BEFORE THE

Federal Communications Commission

WASHINGTON, D.C.

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with 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

COMMENTS OF TIME WARNER TELECOM

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June 25, 2001

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I. INTRODUCTION AND SUMMARY

Time Warner Telecom ("TWTC"), by its attorneys, hereby submits these comments in response to the Notice of Proposed Rulemaking[1] in the above-referenced proceeding. In the

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[1] *See Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service,*

Notice, the Commission sought comment on the appropriate methodology for assessing Universal Service Fund ("USF") contributions. TWTC supports the continued assessment of USF contributions on a historical revenue basis. In the event that the Commission adopts modifications to the existing USF reporting and contribution requirements, the Commission should make every effort to minimize burdens on carriers and to adopt procedures that are simple for carriers to implement.

II. THE COMMISSION SHOULD CONTINUE TO ASSESS USF CONTRIBUTIONS BASED ON HISTORICAL REVENUES.

First, TWTC supports the continued assessment of USF contributions based on revenues, rather than the flat-fee method proposed in the *Notice*.[2] Revenue is an objective and easily verifiable method on which to base assessments, while a per-line or per-account assessment would be administratively burdensome for carriers and problematic to implement.

Changing the USF assessment methodology would impose substantial costs on CLECs by increasing administrative burdens. In considering modifications to any Commission program that imposes reporting and contribution requirements on carriers, the Commission should make every effort to limit administrative burdens and costs on carriers to those absolutely needed by the Commission to fulfill its statutory obligations. Further, the Commission should consider the reporting and contribution obligations it proposes for the USF contribution mechanism in the context of the total burden imposed on carriers by all Commission-mandated

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North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms; Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990; Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size; Number Resource Optimization; Telephone Number Portability, Notice of Proposed Rulemaking, FCC 01-145 (rel. May 8, 2001) ("*Notice*").

2 *See Notice* ¶¶ 25-30.

reporting and contribution requirements.[3] Reporting requirements in general impose significant costs on carriers, but particularly on new entrants. These regulatory obligations divert CLEC financial and personnel resources needed to compete in a fiercely competitive marketplace. With every new reporting requirement or significant modification to existing requirements, carriers must dedicate resources to developing internal systems and devote personnel to gathering, compiling, and verifying the data collected for submission to the Commission. The proposal to abandon the revenue basis in favor of a per-line or per-account assessment would require significant efforts to adapt systems and internal policies to the new reporting and contribution obligations.

Furthermore, the proposed per-line or per-account reporting would create new implementation problems that would require resolution by the Commission, creating additional difficulties for reporting carriers and possibly resulting in inaccurate reporting and therefore inequitable contributions. While the *Notice* suggests that this system might be easier to administer than the current revenue-based system, it does not address critical implementation questions. If the Commission were to adopt a per-line or per-account fee, the Commission

[3] In addition to quarterly revenue reporting already required for USF contribution purposes, CLECs are required to file, among others, slamming reports, numbering resource utilization/forecast reports, local competition and broadband reports, various common carrier reports, international reports, and regulatory fees. *See Federal-State Joint Board on Universal Service; Petition for Reconsideration Filed by AT&T*, Report and Order and Order on Reconsideration, FCC 01-85, ¶ 11 (rel. Mar. 14, 2001) (requiring quarterly revenue reporting for USF assessments); *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers*, Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996, ¶¶ 55-58 (2000) (requiring slamming reports); 47 C.F.R. § 52.15(f) (requiring numbering resource utilization/forecast reports); 47 C.F.R. § 43.11 (requiring local competition and broadband reports); 47 C.F.R. § 43.21 (requiring various common carrier reports); 47 C.F.R. § 43.61 (requiring international reports); 47 U.S.C. § 159 (authorizing the Commission to collect regulatory fees). Recently, the Commission has also proposed new service quality reporting for CLECs. *See 2000 Biennial Regulatory Review -- Telecommunications Service Quality Reporting Requirements*, Notice of Proposed Rulemaking, 15 FCC Rcd 22113 (2000). Finally, it is also worth noting that CLECs are subject to an overwhelming number of state commission reporting requirements.

would need to provide detailed definitions of “line” or “account.” These definitions would need to be specific enough to allow carriers to report the appropriate number of lines or accounts for each type of service offered or customer served, in a marketplace that offers an ever increasing variety of services using various technologies for a wide range of customers. Furthermore, the Commission would need to regularly adjust the definitions to fit new services and technologies that may not easily fit into the established definitions.

For example, it is not clear how carriers would define “line” for a per-line charge. Many wireline carriers, such as TWTC, largely provide voice and data services over high-capacity facilities that do not necessarily correspond to the traditional notion of a voice line. This leads to inevitable questions about how carriers would report, and in turn would contribute based on, per-line counts. The complications of per-line reporting have been demonstrated by Form 477, the Local Competition and Broadband Report. In that report, carriers are required to report broadband facilities separately from voice-grade equivalent lines. However, the definitions in the report instructions provide little guidance on how to distinguish voice-grade lines from broadband when voice and data services are provided over broadband facilities.

Similarly, if the Commission adopts a per-account method, it would need to develop an appropriate definition of “account.” Without extremely precise definitions, the Commission would only be introducing opportunities for carriers to shirk their universal service obligations through liberal interpretations of imprecise terms. Finally, even if the Commission adopts a flat-fee system, it should not impose per-line contributions on certain classes of carriers while using per-account contributions for others. This would unquestionably result in an inequitable distribution of the universal service contribution burden among carriers. Therefore, the Commission should not abandon the revenue-based methodology that has required significant implementation investments by carriers and with which significant implementation issues have already been resolved by the Commission.

Second, the Commission should continue to assess USF contributions based on historical revenues, rather than the proposed projected revenue method.[4] In describing the proposed projected revenue method, the *Notice* suggests that additional reporting might be required and that carriers' contributions would regularly be subject to true-ups to account for discrepancies in revenue projections. The proposed projected revenue contribution mechanism would further add to carriers' administrative burdens in complying with reporting and contribution obligations, as previously discussed. In addition, under this methodology, carriers could be required to perform complex revenue projections for USF contribution purposes. Routine true-ups of contributions would require carriers to implement additional accounting processes. Furthermore, this method could create uncertainty in the contribution mechanism that would be dependent on the accuracy of revenue projections. Perhaps most importantly, the projected revenue methodology could introduce opportunities to manipulate projections to gain short-term advantages.

The Commission sought comment on the projected revenue method in response to concerns of certain carriers that have argued that the current historical contribution method unfairly disadvantages carriers with declining revenues and could benefit certain new entrants. However, the Commission has already recently addressed these concerns by adopting quarterly revenue reporting for USF contributions that decreases the assessment interval to six months. While this change to the reporting requirements undoubtedly increased burdens on carriers, it appropriately addressed the concerns of these carriers by significantly reducing the advantage or

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[4] *See Notice* ¶¶ 18-23.

disadvantage of contributors based on their relative positions within the market. Although some disadvantage caused by the assessment interval remains for carriers with declining revenues, the administrative burdens and costs of further reducing the interval or adopting a projected revenue method appear to outweigh the benefits that might be derived from these changes. Therefore, the Commission should reject the projected revenue proposal because it would needlessly create further burdens on carriers. Instead, the Commission should affirm the historical revenue methodology for USF contributions.

Third, TWTC believes that the existing system that bases USF contributions on historical gross-billed interstate end-user telecommunications revenues appropriately achieves universal service goals while imposing fewer burdens on carriers than the alternatives proposed in the *Notice*. However, TWTC would be willing to support shifting the contribution base from gross-billed revenues to collected revenues if the change were implemented in an equitable and verifiable way without significantly increasing administrative burdens. For example, if the Commission were to adopt the collected revenue method, carriers could report on the Form 499 a percentage of uncollectible revenues based on the carrier's most recent financial statements that comply with Generally Accepted Accounting Principles. That percentage would then be applied to the gross-billed interstate revenue to determine the collected revenue of each carrier, which would then serve as the revenue base for USF contributions. This method would eliminate the need to mark up universal service contribution recovery line items on customer bills to account for uncollectibles, and at the same time, would not significantly burden carriers.

Finally, TWTC submits that the current USF contribution assessment methodology using a historical revenue base appropriately serves the universal service goals of the Commission and of Section 254 of the Act.[5] Therefore, the Commission should continue to base carrier contributions to the USF on historical revenues and should minimize burdens on carriers in any modifications that the Commission chooses to make in the existing reporting and contribution requirements.

III. CONCLUSION

TWTC respectfully requests that the Commission adopt USF contribution rules in accordance with the recommendations made herein.

Respectfully submitted,

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5 *See* 47 U.S.C. § 254.