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

COMMENTS OF BELLSOUTH

BellSouth Corporation, on behalf of itself and its subsidiaries ("BellSouth"), hereby submits the following Comments to the Commission's *Notice of Proposed Rulemaking* ("*NPRM*") in CC Docket No. 96-45.[1] BellSouth files these comments to

[1] *In the Matter of Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements,* CC Docket No. 96-45, *Notice of Proposed Rulemaking,* FCC 01-145, released May 8, 2001 (hereinafter "*NPRM*").

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address the Commission's proposal to assess universal service contributions on a flat-fee basis, such as a per-line or per-account charge.

In the *1996 Recommended Decision*, the Federal-State Joint Board determined that basing contributions on a carrier's interstate telecommunications revenues would be administratively easy to implement since the Commission already collected common carrier regulatory fees on this basis and therefore would be in line with established regulatory processes. Moreover, using a revenue-based methodology instead of a per-line or per-account approach would eliminate the "double payment" problem and more closely approximate a value-added contribution by basing contributions on services that the carrier adds to the Public Switched Telephone Network.[2]

The Commission also rejected the use of a flat-fee based methodology because it was not competitively neutral with respect to the type of service, the platform used to provide the service and the organizational structure of the carriers providing the services. The Commission's position as stated in the *Report and Order* remains sound:

> We do not adopt commenters' suggestions that contributions be calculated entirely on non-revenues-based measures, such as a per-minute or per-line basis at this time. We affirm the Joint Board's recommendations that such mechanisms would require the Commission to adopt and administer difficult "equivalency ratios" for calculating the contributions of carriers that do not offer services on a per-line or per-minute basis. As competition changes the telecommunications marketplace, carriers may increasingly offer bundled services for flat-rate monthly charges. ...In addition, we find that these approaches are not competitively neutral because they may inadvertently favor certain services or providers over others if the "equivalency ratios" are improperly calculated or inaccurate.[3]

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[2] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Recommended Decision*, 12 FCC Rcd 87, at 495, ¶ 807 (1996) ("*1996 Recommended Decision*").

[3] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Report and Order*, 12 FCC Rcd 8776, at 9210, ¶ 852.

To adopt a methodology based solely on a flat, per line basis would be in direct conflict with Section 254(d) of the Act, which requires that "[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service."

It is unclear how the Commission could insure that interexchange carriers would contribute on an equitable and nondiscriminatory basis as required by the statute if assessments were based on a per line basis. Even if presubscribed lines could somehow be counted, dial-around traffic makes accurate and equitable line counts problematic.[4] Using a per line or flat-rate assessment therefore would not adequately measure the amount of interstate telecommunications services on which to assess contributions.

Using a flat-rate or per line charge would create a discriminatory and inequitable shift in universal service contributions from those carriers with the most interstate retail revenues, interexchange carriers, to those carriers with the most easily ascertainable line counts, local exchange carriers. As demonstrated by USTA in its comments in this proceeding, flat-rate or per line assessments would include intrastate components, contrary to the decision announced in *Texas Office of Public Utility Counsel v. FCC.* [5] No flat fee proposal that has been put forward to date is non-discriminatory and competitively neutral as required by the Act.

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[4] These difficulties are avoided by retaining interstate retail revenues as the contribution base. BellSouth believes that the Commission should continue to use billed revenues.

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

CONCLUSION

Flat fee or per-line assessments are not competitively neutral and should not be adopted by the Commission.

Respectfully submitted,

BELLSOUTH CORPORATION

By _____

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June 25, 2001

CERTIFICATE OF SERVICE

I do hereby certify that I have this 25th day of June 2001 served the parties of record to this action with a copy of the foregoing **COMMENTS OF BELLSOUTH** by hand delivery addressed to the parties on the attached service list.

Lynn Barclay

SERVICE LIST CC DOCKET NOs.
96-45, 98-171, 90-571, 92-237, 99-200 and 95-116

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