 1, 2000.[2] We emphasize that we are not imposing new reporting requirements in this proceeding; rather, our goal is to simplify the requirements to the greatest extent possible while continuing to ensure the efficient administration of the support and cost recovery mechanisms.

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[1] *See* 47 U.S.C. §§ 151, 225, 251, 254. The Communications Act of 1934, as amended, (the Communications Act or the Act) is codified at 47 U.S.C. §§ 151 *et seq.*

[2] The Common Carrier Bureau will release, by Public Notice, the worksheet and instructions to be used for the September 1999 universal service filing. *See, infra*, ¶ 32.

2. In addition to adopting the consolidated Telecommunications Reporting Worksheet, we make several other modifications designed to rationalize our requirements and to reduce carrier confusion. In particular, we take the following measures: 1) adopt a uniform schedule and a single filing location for the contribution data;[3] 2) encourage electronic filing of worksheets;[4] 3) alter the revenue basis for assessing contributions to the TRS Fund and the NANP administration cost recovery mechanism to be consistent with the basis used for contributions to the universal service and local number portability mechanisms;[5] and 4) reduce the minimum contribution requirements of the TRS Fund and the NANP administration cost recovery mechanism.[6] We also reduce carrier filing burdens by adopting our proposal to allow carriers to use the Telecommunications Reporting Worksheet to designate agents for service of process pursuant to section 413 of the Communications Act.[7] These modifications will facilitate the use of a consolidated reporting process and simplify the burdens on carriers and service providers. At the same time, these changes will not significantly shift the burden of contribution from one segment of the industry to another.

3. We also take steps to improve coordination between, and reduce the costs of, the administrators performing these data collection functions. For instance, we authorize administrators to share contributor data in certain circumstances.[8] To simplify the reporting process and to reduce administrative costs, we also grant the administrators flexibility to develop procedures for collecting, validating, and distributing the data provided on the new worksheet.[9] As a result, carriers will benefit because it will enable them to file only one copy of the Telecommunications Reporting Worksheet,.rather than filing a copy with multiple administrators. Moreover, the administrators that handle contributions for each financing mechanism will no longer need to perform redundant tasks. Finally, to facilitate the many administrative changes that are required to produce the worksheets each year, we delegate authority to the Common Carrier Bureau to make future changes to the proposed Telecommunications Reporting Worksheet.[10]

4. The actions that we take in this Order to eliminate duplicative requirements are

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[3] *See* Sections III. D. and E.

[4] *See* Section III.I.

[5] *See* Section IV.B.

[6] *See* Section IV.C.

[7] 47 U.S.C. § 413. *See* Section III.B.

[8] *See* Section III.G.

[9] *See* Section III.G.

[10] *See* Section III.F.

consistent with our overall effort to reduce unnecessary regulation. Our actions are also consistent with our statutory obligation, as part of our biennial review of our regulations, to eliminate or modify regulations that are no longer necessary in the public interest.[11] Adopting a single worksheet not only will reduce regulatory burdens on carriers and service providers, but will also reduce the costs to administrators and the public costs of regulation by conserving Commission resources associated with auditing and cross-checking data submissions.

5. We note that, with the limited exceptions noted above, we do not revisit the substantive requirements of the support and cost recovery mechanisms, the class of contributors to each mechanism, or the services whose revenues are included in contribution bases. Rather, the rulemaking focuses on steps to reduce burdens on contributors, and burdens on the administrators that handle the contributions, by improving the data collection process. In order to achieve these results quickly, we defer consideration of several issues raised by commenters in this proceeding to other proceedings, including the underlying proceedings which the Commission has used to establish particular substantive requirements.

II. BACKGROUND

6. In a series of separate proceedings, the Commission has established procedures to finance interstate telecommunications relay services,[12] universal service support mechanisms,[13] administration of the North American Numbering Plan,[14] and shared costs of local number portability.[15] To accomplish each of these goals, contributions are collected

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[11] 47 U.S.C. § 161. *See also FCC Staff Proposes 31 Proceedings as Part of 1998 Biennial Regulatory Review*, Report No. GN 98-1 (rel. Feb. 5, 1998).

[12] *See* Pub. L. No. 101-336, § 401, 104 Stat. 327, 366-69 (adding section 225 to the Communications Act of 1934, as amended, 47 U.S.C. § 225). *See also Telecommunications Relay Services and the Americans With Disabilities Act of 1990*, Third Report and Order, FCC 93-357, CC Docket No. 90-571, 8 FCC Rcd 5300, ¶12 (rel. July 20, 1993) (*TRS Third Report and Order*) ("recovering interstate relay costs from all common carriers who provide interstate service on the basis of their interstate revenues will accomplish this goal").

[13] *See* 47 U.S.C. § 254. *See also Federal-State Joint Board on Universal Service*, Report and Order, FCC 97-157, CC Docket No. 96-45, 12 FCC Rcd 8776 (rel. May 8, 1997) (*Universal Service Order*).

[14] *See* 47 U.S.C. § 251(e)(2). *See also Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Second Report and Order, FCC 96-333, CC Docket No. 96-98, 11 FCC Rcd 19392, 19541, ¶ 342 (rel. Aug. 8, 1996) (*Local Competition Second Report and Order*); *Administration of the North American Numbering Plan, Toll Free Service Access Codes*, Third Report and Order and Third Report and Order, FCC 97-372, CC Docket No. 92-237, 95-155, 12 FCC Rcd 23040, ¶¶ 2-13 (rel. Oct. 9, 1997).

[15] *See* 47 U.S.C. § 251(e)(2). *See also Telephone Number Portability*, Third Report and Order, FCC 98-82, CC Docket 95-116, ¶ 9 (rel. May 12, 1998) (*LNP Cost Recovery Order*). Compare *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-286, CC Docket No. 95-116, 11 FCC Rcd 8352, 8355-56 (rel. July 2, 1996) (*LNP Order and Further Notice*) (distinguishing between

from telecommunications carriers and certain other providers of telecommunications services. As currently structured, our rules require telecommunications carriers having interstate revenues to file, at different times throughout the year, a number of contributor reporting worksheets that reflect often duplicative reporting requirements.[16] Such carriers must file four forms (Form 431, TRS Fund Worksheet;[17] Form 457, Universal Service Worksheet;[18] Form 496, NANPA Funding Worksheet;[19] and Form 487, LNP Worksheet[20]) containing revenue and other data on which contributions to support or cost recovery mechanisms are based. For each of these forms, with the exception of the Universal Service Worksheet, carriers seeking confidential treatment of the data submitted in these forms must also file separate requests for nondisclosure with the Commission.[21] In addition to these contributor reporting requirements, all carriers must also file data concerning contact information for an agent for service of process located in the District of Columbia.[22]

7. On September 25, 1998, the Commission released a Notice of Proposed

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long-term number portability and currently available, or "interim," number portability). This Report and Order is limited to the cost recovery mechanism for the shared costs of long-term local number portability.

[16] Most carriers required to contribute to one of the above-mentioned mechanisms are also required under the Commission's rules to report and contribute to most, if not all, of the four mechanisms.

[17] *See* 47 C.F.R. § 64.604(c)(4)(iii)(B). *See also Telecommunications Relay Services and the Americans With Disabilities Act of 1990*, Order, DA 98-2481, CC Docket No. 90-571 (rel. Dec. 2, 1998) (*1999 TRS Fund Worksheet Order*).

[18] *See* 47 C.F.R. § 54.711. *See also Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service*, Report and Order and Second Order on Reconsideration, CC Docket Nos. 97-21 and 96-45, FCC 97-253, 12 FCC Rcd 18400, 18442 (rel. July 18, 1997) (*Universal Service Second Order on Reconsideration*) (releasing Universal Service Worksheet); *Common Carrier Bureau Announces Release of Revised Universal Service Worksheet (FCC Form 457) To Reflect Change in Reporting of Revenues From Inside Wiring Maintenance*, Public Notice, DA 99-432, CC Docket No. 96-45 (rel. Mar. 5, 1999) (*1999 Universal Service Worksheet Notice*).

[19] *See* 47 C.F.R. § 52.16. *See also Common Carrier Bureau Announces Release of 1999 North American Numbering Plan Funding Worksheet, FCC Form 496*, Public Notice, 13 FCC Rcd 17888, DA 98-1865 (rel. Sept. 15, 1998) (*1999 NANP Funding Worksheet Notice*).

[20] *See* 47 C.F.R. § 52.32. *See also All Telecommunications Carriers Must Begin Contributing To the Regional Database Costs for Long-Term Number Portability in 1999*, Public Notice, DA 99-544, CC Docket No. 95-116 (rel. Mar. 15, 1999) (*1999 LNP Worksheet Notice*).

[21] *See* 47 C.F.R. § 0.459.

[22] *See* 47 U.S.C. § 413; 47 C.F.R. § 1.47(h).

Rulemaking and Notice of Inquiry to initiate this proceeding.[23] The Commission, in the *Contributor Reporting Requirements Notice*, tentatively concluded that, as currently structured, the contributor reporting requirements may place unnecessary administrative, compliance, and recordkeeping burdens on reporting carriers. The Commission sought comment on ways to streamline the filing requirements associated with the support and cost recovery mechanisms required under the Communications Act. In an attached Notice of Inquiry, the Commission sought comment on additional steps that it might take to simplify the administration of these mechanisms, including the adoption of a single agent to conduct all billing and collection functions.[24] Twenty-eight parties filed comments and ten parties filed reply comments to the Notice.[25]

III. STREAMLINING CONTRIBUTOR REPORTING REQUIREMENTS

A. Overview

8. In this Order, we establish one consolidated data collection worksheet to be used to provide data necessary to determine carrier contribution amounts to the TRS, NANP, universal service, and LNP administrators. We present below, a table outlining the key aspects of the filings for the support and cost recovery mechanisms, comparing the existing practice with the modifications adopted in this Order. In subsequent portions of Section III, we make various changes to the rules governing contributions to TRS, NANP, universal service, and local number portability in order to facilitate use of the unified data collection worksheet.

[23] *1998 Biennial Regulatory Review -- Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, Notice of Proposed Rulemaking and Notice of Inquiry, FCC 98-233, CC Docket No. 98-171, 13 FCC Rcd 19295 (rel. Sept. 25, 1998) (*Contributor Reporting Requirements Notice*).

[24] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19323-26.

[25] A list of parties filing comments and reply comments is set out in Appendix A.

Mechanism	Previous	New
Universal Service	- Form 457 - Filed March 31 and Sept. 1 - Filed with USAC - Reports end-user revenue & revenue from other contributors	- Form 499 - Filed April 1* - Filed in one location - Reports end-user revenue & revenue from other contributors
TRS	- Form 431 - Filed April 26 - Filed with TRS Administrator - Reports gross telecommunications revenues	
NANPA	- Form 496 - Filed March 12 - Filed with NANP B&C Agent - Reports gross telecommunications revenues & selected expense data	
Local Number Portability	- Form 487 - Filed April 16 - Filed with LNP administrator - Reports end-user telecommunications revenue and revenue from other contributors	
* Contributors to universal service support mechanisms also file on September 1.		

B. Use of a Consolidated Reporting Worksheet

1. Background

9. In the *Contributor Reporting Requirements Notice*, the Commission proposed to consolidate collection of contribution data for the universal service support mechanism, the TRS Fund, and the cost recovery mechanisms for NANP and LNP administrations and

attached a proposed "Telecommunications Reporting Worksheet" for comment.[26] The Commission asked commenters, alternatively, whether any of the cost recovery mechanisms would be better served were it to continue collecting information through separate forms.[27]

2. Discussion

10. We adopt a new Telecommunications Reporting Worksheet to replace the four existing worksheets used to collect contributor data. The new worksheet will also be used by carriers to identify agents for service of process, as required by section 413 of the Act. We note that carriers and administrators were nearly unanimous in their support of this proposal.[28] The record indicates that consolidating the four existing contributor forms into one worksheet will result in tangible administrative savings for carriers and service providers.[29] We also conclude that adopting one worksheet to satisfy these obligations will reduce confusion for carriers and should increase compliance, particularly by smaller carriers.[30] Finally, we believe that adopting a consolidated worksheet and granting administrators the ability to share revenue data will reduce the costs for administrators and, thereby, further effect savings overall.

11. To consolidate the worksheets, we amend the corresponding sections of the Commission's rules for universal service, TRS, local number portability, and numbering administration, so that those rule sections now refer to the Telecommunications Reporting Worksheet.[31] To the same end, we also amend our rules concerning agents for service of process in section 1.47 to provide for the use of the worksheet.[32] We attach, as Appendix D, the initial Telecommunications Reporting Worksheet (including both the April and the streamlined September versions) that will be used for the September 1, 1999 filing, as

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[26] *See Contributor Reporting Requirements*, 13 FCC Rcd 19295, 19306-09 (including a proposed Telecommunications Reporting Worksheet attached as Appendix B to the Notice).

[27] *Id.*, ¶ 20.

[28] *See, e.g.*, APCC Comments at 1-2 ("providers will need to spend significantly less time preparing and submitting revenue information"); AT&T Comments at 1-2; BellSouth Comments at 2; Blooston Comments at 1; PCIA Comments at 3; USAC Comments at 2; GTE Reply Comments at 2.

[29] *See, e.g.*, CTIA Comments at 2; Lockheed Comments at 2; MediaOne Comments at 2; TRA Comments at 3; RSL Reply Comments at 2. *Contra* MCI Comments at 2.

[30] *See, e.g.*, PCIA Comments at 3 ("confusion generated by the various forms has stymied the legitimate efforts by carriers to honestly and completely respond to the questions posed");

[31] *See* Appendix B, Rules Amended.

[32] *See* Appendix B, Rules Amended.

discussed below.[33] In designing the new Telecommunications Reporting Worksheet, we revise our proposed worksheet to reflect a more streamlined approach and to correct some minor inconsistencies.

12. The new Telecommunications Reporting Worksheet will provide the necessary information while reducing to the lowest possible level the burden for carriers and service providers. We disagree with those commenters that state that the new worksheet would collect an unnecessary level of revenue detail.[34] Collecting revenue information by service type -- in addition to the specific revenue totals used to calculate individual contributions -- is vital to our ability to ensure that individual carriers and segments of the industry are contributing on a fair and equitable basis. Further, the Telecommunications Reporting Worksheet does not seek any additional revenue detail beyond the level that is already collected from these same carriers under the existing reporting requirements.[35] More importantly, obtaining this revenue data enables the Commission and the administrators to identify potential mistakes and abuse -- both in terms of misreported data and non-filers. Thus, this information is essential to ensuring that individual carriers and industry segments contribute to the mechanisms in a fair and equitable manner, and, thereby, to ensuring the integrity of the mechanisms. To that end, we believe that gathering detailed revenue information and publishing summaries of revenue data by service type creates public confidence that all carriers are participating, by allowing the public to scrutinize the level of participation within particular markets. Finally, we conclude that the specific revenue categories serve to clarify the instructions, by making more explicit the appropriate classification of particular services. All of these considerations lead us to conclude that both contributors and the public will benefit greatly from the reporting of revenue data by service type.

13. We do not adopt, however, the Commission's proposal to use the Telecommunications Reporting Worksheet to collect revenue and plant data required under section 43.21(c) of the Commission's rules.[36] While some carriers might gain an incremental benefit from being able to satisfy this requirement through the consolidated worksheet, the

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[33] *See* Section III. D. (concerning Timing Issues). The Bureau will release instructions for the September version (Form 499 S) prior to the September universal service filing.

[34] *See, e.g.,* Ameritech Comments at 3; AT&T Comments at 5; GST Comments at 12; USTA Comments at 3; GTE Reply Comments at 3.

[35] We note that most carriers will not have to provide data for all of the revenue categories. Carriers are only required to show revenue for services that they offer. For example, the present Universal Service Worksheet contains 29 lines of revenue detail and two lines of totals. In the September 1998 filing of that worksheet, less than 1 percent of filers supplied more than 20 lines of revenue detail and more than 60% supplied 6 or fewer. Thus, we believe that the revenue breakouts are not particularly burdensome for the large majority of carriers.

[36] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19309; 47 C.F.R. § 43.21(c).

section 43.21(c) data is not essential, at this time, for the administrators to perform their functions.

C. Changes to the Content of the Telecommunications Reporting Worksheet

1. Including Contribution Factors in the Telecommunications Reporting Worksheet

a. Background

14. The proposed Telecommunications Reporting Worksheet, as attached to the *Contributor Reporting Requirements Notice*, included blocks to be used by carriers to calculate their contributions to the TRS, NANP, and local number portability support and cost recovery mechanisms.[37] The instructions to the proposed worksheet indicated that carriers should submit their contribution to the relevant administrator at the same time that they filed the proposed Telecommunications Reporting Worksheet. The *Contributor Reporting Requirements Notice* reflected past practice for the TRS and NANP mechanisms, where contributors calculated their contributions and submitted payments (or first installments) at the same time that they completed and submitted the worksheets to the relevant administrator.[38] The Commission, in the Notice, did not propose any changes to the current practice for administration of the universal service mechanisms -- where the administrator calculates individual contributions and bills contributors after receiving revenue data from filers.

15. In the *1999 NANP Funding Worksheet Notice*, the Bureau altered the procedures for NANP administration so that carriers no longer submit their payment at the same time that the NANPA Worksheet is submitted.[39] Instead, the NANP administrator, after receiving the individual carrier revenue data through the worksheet, calculates "contribution factors" and individual carrier contributions, and subsequently bills carriers.

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[37] *See also Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, Appendix B, Proposed Telecommunications Reporting Worksheet, and 19310 ("In accordance with existing rules and practices, we propose that carriers continue to include all necessary data and any required contribution to the TRS and NANPA with their filing.").

[38] *See NANPA Third Report and Order*, 12 FCC Rcd at 23057 n.101. *See Common Carrier Grants 90-Day Waiver of Separate Subsidiary Requirements to National Exchange Carrier Association, and Announces Release of 1998 North American Numbering Plan Funding Worksheet, FCC Form 496*, Public Notice, DA 98-266 (rel. Feb. 11, 1998) (*1998 NANP Funding Worksheet Notice*); *Telecommunications Relay Services and the Americans With Disabilities Act of 1990*, Order, DA 97-2676, 12 FCC Rcd 22046 (rel. Dec. 22, 1997) (*1998 TRS Worksheet Order*).

[39] *See 1999 NANP Funding Worksheet Notice*, 13 FCC Rcd 17888.

b. Discussion

16. We modify the original proposal so that the new Telecommunications Reporting Worksheet will not include any blocks for calculation of contributions to any of the mechanisms. Instead, contributors will be billed for any contributions by the relevant administrator after the worksheet has been submitted.[40] This procedure will be consistent with the approach now taken by NANP Billing and Collection Agent in the administration of the NANP mechanism[41] and by USAC in the administration of the universal service support mechanisms.[42] This change will also simplify the worksheet and reduce administrative burdens on carriers, which will no longer need to calculate their own contribution.

17. With respect to the shared costs of local number portability, we find persuasive the arguments of Lockheed, the LNP administrator, that including a contribution factor on the worksheet might not best serve the needs of local number portability administration.[43] Lockheed argues that local number portability costs are variable and do not lend themselves to a single, annual collection.[44] No commenter opposes Lockheed's proposal to bill contributors after collecting data through the worksheet, and we see no reason, in this case, not to allow Lockheed to follow the approach that it concludes will be administratively most efficient. Therefore, the Telecommunications Reporting Worksheet does not include blocks for filers to calculate their contributions to the local number portability cost recovery mechanism.

18. We also amend our rules for TRS administration so that the TRS administrator may bill contributors after the revenue data collection, rather than concurrent with the filing of that data.[45] This change to the TRS support mechanism is supported by NECA, the TRS administrator, which argues that the Commission should alter the current practice of estimating contribution factors and requiring filers to submit their contribution with the

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[40] We note that several commenters encourage the Commission to adopt particular installment plans to allow companies to pay their contributions over a period of time. *See, e.g.,* APCC Comments at 4; GST Comments at 19. Currently, the administrators, in coordination with the Bureau, make available installment plans for contributions over a set amount. Given the availability of those installment plans, we need not take further action on these commenters' proposals.

[41] *See* 47 C.F.R. § 52.16(a); *1999 NANP Funding Worksheet Notice*, 13 FCC Rcd 17888.

[42] *See* 47 C.F.R. §§ 54.711, 69.616.

[43] *See* Lockheed Comments at 2-4 ("Any attempt to estimate the amount that will constitute the Industry Cost for the forthcoming year will undoubtedly be an imprecise 'guesstimate' and will disadvantage either the LNPA . . . . or the telecommunications service providers . . . .").

[44] Lockheed Comments at 2-4.

[45] *See* Appendix B, Rules Amended.

worksheet.[46] As NECA observes, this change in procedure would make the TRS collection process consistent with the other funds. In the absence of evidence of increased administrative costs, we believe that this administrative change will decrease confusion among carriers and should not alter the size of any individual carrier's contribution. Accordingly, we adopt NECA's suggestion and make corresponding changes to the Telecommunications Reporting Worksheet.

2. Certification of Compliance with Section 255 of the Act

a. Background

19. The proposed Telecommunications Reporting Worksheet included a "check-box" that allowed carriers to certify compliance with section 255 of the Act.[47]

b. Discussion

20. We concur with those commenters who suggest that the Telecommunications Reporting Worksheet should not include a certification regarding compliance with section 255 of the Act.[48] We note that the Commission has undertaken a proceeding concerning the implementation of section 255 and we believe any proposals for determining compliance with section 255 are more appropriately considered in that proceeding.[49] We accordingly delete the certification of compliance with section 255 from the Telecommunications Reporting Worksheet and instructions.

3. Revenues from Internet and Internet Protocol Telephony

a. Background

21. The instructions to the proposed Telecommunications Reporting Worksheet indicated that revenue from calls handled using Internet technology should be included in end-user telecommunications revenue.[50] Several commenters argue that the language in the

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[46] NECA Comments at 3.

[47] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, Appendix B, Proposed Telecommunications Reporting Worksheet, Line 409 and Proposed Instructions. *See also* 47 U.S.C. § 255.

[48] *See, e.g.*, Blooston Comments at 9; GTE Comments at 3-4.

[49] *See Implementation of Section 255 of the Telecommunications Act of 1996, Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities*, Notice of Proposed Rulemaking, FCC 98-55, WT Docket No. 96-198 (rel. Apr. 20, 1998).

[50] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, Appendix B, Proposed Telecommunications Reporting Worksheet and Instructions at 19365-66.

proposed instructions would alter Commission policy with respect to Internet and Internet Protocol (IP) telephony and that the Commission should not effect such a change without a more developed record of comment.[51] Further, certain commenters state the Commission may not alter its treatment of Internet and IP telephony without adequate notice and comment opportunity under the Administrative Procedure Act, which these commenters find lacking in this instance.[52] These commenters each oppose the inclusion of revenues derived from Internet and IP telephony as a general matter.[53] Bell Atlantic, alternatively, counters that the language in the proposed Instructions does not constitute a change in Commission policy toward Internet and IP telephony and that the Commission should not exempt such revenues from the contributions base.[54]

b. Discussion

22. As noted by certain commenters, this Commission in its *April 10, 1998 Report to Congress* considered the question of contributions to universal service support mechanisms based on revenues from Internet and Internet Protocol (IP) telephony services.[55] We note that the Commission, in the Report to Congress, specifically decided to defer making pronouncements about the regulatory status of various forms of IP telephony until the Commission develops a more complete record on individual service offerings.[56] We, accordingly, delete language from the instructions that might appear to affect the Commission's existing treatment of Internet and IP telephony. Since we do not effect any substantive change on this issue, we need not address commenter concerns about proper notice under the Administrative Procedures Act.

4. Proposed Changes to the Reporting Requirements and Contribution Obligations

a. Background

23. Various commenters took the opportunity to suggest changes that would implicate the reporting requirements and underlying contribution obligations. For example, a

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[51] *See, e.g.*, IDT Comments at 9-10; USF Coalition Comments at 11-13.

[52] *See, e.g.*, IDT Comments at 9; Blooston Reply Comments at 5; GTE Reply Comments at 5; RSL Reply Comments at 2.

[53] *See, e.g.*, Qwest Reply Comments at 1-2.

[54] *See, e.g.*, Bell Atlantic Reply Comments at 4.

[55] *See, e.g.*, USF Coalition Comments at 11. *See also Federal-State Joint Board on Universal Service*, Report to Congress, FCC 98-67, CC Docket No. 96-45 (rel. Apr. 10, 1998) (*April 10, 1998 Report to Congress*).

[56] *See April 10, 1998 Report to Congress*, ¶¶ 83-93.

number of commenters urge the Commission to drop the requirement, stated in the proposed instructions, that each legal entity, including each affiliate or subsidiary of an entity, must complete and file separately a copy of the attached Telecommunications Reporting Worksheet.[57] Similarly, certain commenters ask the Commission to change the requirement, reflected in the proposed instructions, that contributors have documented procedures to ensure that they report revenues from entities that do not contribute to the universal service support mechanism, *e.g.*, revenues from carriers that qualify for the *de minimis* exemption.[58] Other commenters ask the Commission to strike language that effectively requires carriers that provide only international service to contribute to the mechanisms, if the carriers are affiliated with a carrier that provides interstate services.[59]

24. Several commenters object to the specific revenue breakout, included in the proposed Telecommunications Reporting Worksheet, to collect information on charges that are designated by telecommunications carriers as universal service charges.[60] Further, these commenters argue that is improper for the proposed worksheet to include those surcharges as telecommunications revenue.[61]

25. Two international carriers ask the Commission to clarify that contributions to the universal service support mechanisms based on international revenues should include only international revenues derived from domestic end users.[62] Moreover, these commenters state that it is unclear whether carriers will be "allowed to exclude revenues derived from services billed in a foreign point or whether carriers would be required to contribute based on revenues -- other than settlement receipts -- from both U.S.-billed traffic and foreign-billed traffic."[63]

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[57] *See, e.g.*, Bell Atlantic Comments at 3-4; BellSouth Comments at 10; GST Comments at 15-17; MediaOne Comments at 3; Omnipoint Comments at 1-2. *Contra* MCI Reply Comments at 8. *See also Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, Appendix B, Proposed Telecommunications Reporting Worksheet and Instructions at 19350.

[58] *See, e.g.*, Bell Atlantic Comments at 3 n.5; BellSouth Comments at 5-6; USTA Comments at 3; SBC Reply Comments at 4. *See also Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, Appendix B, Proposed Telecommunications Reporting Worksheet and Instructions, at 19362-63.

[59] *See, e.g.*, IDT Comments at 12-15; USF Coalition Comments at 7; MCI Reply Comments at 3. *See also* Contributor Reporting Requirements Notice, 13 FCC Rcd 19295, Appendix B, Proposed Telecommunications Reporting Worksheet and Instructions, at 19352, 19363.

[60] *See, e.g.*, GTE Comments at 2; Sprint Comments at 5-6; Blooston Reply Comments at 2. *See also Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19307 and Appendix B, Proposed Telecommunications Reporting Worksheet, Line 215.

[61] *See, e.g.*, Blooston Reply Comments at 2-3. *Accord* Sprint Comments at 6.

[62] *See* USF Coalition Comments at 8-9; IDT Comments at 11-12.

[63] IDT Comments at 11-12.

b. Discussion

26. We decline to adopt these recommendations at this time. With respect to commenters' suggestions that we alter the instructions for filing by each legal entity, for tracking revenue from non-contributing resellers, and for reporting revenue where affiliates have interstate revenues, each of these policies was previously incorporated in the relevant worksheets and furthers a particular accounting or auditing goal. We observe that none of these policies were highlighted in the Notice because our primary goal in this proceeding was to facilitate the consolidation of the various contributor reporting requirements into one worksheet, not to revisit each underlying decision.[64] While some of these proposals may have merit, we decline to adopt changes to these practices here.

27. Regarding the treatment of the universal service surcharges, we do not reconsider, in this Order, our current practice of including these charges as telecommunications revenue. This practice is consistent with the treatment currently afforded in the Universal Service Worksheet and with the treatment of surcharges generally in the worksheets for other support and cost recovery mechanisms. We observe that the Commission is considering issues concerning universal service surcharges in several other proceedings, including the specific issue of whether universal service surcharges should be counted as revenue from telecommunications services.[65] Accordingly, we defer consideration of this issue here and will take further steps based on the outcomes of these other proceedings.

28. We similarly decline invitations to render pronouncements about the treatment of particular international service offerings. As stated above, and with specifically stated exceptions, we do not intend to use this proceeding to redefine those services whose revenues are included in the contribution bases. We note that the Commission is considering issues substantially similar to those raised by IDT and USF Coalition in the context of petitions for clarification in the universal service proceeding. Those petitions seek the exclusion, from the universal service contribution base, of revenues derived from providing services that originate in foreign points and terminate in the United States.[66] Accordingly, we defer consideration of

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[64] We also decline, as outside the stated scope of the proceeding, the suggestion of American Public Communications Council, which asks the Commission to use the Telecommunications Reporting Worksheet to calculate annual regulatory fees and bill contributors directly. *See* APCC Comments at 3.

[65] *See Division Announces Release of Revised Universal Service Worksheet, FCC Form 457*, Public Notice, DA 98-1519, CC Docket Nos. 97-21, 96-45 (rel. July 31, 1998), *recon. pending. See also Truth-in-Billing and Billing Format*, Notice of Proposed Rulemaking, FCC 98-232, CC Docket No. 98-170 (rel. Sept. 17, 1998); *Federal-State Joint Board on Universal Service*, Order and Order on Reconsideration, FCC 98-160, CC Docket No. 96-45 (rel. July 17, 1998).

[66] *See Petitions for Waiver of Section 54.703 Filed by: Gateway USA Holding Company, Inc., Cosmos Telecom Marketing, Inc., Sitel, Inc., Microdevices Worldwide Inc., Startec Global Communications Corporation*, Public Notice, DA 98-865 CC Docket No. 96-45, 13 FCC Rcd 9420 (rel. May 8, 1998).

these issues to that proceeding. Pending a Commission ruling on these petitions, interstate carriers should continue to report their international revenue from domestic end users, as directed in the worksheet instructions.[67]

D. Timing Issues

1. Background

29. In the *Contributor Reporting Requirements Notice*, the Commission observed that under current practice the worksheets for the universal service, TRS, and NANP mechanisms are due at different times of the year.[68] The Commission proposed that carriers would be able to file the new, consolidated worksheet at one time, to satisfy all three reporting requirements, as well as the requirements associated with the shared costs of local number portability.[69] The Commission also noted that its universal service rules require subject carriers and service providers to file data twice per year and did not propose to eliminate the second filing.[70]

2. Discussion

a. Uniform Filing Date

30. Consolidating the multiple existing filings into the Telecommunications Reporting Worksheet will reduce the number of times that carriers will need to assemble data and report it. The rules for universal service, TRS, NANP and local number portability currently do not specify a particular date for the filing of contributor reporting requirements; instead, the Bureau determined the filing date, after consultation with the respective administrators.[71] We maintain this practice, but direct the Bureau to utilize a single filing date for the Telecommunications Reporting Worksheet for the purposes of universal service, TRS, NANP, and local number portability.[72] Our decision to adopt a single filing date is bolstered

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[67] *See Universal Service Order*, 12 FCC Rcd 8776, 9174; 47 C.F.R. § 54.709(a)(1).

[68] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19309 n.60.

[69] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19309-10.

[70] *Id.*

[71] *See, e.g., 1999 TRS Fund Worksheet Order*, Appendix A; *1999 NANP Funding Worksheet Notice*, 13 FCC Rcd 17888.

[72] Agent for service of process data required pursuant to section 413 of the Act is not necessarily filed at one time of the year, but at the time the carrier changes its agent for service of process in the District of Columbia. This requirement will remain unchanged. *See* 47 C.F.R. § 1.47(h).

by all of the commenters to address this proposal.[73]

31. Since we adopt the first iteration of the Telecommunications Reporting Worksheet in this order, we direct that, for the first year's filing, the Telecommunications Reporting Worksheet should be filed on April 1st. Requiring filers to submit their completed Telecommunications Reporting Worksheets on April 1st of each year will best balance the needs of carriers and other providers who must file the worksheet with the interests of the administrators and the Commission who must verify data and calculate contributions.[74] Most firms have closed their books for the prior calendar year in February or March. Thus, we conclude that an April 1st filing date should allow most reporting carriers to prepare their submissions using audited data from closed books of account.

32. We clarify that the new Telecommunications Reporting Worksheet will become effective upon approval by the Office of Management and Budget (OMB), but not less than thirty days from publication in the Federal Register. It is our intention that contributors to the universal service support mechanisms should use the streamlined Form 499-S version (FCC Form 499S) to satisfy the September 1, 1999 universal service filing. However, because we are required to seek approval from the Office of Management and Budget for this revised information collection, it is possible that the new form may not be available for use for the September 1999 filing. We direct the Bureau to announce by Public Notice whether contributors should file the new September version or whether contributors should file, for a final time, the existing Universal Service Worksheet. For the purposes of TRS, NANP, LNP, universal service, the Form 499-A version of the worksheet will be used to satisfy the April 1, 2000 filing. In addition, the worksheet will be available to be used by carriers to satisfy their section 413 obligations concerning agents for service of process, discussed *supra*,[75] as soon as it is approved by OMB, but not less than thirty days after publication in the Federal Register. This timeframe should give administrators sufficient time to prepare their systems for the new worksheet and should give filers sufficient time to become familiar with the new worksheet.

b. September 1st Filing Date for Universal Service Support Mechanisms

33. The Commission observed, in the Notice, that while the adoption of a single Telecommunications Reporting Worksheet makes possible a single filing date, the universal service rules require that contributors file data twice a year so that the Commission can

[73] *See, e.g.*, AT&T Comments at 1; BellSouth Comments at 3; CTIA Comments at 2; USCC Comments at 1-2.

[74] *See* USAC Comments at 2.

[75] *See* Section III. B.

develop contribution factors using relatively current information.[76] The Commission did not, in the Notice, propose to disturb this procedure.[77] We therefore decline the invitations of USTA and other commenters to eliminate the September 1st filing for universal service purposes.[78] As the Commission made clear in the Notice, elimination of the September 1st filing is beyond the scope of this proceeding.

34. We do conclude, as GTE suggests, that a more streamlined form is acceptable for the September 1st filing.[79] Accordingly, we adopt a "short form" for purposes of the September 1st filing that will omit data that is not essential for the mid-year calculation of universal service contributions. For example, items related solely to the local number portability filing will be dropped from this short version of the worksheet. Further, the September 1st version of the Telecommunications Reporting Worksheet will seek less revenue detail than that requested in the April version. To that end, we conclude that having carriers provide detailed revenue data once each year is sufficient to identify under-reporting of specific types of revenues or inadequate assignment of specific types of revenues. Since USAC calculates second half revenues by subtracting the September 1 first-half filed revenue from the April 1 whole-year revenue, errors in the first-half reporting are automatically adjusted so that the whole-year revenue is correct. Thus, by obtaining the detailed revenue data in the April filing, the Commission will still have the type of information needed to ensure that individual carriers and industry segments are contributing to the universal service support mechanisms on a fair and equitable basis. Overall, we expect that this modification will result in appreciable reductions in time to complete the form and in administrative costs.

E. Filing Location(s)

1. Background

35. In the *Contributor Reporting Requirements Notice*, the Commission proposed that carriers file the Telecommunications Reporting Worksheet at only one location.[80] The Commission noted that this proposal would require administrators to coordinate and share contributor data.[81] The Commission proposed to allow administrators to share contributor data for this purpose and sought comment on whether the Commission would need to take any

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[76] *See Universal Service Second Order on Reconsideration*, 12 FCC Rcd 18400, ¶ 80.

[77] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19309-10.

[78] *See, e.g.*, USTA Comments at 3; Blooston Reply Comments at 7; BellSouth Reply Comments at 3; GST Comments at 17.

[79] *See, e.g.*, GTE Comments 6.

[80] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19310.

[81] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19310.

additional steps to ensure that administrators have adequate ability to coordinate this process.[82]

2. Discussion

36. We conclude that subject carriers and service providers need only file one copy of their completed Telecommunications Reporting Worksheet, rather than separate copies with each administrator. The majority of commenters encourage the Commission to permit carriers to file one copy of the form at one address and we conclude that this action will further simplify our reporting requirements and will lower their administrative costs.[83] As discussed below, we facilitate a single filing location by instructing the administrators to develop procedures for collecting, validating, and distributing the contributor data provided in the new Telecommunications Reporting Worksheet.[84]

F. Procedures for Future Changes to the Telecommunications Reporting Worksheet

1. Background

37. In the *Universal Service Second Order on Reconsideration*, the Commission delegated authority to the Bureau to waive, reduce, or eliminate the contributor reporting requirements associated with the universal service support mechanisms.[85] The Bureau was also delegated authority to require any additional contributor reporting requirements necessary to the sound and efficient administration of the universal service support mechanisms.[86] In the cases of TRS and numbering administration, the Bureau has regularly issued the annual worksheets to gather the necessary contributor data.[87]

38. To make clear that the Bureau should continue to handle administrative details associated with issuing the worksheets, in the *Contributor Reporting Requirements Notice*, the Commission proposed to delegate authority to make future changes to the

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[82] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19310.

[83] *See, e.g.*, AT&T Comments at 1; BellSouth Comments at 3; CTIA Comments at 2; SBC Comments at 1.

[84] *See* Section III. G. (discussing data entry of the Telecommunications Reporting Worksheet). The Bureau will announce by Public Notice the location for filing the April 2000 Telecommunications Reporting Worksheet.

[85] *See Universal Service Second Order on Reconsideration*, 12 FCC Rcd at 18442. *See also* 47 C.F.R. § 54.711(c).

[86] *See Universal Service Second Order on Reconsideration*, 12 FCC Rcd at 18442.

[87] *See, e.g.*, *1999 TRS Fund Worksheet Order*, Appendix A; *1999 NANP Funding Worksheet Notice*, 13 FCC Rcd 17888.

Telecommunications Reporting Worksheet to the Chief of the Common Carrier Bureau.[88] The Commission stated that certain changes in the worksheet would be necessary as an ordinary matter and sought comment on its proposal to amend its rules for the TRS Fund, NANP administration, local number portability administration, and universal service support mechanisms to include a specific delegation of authority to make future changes to the combined worksheet.

2. Discussion

39. We adopt our proposal and delegate authority to make future changes to the Telecommunications Reporting Worksheet to the Chief of the Common Carrier Bureau.[89] As noted above, the Bureau already has broad authority to waive, reduce, or eliminate the contributor reporting requirements for universal service, and the Bureau has latitude with respect to the administration of the NANP, LNP, and TRS contributor reporting requirements. These delegations extend to administrative aspects of the requirements, *e.g.*, where and when worksheets are filed, incorporating edits to reflect Commission changes to the substance of the mechanisms, and other similar details. Our decision to leave the bulk of these administrative tasks to the Bureau is generally supported by commenters addressing this issue.[90]

40. So that these delegations are consistent, we amend the Commission's rules to grant the Common Carrier Bureau delegated authority, in keeping with the current delegation for universal service purposes, to waive, reduce, modify, or eliminate the contributor reporting requirements for the TRS, LNP, and NANP mechanisms, as necessary to preserve the sound and efficient administration of these support and cost recovery mechanisms.[91] We specify that the Bureau has the authority to "modify" these reporting requirements as a matter of clarification, because we believe that this authority is implied within the existing grant. The continued delegation of these tasks to the Bureau was generally supported by commenters addressing this proposal.[92] We reaffirm that this delegation extends only to making changes to the administrative aspects of the reporting requirements, not to the substance of the underlying programs.[93]

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[88] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19319-20.

[89] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19319-20.

[90] *See, e.g.*, Ameritech Comments at 2-3; Blooston Comments at 19; RTC Comments at 3.

[91] *See* Appendix B, Rules Amended.

[92] *See, e.g.*, Blooston Comments at 19; CTIA Comments at 2 (suggesting that authority be delegated jointly to the Wireless Telecommunications Bureau and the Common Carrier Bureau); RTC Comments at 3.

[93] We expect that the Bureau will continue to consult with the Wireless Telecommunications Bureau when issuing and making changes to the Telecommunications Reporting Worksheet so as to be cognizant of the unique concerns of wireless carriers. *See, e.g.*, CTIA Comments at 2; PCIA Comments at 8; Blooston Reply

G. Information Sharing and Delegation of Data Entry Functions Between Administrators

1. Background

41. The Commission proposed to permit the sharing among the TRS, universal service, NANP, and local number portability administrators of certain revenue and contact information provided by contributors.[94] The Commission stated in the Notice that this proposal would permit administrators to cross-check filed data and collection information where contributors are required to file for more than one purpose. The Commission observed that, currently, the administrators for the TRS, universal service, and NANP mechanisms generally are not permitted to use data obtained from contributors for any purpose unrelated to their administration of the mechanism.[95] The Commission noted that the Commission, by temporary waiver of its rules, has created a limited exception that allows the TRS administrator to make available, and the universal service administrator to use, TRS contribution revenue information to compare revenue information provided by contributors on the Universal Service Worksheet.[96]

42. The Commission proposed to authorize each of the four administrators to engage in similar sharing arrangements.[97] The Commission tentatively concluded that the administrators would benefit significantly from this flexibility and that this proposal would reduce audit costs and increase the reliability of data on which contributions to these mechanisms are based. The Commission tentatively concluded that all sharing arrangements entered into among administrators would have to provide that the administrators will comply with requests for confidential treatment of their data.[98]

Comments at 10.

[94] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19320-22. We note that in the *Contributor Reporting Requirements Notice*, and elsewhere in this Order, we refer to this revenue and contact information as "billing and collection information."

[95] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19320-21. *See, e.g.*, 47 C.F.R. § 64.604(c)(4)(iii)(I) ("[t]he administrator shall not use such data except for purposes of administering the TRS Fund, calculating the regulatory fees of interstate common carriers, and aggregating such fee payments for submission to the Commission."); 47 C.F.R. § 54.711(b); 47 C.F.R. § 52.16(c).

[96] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19320-21 (also noting that the Commission has proposed, in another proceeding, to amend its rules to permit the universal service administrator to review TRS data to verify revenue information provided by contributors to the universal service support mechanisms).

[97] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19320-22.

[98] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19322.

43. In the Notice, the Commission also sought comment on whether such sharing agreements would allow administrators to delegate certain functions, such that, for example, one administrator might fulfill data entry and verification functions for more than one mechanism.[99] To this end, the Commission proposed to limit any such arrangements to ensure that proprietary information is not used for any improper purpose. The Commission proposed to require that any such agreements be approved by the Chief of the Common Carrier Bureau.[100]

2. Discussion

44. We amend our rules to allow the administrators to share confidential contributor information with one another for the purposes of comparing individual contributors' revenue, contact, and payment history information. This change is supported by each of the four administrators and is widely supported by commenters.[101] Based on our experience with the limited sharing provisions currently allowed under our rules and on the record in this proceeding, we conclude that the ability to share contributor data will assist the administrators in monitoring compliance with the contribution requirements by revealing inconsistencies between revenue data reported to the different administrators. This sharing of information will also enhance the administrators' performance of their collection functions and thereby better ensure the integrity and efficient administration of the support and cost recovery mechanisms. Moreover, we amend our rules to ensure that such information cannot be used for purposes unrelated to the administration of the mechanisms; thus, ensuring proper treatment of confidential contributor information.[102]

45. Starting with the April 2000 filing of the consolidated worksheet, the administrators will have a practical need to share carrier-provided information because we direct in this order that filers need only submit one copy of their completed worksheets.[103] Rather than mandate particular data sharing procedures, we order the administrators to develop efficient and effective procedures for collecting, validating, and distributing the centrally-filed contributor data amongst themselves. We expect, for example, that it might be more cost effective to have one administrator perform the data entry and preliminary verification functions for more than one of the support and cost recovery mechanisms. Whatever their decision, we direct the administrators to file with the Bureau, within 90 days

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[99] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19321-22.

[100] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19321-22.

[101] *See, e.g.*, NECA Comments at 4; NBANC Comments at 5; USAC Comments at 4; Ameritech Comments at 3; MCI Comments at 4; SBC Comments at 1.

[102] *See* Section III.H. (concerning Confidentiality Issues).

[103] *See* Section III.E. (discussing the filing location for the consolidated worksheet). The Bureau will announce by Public Notice the location for filing the April 2000 Telecommunications Reporting Worksheet.

after release of this order, a summary of their proposed procedures for distributing the data from the worksheet.

46. We conclude that the costs of collecting, validating, and distributing the carrier-provided information -- and, any savings derived from consolidating redundant administrative tasks -- should be allocated equitably among the administrators. Accordingly, we order the administrators to include in their filed summary a description of how related costs will be equitably apportioned. We delegate to the Bureau the authority to review the administrators' summary, including the proposed cost allocation plan.

47. To preserve the integrity of the support and cost recovery mechanisms, it is important to ensure that all contributor data is collected. We thus expect that the summarized procedures should reflect the administrators' commitment to ensuring that all required data is collected and validated.

H. Additional Confidentiality Issues

1. Background

48. The Commission proposed, as currently allowed under the Universal Service Worksheet, to permit carriers filing the Telecommunications Reporting Worksheet to certify that the revenue data contained in their submissions are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity filing the worksheet.[104] The Commission proposed that carriers be able to make this certification on their Telecommunications Reporting Worksheet and request Commission nondisclosure of information contained in the worksheet by checking a box on the Worksheet, in lieu of submitting a separate request pursuant to section 0.459 of the Commission's rules.[105] The Commission stated that if it were to receive a request for or propose to disclose the information, the carrier would be required to make the full showing that the rules require in a request for withholding from public inspection information submitted to the Commission.[106] The Commission sought comment on this proposal.

2. Discussion

49. We adopt our proposal to permit carriers filing the Telecommunications Reporting Worksheet to certify that the revenue data contained in their submissions are privileged or confidential commercial or financial information and that disclosure of such

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[104] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19322.

[105] *Id. See also* 47 C.F.R. § 0.459.

[106] *See* 47 C.F.R. § 0.459.

information would likely cause substantial harm to the competitive position of the entity filing the worksheet.[107] As proposed, we amend our rules so that filers will be able to make this certification on their Telecommunications Reporting Worksheet and request Commission nondisclosure of information contained in the worksheet simply by checking a box on the worksheet, in lieu of submitting a separate request pursuant to section 0.459 of the Commission's rules. This proposal is widely supported by carriers, many of whom indicate their desire to seek nondisclosure of the revenue data included in the worksheet.[108] Based on these comments and on our experience with the Universal Service Worksheet, we believe that such a certification will provide an extra level of convenience that will reduce the burdens associated with this reporting requirement.

50. We make clear, however, that simply requesting confidential treatment by means of this check-box does not necessarily entitle the filer to nondisclosure. Indeed, if the Commission is to receive a request for disclosure of the information on the worksheets, or if the Commission proposes to disclose the information, the filer would be required to make the full showing required under our rules.[109] For example, we expect that the Commission would be disinclined to withhold information related to the size of an individual carrier's contribution (information which third parties could potentially use to estimate that carrier's revenues) in an enforcement action against a carrier for failure to make a required contribution to one of the support or cost recovery mechanisms.[110]

51. In light of our decision to allow administrators to share contributor revenue data, we take additional measures to ensure the nondisclosure of confidential submissions. We accordingly modify our rules to extend each administrator's confidentiality obligations to the data obtained from other funds. Moreover, we amend our rules to ensure that the administrators shall only use contributor data -- whether obtained directly from contributors or from administrators -- for the purpose administering the support and cost recovery

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[107] *See* Appendix D, Telecommunications Reporting Worksheet. We note that Blooston requests that the Commission grant confidential treatment for other information on the worksheet, such as the facsimile numbers and e-mail addresses of the contact persons. Any such request for confidential treatment would have to be separately pleaded pursuant to section 0.459. 47 C.F.R. § 0.459. We note, however, that the Commission does not plan to routinely release this information.

[108] *See, e.g.*, BellSouth Comments at 8; Blooston Comments at 10; GST Comments at 18; MCI Comments at 4; USTA Comments at 4.

[109] *See* 47 C.F.R. § 0.459. *See also Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, FCC 98-184, GC Docket No. 96-55 (rel. Aug. 1998) (listing the showings required in a request that information be withheld and stating that the Commission may defer action on such requests until a formal request for public inspection has been made).

[110] *See, e.g., Operator Communications, Inc., Apparent Liability for Forfeiture*, Notice of Apparent Liability for Forfeiture, FCC 98-197, File No. ENF-98-07, NAL/Acct. No. 816EF0005, ¶ 4 n.13 (rel. Aug. 14, 1998).

mechanisms.[111] We recognize that several commenters express concern over the protection of confidential information, but no commenter offers us any evidence to contradict our belief that the administrators have been effective, thus far, in maintaining the confidential nature of the revenue data that are currently filed.[112] Nor does any commenter indicate that the limited sharing agreement in effect between the TRS and the universal service administrators has led to any greater risk of disclosure. Further, we observe that since all four administrators will use essentially the same revenue information, as filed in the Telecommunications Reporting Worksheet, permitting sharing of information between administrators does not appear to present a greater risk of improper disclosure. We conclude that, by restricting disclosure and limiting the use of contributor-provided information, our rules will be sufficient to prevent the unauthorized disclosure of confidential data.

I. Electronic Filing

1. Background

52. In the Notice, the Commission proposed to require the administrators to provide for and encourage electronic filing of the consolidated form.[113] The Commission stated that electronic filing reduces data entry expenses for the administrator, reduces confusion, and might allow some mistakes to be detected before carriers file data. The Commission stated that this proposal is consistent with the directives of the Office of Management and Budget (OMB).[114] The Commission stated its expectation that any transition to an electronic filing system would require considerable coordination between the administrators, the telecommunications industry, and the Commission, and it sought comment on the nature and extent of the administrative costs to implement an electronic filing system.[115] In addition, the Commission expressed its commitment to making electronic filing and other electronic applications accessible to persons with disabilities to the fullest extent possible.[116]

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[111] We note that the TRS rules enable the TRS administrator to use data obtained from contributors to be used for calculating the regulatory fees of interstate common carriers, and aggregating such fee payments for submission to the Commission. We do not alter these provisions.

[112] *See, e.g.,* Sprint Comments at 4; Star Comments at 4; MCI Comments at 4.

[113] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19322-23.

[114] *See* Notice of Office of Management and Budget Action, OMB No. 3060-0536 (Feb. 24, 1998) (approving the TRS Worksheet and stating OMB "encourages the FCC to adopt electronic filing for this collection . . . .").

[115] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19323.

[116] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19323 (noting that electronic filing is subject to program accessibility requirements of section 1.850 of our rules, 47 C.F.R. § 1.850).

2. Discussion

53. We conclude, based on our experience in other proceedings, that making available an electronic filing system for the Telecommunications Reporting Worksheet may allow filers and administrators to reduce costs and improve accuracy. Accordingly, we take initial steps in this proceeding to develop and move to an electronic filing system. We expect, however, that the costs and benefits of an electronic filing system can vary significantly depending on the design of the system. Indeed, in light of the complexities raised in the record by both carriers and administrators, we conclude that it is imperative for the development of and the transition to an eventual electronic filing system to be conducted with great involvement from the administrators and carriers.[117]

54. As an initial step, we direct the administrators to assess and report to the Bureau, within 180 days of the release of this order, on the feasibility of implementing electronic filing. We expect the administrators to address the potential start-up and on-going operating costs to the administrators and carriers of an electronic system. The administrators should also address measures and costs associated with ensuring the accuracy and security of filed contributor data. We agree with those commenters that state that any proposal for electronic filing should not require expensive start-up costs for filers.[118] Moreover, we conclude that any electronic filing proposal must satisfy a cost-benefit analysis and instruct the administrators to conduct such an analysis. Finally, we restate our commitment to making electronic filing and other electronic applications accessible to persons with disabilities to the fullest extent possible.[119] Therefore, the administrators' report should address their ability -- both now and on a continuing basis -- to make electronic systems accessible to persons with disabilities.

IV. CONTRIBUTIONS TO TRS AND NANPA MECHANISMS

A. Overview

55. In this section, we adopt our proposals to alter the revenue bases for the TRS and NANP mechanisms so that end-user telecommunications revenues will be used to calculate contributions for all four mechanisms. In addition, we also alter the current practices for assessing minimum contributions to the TRS and NANP mechanisms to lessen regulatory burdens on small carriers and telecommunications service providers. We conclude that these modifications will not only fulfill the statutory directives which authorize these contributions, but will also further the deregulatory goals of the Act by rationalizing the

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[117] *See, e.g.*, MCI Comments at 5; GTE Comments at 4; Blooston Reply Comments at 7-9.

[118] *See, e.g.*, Blooston Comments at 15-16; MCI Comments at 5.

[119] Electronic filing is subject to the program accessibility requirements of section 1.850 of our rules. 47 C.F.R. § 1.850. *See also* Workforce Investment Act of 1998, P.L. No. 105-220, 112 Stat. 936 (Aug. 7, 1998).

multiple obligations imposed on regulated communications companies.

56. As a preliminary matter, we reject MCI's procedural argument that the Commission may not alter the revenue base or minimum contributions rules because it did not give adequate notice of these changes.[120] There is no dispute that these proposed changes were expressly noticed in the *Contributor Reporting Requirements Notice*. Indeed, MCI does not appear to claim that the *Contributor Reporting Requirements Notice* itself is insufficient, but instead argues that because the Commission proposed these changes in a different docket than the underlying dockets, the Commission has not given adequate notice to the parties in the underlying proceedings.[121] We disagree. Section 553(b) of the Administrative Procedures Act (APA) requires that an agency afford interested parties adequate notice of, and an opportunity to comment on, the provisions that appear in the agency's final regulations.[122] Courts have interpreted this to require that an agency provide "sufficient factual detail and rationale for the rule to permit interested parties to comment meaningfully."[123] The *Contributor Reporting Requirements Notice* appeared in the Federal Register, and it contained adequate, indeed explicit, notice of the provisions we adopt today. We also observe that the caption to this docket specifically references the four underlying mechanisms; a point which we believe is not essential to satisfy the requirements of the APA, but that further undercuts MCI's claim that it did not have adequate notice of these proposals. Moreover, MCI cannot claim any actual lack of notice, as it has participated fully in this proceeding, filing both initial and reply comments. Accordingly, we believe that no further notice is required to comply with the notice provisions of the APA.

B. Basis for Assessing Contributions

1. Background

57. In choosing a particular revenue basis, the Commission selects the category of revenues that will be used to allocate carriers' contributions. Contributions to the TRS and NANP mechanisms are currently based on contributors' share of gross telecommunications revenues[124] and net telecommunications revenues,[125] respectively. In the *Contributor*

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[120] *See* MCI Comments at 2-4; MCI Reply Comments at 2-3.

[121] MCI Comments at 3 ("[T]he Commission has failed to provide notice to parties in open dockets in which these funds were created, in violation of the APA.").

[122] 5 U.S.C. § 553.

[123] *Florida Power & Light Co. v. United States*, 846 F.2d 765, 771 (D.C. Cir. 1988), *cert. denied*, 490 U.S. 1045 (1989).

[124] 47 C.F.R. § 64.604(c)(4)(iii)(A). *See TRS Third Report and Order*, 8 FCC Rcd 5300, ¶¶ 12-16. Gross telecommunications revenues consist of telecommunications revenues that carriers collect from all sources, including end-user revenue and revenue from services provided to other carriers for resale.

Reporting Requirements Notice, the Commission proposed to change the revenue basis for contributions to the TRS and NANP mechanisms, so that contributors would base their contributions on end-user telecommunications revenue.[126] End-user telecommunications revenue consists of telecommunications revenues that carriers collect from end users and includes revenues such as those derived from subscriber line charges and from carriers that purchase telecommunications services for their own internal use.[127] In the Notice, the Commission tentatively concluded that changing the funding basis to end-user telecommunications revenue would reduce burdens overall for carriers because it would mean using the same methodology for each of the four support or cost recovery mechanisms addressed in the *Contributor Reporting Requirements Notice*.

58. For the purposes of NANP, the Commission also proposed that carriers that provided telecommunications service during the base year with no end-user telecommunications revenue be required to make a fixed contribution of one hundred dollars ($100) to the NANP cost recovery mechanism. The Commission tentatively concluded that assessing this sum would satisfy the statutory language of section 251(e)(2) and at the same time would not be economically burdensome for these primarily-large carriers that serve other carriers.[128]

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[125] 47 C.F.R. § 52.17. *See Local Competition Second Report and Order*, 11 FCC Rcd at 19541. As defined for purposes of NANP, net telecommunications revenues consist of gross revenues from provision of telecommunications services reduced by all payments for telecommunications services and facilities that have been paid to other telecommunications carriers. *See* 47 C.F.R. § 52.17(b).

[126] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19311-14.

[127] For purposes of universal service, end-user telecommunications revenues generally includes revenues derived from non-contributors, including carriers that fall within the *de minimis* exemption and entities that are otherwise exempt, such as Internet service providers, broadcasters, systems integrators that derive less than five percent of their systems integration revenues from telecommunications, and non-profit schools, colleges, universities, libraries, and rural health care providers. *See Federal-State Joint Board on Universal Service; Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charge*, Fourth Order on Reconsideration, FCC 97-420, CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72 (rel. Dec. 30, 1997); *Federal-State Joint Board on Universal Service*, Report to Congress, FCC 98-67, CC Docket No. 96-45, ¶¶ 66-67 n.133 (rel. Apr. 10, 1998); Instructions for Completing the Worksheet for Filing Contributions to the Universal Service Support Mechanism, FCC Form 457, at 18. *But see Universal Service Order*, 12 FCC Rcd 8776, 9186 (explaining that carriers providing services exclusively to non-contributing government or public safety entities are not required to contribute).

[128] *See LNP Cost Recovery Order*, ¶¶ 113-114 (reaching same conclusion with respect to cost recovery for administration of long-term local number portability).

2. Discussion

59. In light of the Commission's experience since adopting revenue bases for TRS and NANP and in light of our efforts to streamline contributor reporting requirements, we modify our rules for contributions to the TRS and NANP mechanisms so that contributions will be based on end-user telecommunications revenues. Basing contributions to these mechanisms on end-user telecommunications revenue will effectively carry out the statutory mandates in section 225 and 251 for financing of TRS and NANP.[129] In addition to fulfilling the statutory directives, moving to an end-user telecommunications revenue basis will reduce carriers' administrative expenses associated with these reporting requirements. Indeed, given our proposal to create a unified contributor collection worksheet, we believe that changing the funding basis to end-user telecommunications revenue will appreciably reduce administrative burdens overall for carriers.

60. Basing contributions on end-user telecommunications revenues is consistent with the statutory language of section 225 and its requirement that "costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service."[130] As the Commission determined in the *TRS Third Report and Order*, recovering interstate relay costs from all common carriers that provide interstate service on the basis of their interstate revenues will accomplish this goal.[131] End users are a reasonable proxy for subscribers, so collecting contributions from carriers based on revenue derived from end users satisfies section 225.

61. Similarly, collecting contributions to the NANP cost recovery on the basis of end-user telecommunications satisfies the requirements of section 251(e). Section 251(e) of the Act directs that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission."[132] As the Commission previously found in the *LNP Cost Recovery Order*, the end-user telecommunications revenue basis satisfies the section 251 directive that contributions be assessed on a competitively neutral basis.[133] In particular, the Commission found this basis to be competitively neutral

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[129] *See* 47 U.S.C. §§ 225, 251(e).

[130] 47 U.S.C. § 225(d)(3)(B).

[131] *See TRS Third Report and Order*, 8 FCC Rcd 5300, ¶ 12.

[132] 47 U.S.C. § 251(e)(2). Even though there is no explicit statutory requirement to do so in section 225, we conclude that the principle of competitive neutrality is consistent with section 225 and that basing contributions to the TRS Fund on a competitively neutral mechanism would advance the intent embodied in the Congressional goal of "a pro-competitive, de-regulatory national policy framework." *See* Joint Explanatory Statement of the Committee of Conference, S. Conf. Rep. No. 230, 104th Cong., 2d Sess. 113 (1996).

[133] *See LNP Cost Recovery Order*, ¶¶ 106-107.

because it does not give one service provider an appreciable, incremental cost advantage when competing for a subscriber. Further, basing contributions on end-user telecommunications revenues will prevent contributions to the NANP administration cost recovery from disparately affecting the ability of carriers to earn a normal return. We affirm this analysis and conclude that collecting contributions to the NANP administration cost recovery based on end-user telecommunications revenues will be competitively neutral.[134]

62. Adopting an end-user telecommunications revenue basis for the TRS and NANP mechanisms will avoid the problem of double counting that is unavoidable with contributions based on gross telecommunications revenues. That is, a gross telecommunications revenue basis can disadvantage resellers by assigning contributions to the same service twice: once when the wholesale carrier collects revenue from the reseller, and again when the retail carrier collects revenue from its customer.[135] In the *TRS Third Report and Order*, the Commission agreed that a gross telecommunications revenue basis would produce double counting but observed that the amount of double counting for TRS purposes would not be material.[136] At that time, the Commission concluded that, for TRS purposes, basing contributions on other revenue bases (*e.g.*, net telecommunications revenue or end-user telecommunications revenue) would require more information and administrator review and that "the cost of identifying double counting would probably exceed the contribution associated with any double counting."[137] Because most carriers now report this data for the purposes of universal service and long-term number portability, this concern has been rendered immaterial. Moreover, we believe that adopting a single reporting worksheet largely eliminates these concerns about added costs.

63. In choosing an end-user telecommunications revenue basis, we decline the suggestions of MCI that we use a net telecommunications revenue basis for all four support

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[134] *See, e.g.*, BellSouth Comments at 4-5; IDT Comments at 16; Star Comments at 2-4. We note that several Bell Operating Companies argued to the United States Court of Appeals for the 8th Circuit that the net telecommunications revenue methodology would not be competitively neutral if states do not permit carriers to flow through their numbering administration costs in the prices that they charge their competitors for telecommunications services and facilities. *California v. FCC*, 124 F.3d 934 (8th Cir., 1997). The Court of Appeals ruled that petitioners' contentions were speculative and not ripe for review because no state had concluded that carriers could not include numbering administration charges in the prices for services or facilities sold to other telecommunications service providers. *Id.* at 944. Adoption of an end-user telecommunications revenue basis should moot this issue.

[135] Under this arrangement, resellers would be disadvantaged vis-a-vis non-resellers of the same retail service, because the resellers' prices would necessarily reflect the double payment of contributions for the same services.

[136] *TRS Third Report and Order*, 8 FCC Rcd 5300, ¶ 13 ("[T]he potential unfairness of double counting is not sufficient to justify excluding access or resale service from contribution.").

[137] *TRS Third Report and Order*, 8 FCC Rcd 5300, ¶ 13. We note that there is no explicit statutory requirement in section 225 that cost recovery for TRS be competitively neutral.

and cost recovery mechanisms. We consider MCI's proposal only in the context of the NANP and TRS mechanisms, because we stated clearly in the Notice that the revenue bases for universal service and number portability would not be addressed in this proceeding. We agree with MCI that the net telecommunications revenue basis is also competitively neutral and satisfies the requirements of section 251.[138] However, because section 251(e)(2) requires that we select a competitively neutral basis for contributions, but specifies no other criteria that must be used in the selection, we conclude that we have discretion under the statute to choose among competitively neutral mechanisms based upon other valid regulatory goals, such as administrative efficiency.[139] We conclude, as is amply supported in the record, that adopting an end-user telecommunications revenue basis will increase administrative efficiencies and reduce carrier confusion. As the Commission explained in the *Universal Service Order*, an end-user telecommunications revenue basis is administratively more efficient than a net telecommunications revenue basis.[140] Moreover, stated again, we expect that using the same funding basis for all four of the support and cost recovery mechanisms will reduce confusion and minimize the amount of information that we need to collect from contributors.[141]

64. We are unpersuaded by MCI's contention that the end-user telecommunications revenue method is not competitively neutral simply because it will attribute a greater portion of direct contributions to IXCs.[142] As support for its proposal that the Commission utilize a net telecommunications revenue basis for NANP and TRS, MCI correctly observes that the portion of contributions paid by IXCs will likely increase, as compared to that paid directly by local service providers, under an end-user telecommunications revenue basis, primarily because toll carriers, including IXCs, will contribute based on the revenues they collect from their end users to pay incumbent LECs' access charges. As described above, however, the end-user basis meets our two prong test for competitive neutrality, as set out in the *LNP Cost Recovery Order*.[143] The fact that carriers -- whether IXCs or incumbent LECs -- providing interstate toll services to end users may bear a slightly higher portion of contributions does not alter that analysis, because, even assuming that MCI's projections are correct, this change

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[138] *See, e.g.*, MCI Comments at 7-8. We make no specific finding about whether the net telecommunications revenue basis would satisfy section 225 because, even assuming that proposition to be true, we find that an end-user telecommunications revenue basis will be administratively more efficient, at this time.

[139] *See also LNP Cost Recovery Order*, ¶ 108.

[140] *See Universal Service Order*, 12 FCC Rcd at 9206.

[141] *See, e.g.*, BellSouth Comments at 4; Star Comments at 3 (stating that "difference in contribution bases is unnecessarily burdensome and can lead to errors in preparing the necessary forms and contributions"). *Accord* TRA Comments at 3-4. *Contra* MCI Comments at 7-8.

[142] *See* MCI Reply Comments at 4.

[143] *See LNP Cost Recovery Order*, ¶¶ 106-107.

would not give one service provider an appreciable, incremental cost advantage when competing for a particular subscriber.

65. Further, we believe that MCI's analysis of the purported burden shift falls short. We do not believe that this change in revenue basis will significantly favor one segment of the industry over another. To the extent that direct contributions are shifted, we note that IXCs would incur those costs attributable to access revenues under both a net telecommunications revenue basis and an end-user telecommunications revenue basis.[144] For example, contributions to the TRS mechanism under the current gross telecommunications revenue basis are treated as exogenous costs under price cap regulation, meaning that the overwhelming majority of these costs are passed through to toll carriers under either methodology.[145] As the Commission concluded in the *LNP Cost Recovery Order*, because the end-user telecommunications revenue basis reaches the same result, but without the inefficiency and added complication of the pass-through step, we prefer the end-user telecommunications revenue basis.[146]

66. We expect that using the same funding basis for all of these purposes would reduce confusion and minimize the amount of information we need to collect from contributors. Numerous commenters praised this proposal because it would simplify our requirements.[147] Indeed, using the same revenue basis for all four funds furthers the deregulatory, burden-reducing objectives that we seek to achieve by creating a unified contributor collection worksheet. Only MCI objects to an end-user telecommunications basis on administrative grounds.[148] We disagree with MCI and note that the Commission found, in the *Universal Service Order*, that an end-user telecommunications revenue basis will be easy for carriers to administer because carriers already track their sales to end-users for billing purposes.[149] An end-user revenue basis requires marginally more revenue data, compared with a gross revenue basis. However, this additional data is now collected from most of the same

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[144] *See Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, Second Order on Reconsideration and Fourth Report and Order, FCC 93-463, CC Docket No. 90-571, 9 FCC Rcd 1637 (rel. Sept. 29, 1993) (clarifying that TRS Fund contributions may be treated as exogenous costs under price cap regulation). To this end, we believe that AT&T's suggestion concerning price cap reductions would be more appropriately considered in access charge proceedings. *See* 47 C.F.R. §§ 69.1. *See also LNP Cost Recovery Order*, ¶ 109 (suggesting that incumbent LECs would likely pass on shared costs of number portability to IXCs through exogenous treatment in their access rates).

[145] *Id.*

[146] *See LNP Cost Recovery Order*, ¶ 109.

[147] *See, e.g.*, BellSouth Comments at 4; TRA Comments at 3-4.

[148] *See* MCI Comments at 6. *Contra* Ameritech Comments at 2; BellSouth Comments at 4; IDT Comments at 16; MediaOne Comments at 2.

[149] *See Universal Service Order*, 12 FCC Rcd at 9208.

respondents as part of the universal service reporting requirements -- now to be combined in the consolidated worksheet. Thus, the change to end-user telecommunications revenues for TRS purposes should represent little, if any, added administrative burden to either contributors or the administrator.

67. We observed in the Notice that, by changing the funding bases to end-user telecommunications revenues, we would effectively exempt from contributions a number of carriers that have significant gross telecommunications revenue but no end-user telecommunications revenue, for example, carriers providing wholesale services.[150] For the purposes of TRS contributions, we conclude that, because section 225 states that the costs of telecommunications relay services should be borne by "all subscribers," the Act allows for, but does not require, contributions from all carriers. Accordingly, we conclude that the modifications made herein will effectively carry out the Congressional intent reflected in section 225.

68. In the case of NANP, we note that section 251(e)(2) requires that the "cost of establishing telecommunications numbering administration arrangements . . . shall be borne by all telecommunications carriers on a competitively neutral basis . . . ."[151] Given the statutory directive that contributions be collected from "all telecommunications carriers," we require carriers that provided telecommunications service during the base year and that have no end-user telecommunications revenue to make a fixed contribution of twenty-five dollars ($25) to the NANP cost recovery mechanism.[152] We conclude that assessing this sum will satisfy the statutory language of section 251(e)(2) and at the same time will not be economically burdensome for these primarily-large wholesale carriers.[153] Finally, we observe that although an end-user telecommunications revenue basis would otherwise relieve pure wholesalers, which have no end-user revenue, from directly bearing costs of number administration, the end-user method does not exclude wholesale revenues from the revenue base that determines carriers' contributions. As the Commission explained in the *Universal Service Order*, wholesale charges are built into retail rates, and thus the revenue basis still reflects wholesale revenue.[154]

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[150] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19319.

[151] 47 U.S.C. § 251(e)(2). *See LNP Cost Recovery Order*, ¶¶ 113-114.

[152] While the Commission proposed in the Notice a fixed contribution of $100 for carriers with no end-user telecommunications revenues, we believe that the $25 contribution will be easier to administer, since it is consistent with the $25 minimum contribution rule that we adopt for contributors with end-user telecommunications revenues. *See* Section IV. C.

[153] *See LNP Cost Recovery Order*, ¶¶ 113-114 (reaching same conclusion with respect to cost recovery for administration of long-term local number portability).

[154] *See Universal Service Order*, 12 FCC Rcd at 9207.

69. To minimize confusion for contributors and the administrators, we wish to make the transition to contributions based on end-user telecommunications revenues as soon as possible. For purposes of TRS, we recognize that many contributors are still making monthly installment payments toward their funding year 1999 contribution (which covers the April 26, 1999 through March 26, 2000 period) and we make clear that those contributions to the TRS Fund for the current funding period will continue to be based on gross telecommunications revenues. Because the contributor data needed to calculate TRS contributions for the funding year 2000 will not be available until April 2000, we will extend the current TRS funding period, so that contributions to the TRS Fund will continue to be based on gross telecommunications revenues and the current fund factor through the end of June 2000.[155] As of July 1, 2000 contributions to the TRS Fund will be based on end-user telecommunications revenues. A new factor will be developed in time for contributions in July 2000 and we will shift the fiscal year for TRS, so that the funding period will run from July 1st of each year through June 30th of the following year.

70. Indeed, we will shift the fiscal years for both TRS and NANP, so that the funding periods for these mechanisms will be more closely timed with the receipt of annual contributor data in the April filing of the new consolidated worksheet. We also make clear that contributions to the NANP cost recovery will continue to be based on net telecommunications revenues through the end of the current funding year, which covers fund administration from March 1999 through February 2000. The NANP Billing and Collection Agent will begin collecting contributions based on end-user telecommunications revenues for the funding year 2000. So that we may transition the NANP funding period to run from July 1st of each year through June 30th of the following year, we direct that the funding year 2000 will cover the sixteen month period from March 2000 through June 2001. We direct that, for purposes of the NANP funding year 2000, the Billing and Collection Agent will use contributor data filed in the September consolidated worksheet to develop the fund factor and should use the contributor data filed in the April consolidated worksheet to perform a "true-up" for the contributions in July 2000.[156] Thereafter, the NANP funding period will return to the twelve month cycle from July to June with contributions based on the April filing of the worksheet.

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[155] *See Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, Order, DA 98-2481, CC Docket No. 90-571 (rel. Dec. 2, 1998) (determining contribution factor for the April 26, 1999 through March 26, 2000 period).

[156] A "true-up" will be necessary because the September worksheet reports only half year revenue data and because it may not collect data from all NANP contributors, *e.g.*, some telecommunications carriers that are de minimis for universal service purposes will not file the September worksheet. We nevertheless expect that the revisions performed in the "true-up" will be minor in terms of contributors added and contributions adjusted.

C. Minimum and Fixed Annual Contributions to TRS and NANPA Mechanisms

1. Background

71. Pursuant to section 64.604(c)(4)(iii) of the Commission's rules, every carrier providing interstate telecommunications services "must contribute at least $100 per year" for the financing of TRS.[157] Similarly, contributors to the NANP cost recovery have been required to make a minimum payment of $100 per year.[158] In the *Contributor Reporting Requirements Notice*, the Commission proposed to reduce the current requirements for minimum annual contributions to these mechanisms.[159]

72. Specifically, the Commission proposed to eliminate the one hundred dollar ($100) minimum contribution rule as applied to the TRS Fund.[160] For purposes of NANP, the Commission proposed a two-part structure for determining minimum contributions. First, the Commission proposed that telecommunications carriers with no end-user telecommunications revenues make a fixed contribution of one hundred dollars ($100) per year to the NANPA cost recovery mechanism. Second, for those telecommunications carriers with any end-user telecommunications revenues, the Commission proposed to eliminate the minimum contribution rule. The Commission tentatively concluded that these proposed changes would provide a significant benefit to small telecommunications carriers and sought comment on its proposals.[161]

2. Discussion

73. We modify our proposals and amend our rules to reduce substantially the one hundred dollar minimum contributions to a twenty-five dollar minimum. Our experience with the TRS and NANP mechanisms persuades us that it is possible to lower the one hundred dollar minimum while protecting the administrative integrity and efficiency of the TRS and NANP mechanisms. As discussed in the Notice, the higher minimum appears unnecessary to cover the administrative costs of billing and collection for the primarily smaller companies

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[157] 47 C.F.R. § 64.604(c)(4)(iii).

[158] The Commission, in the *NANP Third Report and Order*, delegated to the NANPA Billing and Collection Agent the authority to perform collection activities, including the authority to design a reporting worksheet to collect information for assessments calculations. 47 C.F.R. § 52.16. In designing the worksheet, the NANPA Billing and Collection Agent imposed a one hundred dollar ($100) minimum payment as a means of covering administrative expenses. *See 1999 NANP Funding Worksheet Notice*, 13 FCC Rcd 17888.

[159] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19317-19.

[160] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19318-19.

[161] *Id.*

that owe contributions of less than one hundred dollars.[162] Although a number of commenters support eliminating a minimum contribution altogether,[163] we nevertheless find that this would tend to undermine the efficient administration of the TRS funding mechanism.

74. Simply put, such contributions, no matter how small, impose certain administrative costs (for example, costs to process carrier worksheets). We think that a twenty-five dollar minimum contribution is sufficient to cover these costs while ensuring that all carriers also contribute toward funding the program. Further, by reducing the currently-imposed minimum by 75 percent, we conclude that we will benefit small telecommunications carriers who will owe significantly lower TRS and NANP payments than they currently owe.[164] In the case of both TRS and NANP, we find nothing in the statute to prevent us from implementing a minimum contribution. We conclude that it is within our discretion to adopt reasonable minimum contributions as a matter of administrative convenience and to promote the administrative integrity and efficiency of the mechanisms. We conclude that a twenty-five dollar minimum is such a reasonable minimum and will help to ensure that result.

75. Moreover, since we determined above that successfully administering the NANP per the mandate of Congress requires that *all* carriers make NANP contributions, we conclude that all telecommunications carriers -- both those with end-user telecommunications revenues and those without end-user telecommunications revenues -- should make a minimum contribution of twenty-five dollar per year to the NANPA cost recovery mechanism.[165]

V. BILLING AND COLLECTION FUNCTIONS

A. Background

76. In a Notice of Inquiry attached to the *Contributor Reporting Requirements Notice*, the Commission asked parties to suggest additional steps that it could take to reduce burdens and maximize the efficiency of the contributor reporting requirements process, while

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[162] In the Notice, we noted that NECA has estimated administrative costs to be approximately $20.00 per contributor. *See Federal-State Joint Board on Universal Service*, Recommended Decision, FCC 96J-3, CC Docket No. 96-45, 12 FCC Rcd 87, 489 (rel. Nov. 8, 1996) (discussing the accuracy of this figure); *Universal Service Order*, 12 FCC Rcd at 9188 n. 2060. No commenter has contested this estimate. *See also* Notice of Ex Parte Presentation, from NECA to Ms. Magalie Roman Salas (Feb. 8, 1999).

[163] *See, e.g.,* APCC Comments at 2 n.1 ("For some of the smallest PSPs, the $100 minimum TRS payment could represent a payment larger than the after-cost profits received from end users during an entire year."); SBC Comments at 2; TRA Comments at 6.

[164] *See* Appendix B, Rules Amended.

[165] *See* Section IV. B. 2. (discussing fixed contributions to NANP mechanism by carriers with no end-user telecommunications revenues).

maintaining accuracy and accountability in the administration of the mechanisms.[166] The Commission asked commenters to consider whether the Commission should consolidate all billing and collection functions for the four support and cost recovery mechanisms with a single agent.[167] The Commission sought comment about whether the creation of a single billing and collection agent would permit contributors to file a single check for multiple funding purposes, *e.g.*, the local number portability administration, the NANPA administration, and the TRS Fund.[168]

B. Discussion

77. We do not propose to consolidate billing and collection functions for the universal service, TRS, NANP, and local number portability mechanisms, at this time. In reaching this conclusion, we believe that the record does not indicate that significant cost savings would be achieved by such a proposal. Indeed, a number of commenters, including administrators Lockheed and USAC, state that appointing a single agent for billing and collection functions would create complexity that might lead to increased costs for administration.[169] Because it is not clear that greater efficiency and reliability would be achieved through a single billing and collection agent for these four mechanisms, we do not propose such an approach.

VI. PROCEDURAL MATTERS

A. Final Paperwork Reduction Act Analysis

78. As required by the Paperwork Reduction Act of 1995, the *Contributor Reporting Requirements Notice* invited the general public and the Office of Management and Budget (OMB) to comment on the proposed information collection requirements contained in the Notice, in particular, the Telecommunications Reporting Worksheet. On December 9, 1998, OMB approved the proposed information collection, as submitted to OMB.[170] In this

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[166] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19323-26.

[167] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19323-26.

[168] *See Contributor Reporting Requirements Notice*, 13 FCC Rcd 19295, 19324-26.

[169] *See, e.g.*, Lockheed Comments at 5-6; USAC Comments at 5-6; MCI Reply Comments at 1, 6; USTA Comments at 4 (recommending that the Commission conduct a cost/benefit analysis to determine whether the proposal would lower administrative costs).

[170] In its approval of the proposed worksheet, OMB requests that the Commission address several issues. We respond to those concerns in this Order. *See supra*, ¶¶ 15 n.33 (concerning installment payments), 24 (concerning reporting by each legal entity), 30-31 (concerning the September 1 universal service filing), 75-76 (concerning single billing and collection agent), 77-79 (concerning estimated burden, including burden on carriers that do not comply with USOA, and installment payments), App. C (concerning impact of the Order on small

Report and Order, we adopt the proposed Telecommunications Reporting Worksheet, but modify our proposal to reflect comments received from OMB and other commenters. The revised Telecommunications Reporting Worksheet is subject to approval by OMB.

79. As described above, the worksheet that we adopt in this Order reflects our efforts to collect the information necessary to implement the congressional directives, while reducing to the lowest possible level the burden on carriers and service providers.[171] Indeed, the Commission has undertaken this proceeding to achieve the same deregulatory goals urged by commenters, such as GST, by consolidating multiple, existing reporting requirements.[172] We note, but do not find persuasive, GST's critique that the consolidated worksheet is designed solely for carriers having accounting systems akin to those mandated for dominant incumbent LECs.[173] The revenue categories used in the worksheet correspond to major categories of service; accordingly, Uniform System of Accounts (USOA) account numbers are provided in the instructions as a convenience for those carriers that are familiar with the USOA account structure. Most other firms, *e.g.*, smaller firms that do not employ the USOA, generally comply with Generally Accepted Accounting Principles (GAAP). Moreover, we expect that, in general, carriers track the relative magnitudes of their major product offerings for internal management reporting and cost accounting purposes.

80. Based on our review of the information requested in the Telecommunications Reporting Worksheet, we revise upward, from six to eight hours per response, our estimate of the time required to complete the worksheet. While the worksheet that we adopt is more streamlined than the proposed worksheet released for comment, we believe that our revised burden estimate more accurately reflects the amount of time needed to identify and compile the information requested.[174] This estimate is consistent with the burden estimates for completing existing worksheets, but reflects the streamlining measures that we adopt in this Order. For example, the burden of completing this worksheet (and thereby complying with the contributor reporting requirements) will be reduced by consolidating multiple filing dates and locations into one filing date and location, harmonizing the type of data used to calculate contributions, and eliminating worksheet sections that required filers to calculate their own contributions. The official burden estimate to complete the worksheet reflects an average response time that may vary for firms depending upon the number of services that they

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entities and on alternatives considered).

[171] *See* Section III.B. (discussing data requested in the worksheet).

[172] *See, e.g.*, GST Comments at i, 5 (stating that the Commission should consider alternatives such as "consolidation of various reporting requirements"). For example, as GST suggests, we have adopted our proposal to allow carriers to request nondisclosure of confidential data by using a check-box, rather than requiring them to make a separate initial filing under section 0.459. *See* Section III.H. (discussing various confidentiality issues).

[173] *See* GST Comments at 7-8.

[174] We estimate the burden to complete the shorter September filing to be 5.5 hours per respondent.

provide or the number of regions in which they provide service. Indeed, most firms will not need to provide data on all revenue categories, but will only report that small portion of the requested revenue data that is relevant to the services that they provide. We reiterate that the worksheet that we adopt in this Order seeks no additional data than that already request by the existing forms; this worksheet serves only to simplify and consolidate existing information collections. Finally, we note that the Commission has adopted -- and the instructions incorporate -- alternative, less burdensome approaches where it has been determined that supplying certain information is particularly burdensome for certain carriers.[175]

B. Final Regulatory Flexibility Act Analysis

81. As required by the Regulatory Flexibility Act (RFA),[176] the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of the policies and rules adopted in this Order. The FRFA is set forth as Appendix C. The Office of Public Affairs, Reference Operations Division, will send a copy of this Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

VII. CONCLUSION

82. We take several discrete actions in this proceeding to reduce burdens on regulated carriers and other providers of telecommunications services. By combining several required worksheets and filings into one unified Telecommunications Reporting Worksheet, we expect to both reduce regulatory burden and confusion and to increase compliance by those smaller companies that are not aware of the Commission's requirements. We have identified this proceeding as part of the Commission's 1998 biennial regulatory review because of its focus on eliminating duplicative regulatory burdens.

VIII. ORDERING CLAUSES

83. ACCORDINGLY, IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), 11, 201-205, 210, 214, 218, 225, 251, 254, 303(r), 332, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 161, 201-205, 210, 214, 218, 225, 251, 254, 303(r), 332 and 403 that this ORDER is hereby ADOPTED.

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[175] For example, where it was demonstrated that wireless contributors could not readily derive interstate revenues from their books of account, the Commission adopted interim safe harbor percentages that should greatly reduce burdens for wireless carriers. *See Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, FCC 98-278, 13 FCC Rcd 21252 (rel. Oct. 26, 1998).

[176] *See* 5 U.S.C. § 604. The RFA, *see* 5 U.S.C. § 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

84. IT IS FURTHER ORDERED that the rule changes set forth in Appendix B are hereby ADOPTED, effective thirty (30) days from the date of publication in the Federal Register. The information collection adopted herein is contingent upon approval by the Office of Management and Budget, but, in any event, will not become effective before thirty (30) days after publication in the Federal Register.

85. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this ORDER, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Magalie Roman Salas
Secretary