appropriate. Using the $2.31 per voice grade assessment charge provided in that Report, the carrier of a customer with a DS-3 connection would be assessed a universal service charge of $1552.32 per month (672 voice-grade equivalents ("VGE") at $2.31 per VGE). At this level, even if the carrier did not include any associated administrative costs in its universal service surcharge, the USF charge would be excessive and would distort customer choices; as a point of comparison, ILEC tariffed DS-3 channel termination rates are approximately $1000-$1500 per month.

The Commission seeks comment on how flat fees should be assessed when there is more than one provider associated with a particular line.[26] To attempt to identify and allocate the contribution obligation among all of the carriers associated with a particular line is a complex and unwieldy endeavor susceptible to uncertainty and inequity. As an initial matter, it is not clear how to define which carriers are "associated" with a particular line. Simply identifying the number of providers with whom a given end-user has a customer relationship would be difficult. For example, a particular end-user line may be served by a local exchange carrier and a presubscribed interexchange carrier, as well as an unlimited number of dial-around or prepaid calling card providers. In the case of a customer with PBX, calls may be routed to a variety of interexchange carriers, depending on time of day, location being called, or other factors.

Moreover, requiring an assessment to be shared by multiple carriers unnecessarily increases administrative costs. The cost of one carrier collecting $1.00 from an end-user customer will be lower than the cost of two carriers each collecting $0.50 from that customer. Quite simply, there are costs associated with, but no benefits from, splitting the assessment between multiple providers – whether these are a local service provider and an interexchange

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[26] *Notice* at para. 30.

carrier or an incumbent local exchange carrier and a competitive local exchange carrier. In contrast to a revenue-based approach, a connection-based system provides an objective measure for determining the identity of the carrier to be assessed. Under a connection-based approach, the carrier from whom the customer is obtaining the wireline or wireless connection should be responsible for the contribution obligation.

In the same vein, the assessment obligation should fall on the carrier who has the relationship with the customer for whom the connection is made, not on a carrier that is just provisioning the line for another carrier who has that direct customer relationship. Thus, where Carrier A provides a special access, UNE-P, or UNE-loop connection to Carrier B, for Carrier B to serve the end user, it is Carrier B, not Carrier A, who would have the assessment obligation.[27]

WorldCom is aware, based on industry discussions that began last year, that ILECs will argue that Centrex connections should not be assessed at a multi-line business rate. WorldCom believes these connections should be assessed at a multi-line business rate. But if the Commission believes that the ILECs, in the record in this proceeding, have demonstrated that this assessment level would not be competitively neutral, then the Commission should apply an assessment of no less than the assessment on residential connection, $1.00, for each Centrex connection.

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[27] In the case of line splitting, in which the incumbent LEC is offering an end user voice service and a CLEC is offering the same end user data service over the same line, the Commission should make the determination about which carrier should bear the assessment obligation. For reasons of administrative efficiency, it makes no sense to split this obligation between the two carriers.

IV. THE COMMISSION SHOULD REVISE ITS RULES AND GUIDELINES REGARDING RECOVERY OF UNIVERSAL SERVICE CONTRIBUTIONS TO MAKE THEM CONSISTENT WITH CHANGES TO THE CONTRIBUTION SYSTEM.

A. Carriers Should Be Allowed To Recover Universal Service Contributions Through Flat, Per-Connection Surcharges On Customer Bills

As demonstrated above, it is imperative that the Commission promptly replace the existing scheme for assessing universal service contributions with one that uses connections to determine a carrier's obligation. Implementation of that methodology, however, likely will also cause carriers to change the manner in which they recover their contribution obligation from their end-user customers. Consequently, the Commission should expressly affirm that carriers are permitted to assess flat, per-connection surcharges on customers' bills to recover their payments to the USF. As the *Notice* suggests, such surcharges should "correspond to" the federal universal service assessment amount, but may not necessarily be equal to the per-connection assessment amount because carriers incur additional costs to bill and collect the assessment from their customers. Thus, if the Commission were to adopt the proposal to assess carriers $1.00 per residential connection, carriers should be permitted to recover from residential customers $1.00 plus associated administrative costs incurred by the carrier, uncollectibles, and any other costs associated with collecting their prescribed contribution.

The shift to flat, per-connection surcharges also should have pro-competitive benefits. Consumers should find it relatively easy to compare the amount of a carrier's per-connection surcharge with both the USAC assessment amount as well as the surcharges imposed by competing providers. Further, such comparisons should be simpler to make than comparisons of universal service charges that vary from month to month according to the customer's level of interstate and international calls. Thus, the introduction of a per-connection surcharge should

enhance the ability of consumers to select the service provider who offers them the best value, given the consumers' particular calling patterns.

In the *Notice*, the Commission seeks comment on its authority to impose constraints on carriers' recovery of universal service contributions from their customers.[28] In the case of non-dominant carriers, the Commission need not and should not prescribe a cap or otherwise arbitrarily limit the discretion of such carriers to set a per-connection surcharge. Such carriers, by definition, lack market power; their prices and practices are constrained by the competitive discipline of the marketplace.

Further, as discussed above, the introduction of a per-connection based system for assessing contributions to carriers should enhance consumers' ability to compare different carriers' service offerings, including their universal service assessments. The Commission itself has underscored in its consumer education efforts the importance of comparing long distance carriers' methods of recovering universal service contributions in evaluating their service offerings.[29] The Commission states on its website that "[b]ecause the long distance market is competitive, the FCC does not heavily regulate long distance company charges for service. As a result of this flexibility, long distance companies are permitted to, and do, take varying approaches to recovering the costs of their contributions to the universal service funding mechanisms."[30] In highly competitive markets, such as the long distance market, carriers that charge excessive fees or do not adequately explain the fees will lose customers to alternative providers and suffer in the marketplace. The marketplace, along with the Commission's existing

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28 *Notice* at para. 47.

29 *See* www.fcc.gov/cib/consumerfacts/universalservice.

30 *Id.*

rules and enforcement powers, adequately protect consumer interests.[31]

The Commission should not require all carriers to assess a uniform per-connection fee nationwide. That approach would be feasible only if the carriers are not held liable in the event a consumer does not pay the fee and if all carriers had exactly the same cost structure. In fact, cost structures do vary.

If the Commission decides to set rules relating to the amount that carries can collect to recover their universal service costs, it should do so in the least-intrusive fashion by setting a "safe harbor" within which a carrier's surcharge would be deemed reasonable. Carriers setting surcharge amounts outside the "safe harbor" may be required by the Commission to provide support for their surcharges. For example, the Commission could deem reasonable any surcharge that represents the assessment amount plus reasonable administrative and uncollectible costs. On a case-by-case basis, the Commission could ask for cost support from carriers whose surcharges exceeded the safe harbor amount. This approach would accommodate carriers whose costs or circumstances necessitate a surcharge in excess of the safe harbor amount, while allowing the Commission to provide guidance on what it deems reasonable surcharge amounts.[32] If the Commission prefers that carriers' surcharges not include any costs associated with uncollectibles, the Commission should implement a contribution system that assesses carriers only on surcharge amounts actually collected.

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[31] *See* Section 201(b) of the Act, under which common carriers are prohibited from engaging in unjust and unreasonable practices in the provision of telephone service. 47 U.S.C. § 201(b).

[32] Consider, for example, a situation in which there are different assessment rates for single-line business and multi-line business customers and the IXC as well as the ILEC is assessed. In this situation, the IXC may not have the data needed to be able to distinguish between single-line and multi-line customers and therefore might choose to recover its universal service costs on a per account basis that would exceed the Commission's safe harbor for single-line customers, but that is fully defensible.

B. It Is More Difficult To Construct A Safe Harbor Surcharge For Recovery Of Revenue-Based Contribution Costs Than For Connection-Based Contribution Costs

To the extent that the Commission continues to base a carrier's contributions to the federal USF on revenues, carriers must be able to recover their costs associated with universal service through either a flat per-connection or per-account charge or through a percentage-based charge. Further, if the assessment mechanism continues to rely on historical revenues to determine a carrier's share, many long distance providers with declining revenues must be able to account in their surcharges for the smaller revenue bases from which they can recover their contributions. In addition, some carriers may offer products or services on which it is not practical from a technical or business perspective to impose a universal service surcharge, even though those products or services generate interstate telecommunications revenues on which carriers must contribute to the federal USF.

By contrast, these problems do not arise in a connection-based contribution system. The Commission would have the authority to seek cost support from carriers whose percentage surcharges it believes require investigation. Because there may be several variables that contribute to the surcharge amount under a revenue-based approach, however, it would be nearly impossible for the Commission to set a safe-harbor recovery amount suitable for all carriers. The Commission therefore would need to continue to review universal service surcharges on a carrier-by-carrier basis.

C. It is Appropriate to Exempt Lifeline Service from both the Contribution System and the Recovery System for Universal Service

The Commission seeks comment in the *Notice* on whether carriers should be prohibited

from recovering universal service contributions from Lifeline customers.[33] WorldCom supports the concept of exempting low-income customers from universal service surcharges and believes it is within the bounds of the statute and regulations to do so. WorldCom believes the best approach to take is to exclude Lifeline connections from the contribution base and to exempt Lifeline customers from any universal service recovery surcharges. Without accurate and timely information from the local service providers identifying Lifeline customers, however, this proposal may be administratively unworkable for carriers that would not know which connections to exclude from their contribution base and which customers to exempt from surcharges. This would militate in favor of requiring the carrier that supplied the customer with the connection to be responsible for the universal service contribution. At the very least, however, the Commission must mandate that local service providers provide to carriers whose assessments would otherwise include connections offered to Lifeline customers information identifying those customers.

The Commission also seeks comment on whether a Lifeline exemption would result in a shortfall in the federal USF. Under the contribution system proposed by WorldCom, described above, there would be no shortfall, as all assessments would be determined without counting Lifeline connections. As demonstrated above, the connection-based proposal would generate a sufficient and sustainable fund. By contrast, if the current revenue-based contribution mechanism, which already is in danger of not being sustainable, were maintained, exempting Lifeline customers would place yet an additional (albeit small) burden on the remaining customers contributing to the fund.

D. The Name "Federal Universal Service Charge" is Appropriately Descriptive, but the Commission Risks Violating the First Amendment in Prescribing Name

The Commission proposes in the *Notice* to require all carriers to use the name "Federal

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[33] *Notice* at para. 45.

Universal Service Charge" to describe any surcharge intended to recover costs associated with the federal Universal Service Fund. [34] WorldCom finds the name "Federal Universal Service Charge" to be appropriately descriptive of the charge, but current billing systems prevent some carriers from implementing a name of that length. The Commission therefore also should permit the name "Federal Universal Service Fee," which is shorter in length but, like "Federal Universal Service Charge," also appropriately descriptive. WorldCom believes that requiring carriers to use one of these two very similar names would achieve the Commission's objectives of standardization among line-item names and improved consumer understanding of telephone bills. If the Commission decides to mandate the name "Federal Universal Service Charge," it should permit abbreviations, e.g., "Fed Universal Svc Charge," or allow carriers time and cost-recovery associated with changing their billing systems to accommodate use of the full name. Furthermore, to alleviate the First Amendment concerns identified in its Truth in Billing proceeding,[35] the Commission, rather than mandating a name or names, could identify any surcharge names that it finds misleading and work toward a resolution with carriers using those names.

V. CONCLUSION

For the reasons discussed above, WorldCom urges the Commission to adopt its proposed connection- and capacity-based approach to assessing Universal Service Fund contributions.

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[34] *Notice* at para. 42.

[35] *See* In the Matter of Truth-in-Billing and Billing Format, CC Docket No. 98-170, Notice of Proposed Rulemaking, FCC 98-223, rel. Sept. 17, 1998, at paragraph 15.

Respectfully submitted,
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June 25, 2001

STATEMENT OF VERTIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on June 25, 2001.

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CERTIFICATE OF SERVICE

I, Felicia R. Young, hereby certify that on this 25st day of June, 2001, copies of the foregoing were served by hand or regular mail on the following:

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