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

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

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION
INITIAL COMMENTS

The National Telephone Cooperative Association (NTCA)[1] submits these comments in response to the Federal Communications Commission's (FCC or Commission) Notice of Proposed Rulemaking (NPRM) in the above-captioned proceeding. NTCA recommends that the Commission continue to base carrier universal service contributions on interstate and international end user revenues. A revenue-based mechanism has a proven to be the most equitable, non-

[1] NTCA is a non-profit corporation established in 1954 and represents 545 rural telecommunications companies. NTCA members are full service telecommunications providers for rural communities, providing local, wireless, cable, Internet, satellite and long distance services to their communities. All NTCA members are small carriers that are defined as "rural telephone companies" in the Telecommunications Act of 1996 (Act). *47 U.S.C. §*

discriminatory, and administratively feasible mechanism for providing specific and predictable universal service support in accordance with the Telecommunications Act of 1996 (Act). It ensures that carriers charged with the duty to contribute to universal service support share the burden equitably and that their low volume users and other classes of customers do not incur a disproportionate share of the universal service contribution. And, it allows all carriers to track sales for billing purposes and results in the use of accurate data for determining carrier contributions. None of the other alternative non-revenue based mechanisms proposed in this proceeding provide the same degree of equity and fairness that the Act requires.

I THE COMMISSION SHOULD DISMISS ANY FLAT PER-LINE OR PER-ACCOUNT ASSESSMENTS FOR DETERMINING UNIVERSAL SERVICE SUPPORT CONTRIBUTIONS

The alternative proposals requiring carries to contribute to the universal service mechanism based on a flat per-line or per-account assessment using projected or historical line counts or number of accounts reported on a monthly, quarterly or annual basis should be dismissed. A flat per-line or per-account mechanism would require the Commission to base universal service contributions on intrastate and interstate revenues. This would be in violation of section 254 of the Act.[2] The United States Court of Appeals for 5th Circuit recently held that the Act prohibits the Commission from assessing contributions based on intrastate revenues.[3] Consequently, any assessment of the universal service contribution that is based on intrastate, rather than interstate and international end user revenues would be subject to a legal challenge.

A flat per-line or per-account assessment methodology would also disproportionately shift the contribution burden carriers serving certain classes of customers while enabling other carriers

---

151 (37). They are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

[2] 47 U.S.C. § 254(b)(5).

[3] *Texas Office of Public Utility Counsel v. FCC,*183 F.3d 393, 448 (5th Cir. 1999).

to escape their statutory duty to contribute their required share to the universal service mechanisms. Low volume consumers would inevitably pay universal service fees beyond their fair share under a flat per-line or per-account regime. This result would also be contrary to section 254 and the Commission's principles that contributions be equitable and non-discriminatory.

Moreover, the implementation of the per-line or per-account proposal would impose additional burdensome reporting requirements on small carriers. It would require carriers to report line counts or number of accounts on a monthly or quarterly basis, in addition to their revenues already reported in their quarterly Form 499-Q and annual Form 499-A. Assessment based on revenues avoids imposing additional administrative burdens on carriers.

Furthermore, a flat per-line or per-account assessment creates a double accounting and/or lack of accounting problem when there is more than one carrier providing service to a particular line, such as a local service provider and a long distance provider. This problem, however, is solved easily by calculating universal service contributions based on revenues, instead of lines or accounts.

II THE COMMISSION SHOULD MAINTAIN THE DE MINIMIS CARRIER EXEMPTION

The de minimis exemption applies only to those carriers for which the cost of collection associated with contributing to the universal service mechanisms exceeds the amount of contribution. NTCA is not aware of any change in the administrative costs for small carriers that currently qualify for the exemption that would justify the elimination of the exemption. Indeed, small carrier administrative costs have increased due to the fact that the Commission recently decided to require carriers to report their revenues four times per-year, instead of the previous one

time per-year.[4] The public interest would not be served if the compliance, collection and reporting costs associated with contributing to the universal service mechanisms exceed a carrier's actual contribution.[5] The Commission should therefore maintain the de minimis carrier exemption.[6]

III THE COMMISSION SHOULD INCREASE THE SAFE HARBOR PERCENTAGES FOR WIRELESS CARRIERS

NTCA supports the FCC's proposal to increase the safe harbor percentages for wireless carriers. Given the fact that many consumers have shifted, or are shifting, their long distance calling to wireless bundled local and long distance, one-package rate plans, the current safe harbor percentages are outdated and unrepresentative of the actual percentage of interstate telecommunications revenues for wireless carriers. Maintaining the current safe harbor percentages will inevitably create economic distortions and competitive disadvantages for wireline carriers. Increasing the wireless safe harbor percentages to levels that reflect the recent changes in the telecommunications services market will assist the Commission in ensuring economic efficiency in the market and maintaining a level competitive playing field for both wireless and wireline carriers.[7]

IV CONCLUSION

To ensure the most equitable, non-discriminatory, and administratively feasible method of providing specific and predictable universal service support the Commission should: (1) continue

---

[4] *Federal-State Joint Board on Universal Service,* Report and Order on Reconsideration, CC Docket No. 96-45, FCC 01-85 (2001).

[5] *Federal-State Joint Board on Universal Service,* Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 13 FCC Rcd 5318, 5465, ¶ 295 (1997).

[6] Letter from the Honorable John D. Dingell, United States House of Representatives, Ranking Member, Committee on Energy and Commerce to the Honorable Michael K. Powell, Chairman, Federal Communications Commission, dated June 20, 2001. (Urging the Commission to continue its vigilance to make sure the burden of regulation does not fall disproportionately on the shoulders of small, rural telephone companies and their customers)

[7] Wireless carriers generated $52.5 billion in revenues, increased subscribership from 86 million to 109.5 million, and increased their nationwide penetration rate to 39 percent during the calendar 2000. FCC news release "FCC Adopts Annual Report on State of Competition in the Wireless Industry" dated June 20, 2001 (Report not yet released).

to base carrier universal service contributions on interstate and international end user revenues; (2) reject alternative proposals that require carriers to contribute support based on a flat per-line or per-account assessment using projected or historical line counts or number of accounts reported on a monthly, quarterly or annual basis; (3) maintain the de minimis carrier exemption; and (4) increase the wireless safe harbor percentages.

Respectfully submitted,

NATIONAL TELEPHONE COOPERATIVE ASSOCIATION

By: /s/ L. Marie Guillory
L. Marie Guillory

By: /s/ Daniel Mitchell
Daniel Mitchell

Its Attorneys

4121 Wilson Boulevard, 10th Floor
Arlington, VA 22203
(703) 351-2000

June 25, 2001

CERTIFICATE OF SERVICE

I, Gail C. Malloy, certify that a copy of the foregoing Initial Comments of the National Telephone Cooperative Association in CC Docket No. 96-45, CC Docket No. 98-171, CC Docket No. 90-571, CC Docket No. 92-237, CC Docket No. 99-200, CC Docket No. 95-116, FCC 01-145 was served on this 25th day of June 2001 by first-class, U.S. Mail, postage prepaid, to the following persons

/s/ Gail C. Malloy
Gail C. Malloy

Chairman Michael Powell
Federal Communications Commission
445 12th Street, SW, Room 8B201
Washington, D.C. 20554

Commissioner Kathleen Q. Abernathy
Federal Communications Commission
445 12th Street, SW, Room 8B115
Washington D.C. 20554

Commissioner Gloria Tristani
Federal Communications Commission
445 12th Street, S.W., Room 8-C302
Washington, D.C. 20554

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, S.W., Room 8-A302
Washington D.C. 20554

International Transcription Service
Federal Communications Commission
445 12th Street, S.W., Room CYB400
Washington, D.C. 20554

Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, SW, TW-A325
Washington, D.C. 20554

Judy Boley
Federal Communications Commission
445 12th Street, SW, Room 1-C804
Washington, D.C. 20554

Edward Springer
OMB Desk Officer
10236 NEOB
725 – 17th Street, N.W.
Washington, D.C. 20503

Sheryl Todd
Accounting Policy Division
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554