Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

INITIAL COMMENTS ON BEHALF OF IDT CORPORATION

IDT Corporation ("IDT") submits these comments in response to the Notice of Proposed Rulemaking issued by the Federal Communications Commission ("Commission") on May 8, 2001 and published in the Federal Register on May 24, 2001. For the reasons stated herein, the Commission should modify its rules to base Universal Service contributions on collected, rather than gross billed revenue as this method is predictable and more competitively neutral than the present method. The Commission should decline to base contributions on projected revenues as this unfairly burdens new carriers and introduces elements of uncertainty and administrative difficulty into an otherwise simple process. The Commission should also decline to set revenues on a flat-fee basis as this proposal replaces competitively neutral revenue-based contribution for the sake of administrative ease and raises serious concerns that the proposed model will be unfairly burdensome on low-income subscribers. Additionally, the Commission should not limit the manner in which carriers recover USF contributions on an end-user bill as such limits harm "line item" carriers while they do not equally impact carriers that recover the USF wholly through rates. Finally, the Commission should not prohibit cost recovery from Lifeline subscribers, as this presents considerable administrative difficulties, and will place an unfair burden on non-Lifeline subscribers and/or carriers.

Whether Universal Service Contributions Should Be Based on Collected, Instead of Gross-Billed, Interstate and International End-User Telecommunications Revenues

The Commission's proposal to base Universal Service contributions on collected end-user telecommunications revenues should be approved for several reasons. Most importantly, this method is sufficient and predictable.[1] Additionally, the proposed method is more competitively neutral than the current system. Under the current system, carriers that serve communities where non-payment for services is high are punished because they are required to remit for their unrecovered revenue. This discourages carriers from serving these markets, thereby preventing the introduction of competition or limiting competition to carriers that require prepayment or charge noncompetitive rates. Basing USF remittance on collected revenues eliminates the loss associated with non-payment and may result in more carriers making their services available in high-risk markets.

[1] 47 U.S.C. § 254(b)(5).

Moreover, the proposed method will simplify the assessment and recovery of USF contributions and eliminate some of the cost of engaging in complex calculations to account and collect for uncollected revenues. IDT does not agree, however, that simplification of the process and the elimination of certain costs would altogether eliminate a carrier's need to recover from customers any amount in addition to the assessed contribution percentage. A carrier may have costs associated with its USF remittance other than those costs incurred when determining bad debt. However, since basing the USF remittance on collected revenue may eliminate some of the cost incurred to account for uncollected revenues, these savings be accounted for when considering the reasonableness of a carrier's rate that exceeds the rate set by the Commission.

Whether to Assess Universal Service Contributions Based On Current Or Projected Revenues

The Commission's proposal to assess Universal Service contributions on projected revenues should be rejected. This proposal would introduce an element of uncertainty and administrative difficulty that is contrary to this proceeding. If approved, carriers would have to undertake timely and costly calculations to determine future revenues and, depending on other action taken in this proceeding, future uncollectable revenue. Aside from the difficulty of such an exercise, remitting contributions based on projected revenue injects an element of uncertainty into the process. The Commission will have to impose a true-up mechanism to account for carriers that over or under report projected revenue and will likely have to consider fines or other punishments for carriers that use the new method to under report revenue.

Of equal importance, remitting funds based on projected revenues harms smaller, yet growing carriers while it benefits those carriers with declining revenues. Carriers with a growing revenue base will be required to remit before revenue has even been collected. The Commission's rules do not compel such a policy, and the Commission has failed to articulate any reasonable policy in support of such a change.

Finally, this recommendation should be denied since the Commission has recently acted to shorten the period between subscriber revenue collection and remittance. The purpose of this change was to assist carriers with declining revenues. Since this change was just implemented this last quarter, it seems neither necessary nor reasonable to modify this period at this time. Instead, the Commission should give the new procedures an opportunity to work before taking the drastic action recommended in this proceeding. If, at some later date, the Commission determines that the new reporting requirements fail to account for certain carriers needs, it can initiate a rulemaking at that time.

Whether to Assess Universal Service Contributions on a Flat-Fee Basis

The Commission's proposal to assess Universal Service contributions on a flat-fee basis should be rejected, as it is overly complicated and less efficient than the current revenue-based assessment method. The fatal flaw in the Commission's proposal is that maintains a relationship between the USF assessment and the "unit" against which the assessment is made for the sake of administrative ease and efficiency rather than for the economic benefit of the remitting subscriber and carrier. In doing so, the Commission fails to recognize that a remittance based on revenue is the fairest method available.

Any application of a non-revenue based "unit" methodology is likely to lead to confusion and an increased burden on certain subscribers. Under such a methodology, one subscriber could have $100.00 worth of interstate charges whereas another subscriber could have $5.00, yet both would receive the same USF assessment if a flat per-line or per-account unit methodology were implemented. Therefore, it is difficult to see how a flat per-line or per-account assessment methodology would not shift a disproportionate share of the USF contribution burden to low-volume users by requiring the user to pay a proportionally greater share than would be required under a revenue-based methodology.

A second cause for concern is the manner in which the Commission would determine the appropriate addressable "unit" for recovery. USF addressable revenue is generated through the provision of hundreds, if not thousands of different types of service offerings. Under the current system, the unique characteristics of these offerings are largely ignored, because addressable revenue is based on one common factor: revenue. By ignoring this common factor, the Commission would have to find a new common factor or multiple common factors. This seems illogical and difficult, if not impossible. Moreover, because consumers and carriers have grown accustomed to the current paradigm of remittance based on revenue, any revisions to the present methodology will lead to confusion and concern, particularly if the revised method places a greater burden on low-volume users. Ultimately, because the Commission has failed to present a more equitable alternative to a revenue-based remittance obligation, the present system, subject to the modifications noted in these comments, should remain.

Whether Carriers Should Be Limited in How They List and Recover USF As a Surcharge on Their Bills.

The Commission's proposal to mandate a uniform line item that corresponds to the prescribed percentage, per-line, or per-account assessment established by the Commission should be rejected. The basis for this proposal – to ensure that carrier recovery remains within the bounds of reasonableness as prescribed by Sections 201 and 202 of the Act – does not support this drastic recommendation.

This proposal should be rejected because it places a burden upon carriers that recover the USF remittance through a line item that does not equally apply to carriers that recover the USF remittance through rates. Under the proposal, the "line item" carriers have set limits on the USF recovery whereas no such limits apply to the "rate recovery" carriers. This is inconsistent with the Commission's practice of not dictating how carriers recover their contribution obligations. Indeed, the proposal does nothing to prevent over-recovery for USF charges from "rate recovery" carriers.

If the Commission were to implement its proposal, carriers would be faced with two regulatory paradigms: limited recovery through a line item or unlimited, virtually unregulated recovery through rates. When faced with this option, certain carriers might choose to eliminate the line item altogether, recovering USF remittance purely through rates. Indeed, it is not difficult to imagine carriers that choose to recover the USF remittance through rates advertising "No Universal Service Fee" as a means to distinguish them from the competition. Such a decision would not only cause more carriers to be beyond the Commission's review of reasonableness, it would cause consumer confusion over the nature of the USF charge itself.

Understandably, the Commission is concerned that certain carriers may be charging rates for USF recovery that greatly exceed the remittance percentage thereby resulting in a benefit for such carriers. However, the Commission has the authority to enforce the "reasonableness" of Sections 201 and 202 of the Act without mandating line item recovery in the manner proposed. If the Commission finds a carrier has implemented a USF recovery rate that is unreasonable, the Commission can take appropriate action against the offending carrier. Moreover, the marketplace can regulate those carriers who choose to exceed recommended USF remittance rates. The rate a carrier charges for USF remittance, like the rate it charges per minute of use, is a term of service consumers must consider when choosing a service provider.

In conclusion, because the Commission's proposal will foster an unequal, dual regime for the application of USF remittance rates, encourages hidden costs to support the USF and is unnecessary in light of Commission rules and marketplace realities, the Commission should reject this proposal.

Whether Carriers Should Be Prohibited From Recovering Universal Service Contributions From Lifeline Customers

The Commission's proposal to prohibit recovery of Universal Service contributions from Lifeline customers may be the product of good intentions, but its result would be bad public policy for several reasons. Therefore, this proposal should be rejected.

If approved, the Commission's proposal would create a source of revenue subject to Universal Service Fund remittance but would eliminate the appropriate source to contribute to that remittance. This would lead to two outcomes, neither of which is consistent with 47 U.S.C. Sec. 254 and Commission policy. Under the first outcome, carriers would increase their USF contribution factor to other subscribers to offset the loss of USF contribution from Lifeline subscribers. However, this is inconsistent with Commission policy that certain customer classes (*e.g.*, non-Lifeline subscribers) should not bear a disproportionate share of a carrier's cost of USF contributions. Additionally, the Commission would have to account for the additional burden placed on these non-Lifeline customers in its proposal to set USF at a prescribed rate. Under the second outcome, carriers would not pass along the USF cost incurred by Lifeline subscribers to non-Lifeline subscribers, thereby never recovering their remittance. This is inconsistent with a carrier's right to recover costs of USF remittances under 47 U.S.C. Sec. 254. While it is unlikely carriers would choose to incur such a loss, such a result could be mandated if the Commission prohibited USF recovery from Lifeline subscribers and implemented its proposals to limit a carrier's recovery rate to a predetermined percentage or dollar figure.[2]

The only fair manner in which the Commission could eliminate recovery of USF charges from Lifeline subscribers would be to eliminate carriers' obligation to remit on the USF-addressable revenues received from its Lifeline subscribers. However, this proposal is problematic for several reasons. First, non-LECs cannot readily identify Lifeline customer revenues, lines or accounts. These carriers would have no way of knowing which subscribers should not be assessed USF recovery charges. Moreover, even if a method to identify Lifeline customer revenues, lines or accounts were devised, it would impose additional administrative burdens on the non-LECs. This is, of course, entirely inconsistent with the Commission's goal to streamline reporting requirements. Second, it would be difficult, if not impossible, for the Commission to prevent recovery of USF charges from Lifeline subscribers through increased rates. As the Commission has acknowledged, certain carriers choose to recover their USF remittance in their rates, rather than in a line item. Such recovery is transparent and would not be eliminated by a Commission rule prohibiting a line item USF charge from Lifeline subscribers. To the

[2] The carrier would not recover its USF remittance for the percentage of its subscribers that are Lifeline subscribers. For example: If a carrier's addressable revenue is $1,000,000 and the remittance percentage is 6.00%, the carrier must remit $60,000. The carrier would then recover the remittance through a USF surcharge to its subscribers. However, if the carrier could not impose a remittance on Lifeline subscribers, which represent 5.00%, or $50,000, of its addressable revenue, the carrier would only recover $57,000, or 95% of its total remittance. To eliminate such a significant source of revenue from a carrier could be devastating.

contrary, it would permit such carriers to recover additional revenue from Lifeline subscribers but not compel the carriers to remit that revenue.

An additional reason the Commission should reject its proposal to prohibit recovery of USF charges from Lifeline subscribers is the burden it places on certain carriers serving the low-income residential marketplace. Many CLECs and IXCs do not serve the residential marketplace, and the low-income residential marketplace in particular, because these markets are perceived as less profitable. As a result, competition has not developed in these subscribers as in more profitable markets, such as business subscribers. If the Commission were to implement its proposal to prohibit recovery of USF charges and/or implement an administratively burdensome proposal to eliminate USF charges for Lifeline subscribers altogether, serving this market segment becomes more difficult and less profitable. This could present a devastating blow to the introduction of competition to the low-income residential marketplace.

For the reasons stated above, the Commission should reject its proposal to prohibit carriers from recovering USF contributions from Lifeline subscribers. In doing so, however, it should recognize and address a simple fact: USF contributions place a tremendous burden on all telecommunications users. To receive a charge of 6.8823% onto a phone bill already bloated with state and local taxes, state Universal Service Funds and the Federal Excise Tax is fundamentally anti-consumer. In its review of the manner in which the USF remittance is imposed and remitted, focusing on the manner in which the charge is imposed is meaningless if the Commission does not equally focus on how the burden of the USF can be reduced or eliminated for all telecommunications users. The Commission must propose ways to lower and eliminate - rather than simply reconfigure - government-related surcharges placed on subscribers phone bills if it intends to act in the best interest of consumers.

Conclusion

For the reasons stated herein, the Commission should modify its rules to base Universal Service contributions on collected, rather than gross billed revenue as this method is predictable and more competitively neutral than the present method. The Commission should decline to base contributions on projected revenues as this unfairly burdens new carriers and introduces elements of uncertainty and administrative difficulty into an otherwise simple process. The Commission should also decline to set revenues on a flat-fee basis as this proposal replaces competitively neutral contribution for the sake of administrative ease and raises serious concerns that the proposed model will be unfairly burdensome on low-income subscribers. Additionally, the Commission should not limit the manner in which carriers recover USF contributions on an end-user bill as it limits the method of recovery for "line item" carriers while it does not equally impact carriers that recover the USF through rates. Finally, the Commission should not prohibit cost recovery from Lifeline subscribers, as this presents considerable administrative difficulties, and will place an unfair burden on either non-Lifeline subscribers or the carriers.

Respectfully submitted,

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/s/______________________________

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