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Before the

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

**COMMENTS OF**  
**THE SMALL PAGING CARRIER ALLIANCE**

The Small Paging Carrier Alliance (“SPCA”) hereby submits its comments with respect to the Commission’s Notice of Proposed Rulemaking (“NPRM”), FCC 01-145, released May 8, 2001, in this proceeding.

The SPCA is composed of small businesses that provide basic, low-cost paging services to local, niche markets in Alabama, California, Missouri, Montana, Nevada, Pennsylvania and

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Texas.<sup>1</sup> SPCA members offer localized paging services to customers that do not need or want to pay for the regional and national paging services and bundled options furnished by larger carriers.

SPCA vigorously opposes any increase in the Commission's "safe harbor" percentage for calculating the percentage of interstate revenues for small paging carriers. Rather, because small, local paging carriers rarely or never terminate pages originating from out of state, their "safe harbor" percentage should be reduced from the current level of twelve percent (12.0%) to a maximum of one percent (1.0%).

In addition, SPCA supports retention of the *de minimis* exemption from Universal Service Fund ("USF") contributions for certain small businesses. It continues to make no sense to require small entities to contribute to the USF mechanism if the administrative costs incurred by the Universal Service Administrative Company ("USAC") and the contributing small entities in the calculation, collection and processing of their contributions exceed the dollar amount of the contributions.

**The Commission Should Reduce  
The Safe Harbor Percentage For Small Paging Carriers**

Today's paging industry is comprised of: (1) large paging carriers that offer wide-area paging services on a nationwide or multi-state, regional basis (often bundled with stock price quotes and other information services); and (2) small paging carriers that offer inexpensive, basic paging services within local calling areas. These two classes of paging carriers have very different customer bases and operating characteristics, in addition to their different service and

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<sup>1</sup> The members of the SPCA include L&L Services, Inc. d/b/a Metro Communication Services; Mobile Communication Service, Inc.; Mobilephone of Humboldt, Inc.; Mobile Phone of Texas, Inc.; Omnicom Paging Plus, LLC; Michael Jenkins d/b/a Page Me; and Professional Answering Service, Inc..

marketing areas. In fact, as the paging industry changes in response to the growth of cellular, broadband Personal Communications Service ("PCS") and digital Specialized Mobile Radio ("SMR") service, the services of small paging carriers will become more and more localized while the gap between these two classes of paging carriers will grow wider and wider.

Small paging carriers are "small businesses" or "very small businesses" under the Commission classifications and those of the Small Business Administration ("SBA").<sup>2</sup> They are generally family-owned businesses that serve local, niche paging markets. The most common customers of these small paging carriers are hospitals (which need to page interns, residents, nurses and other medical personnel inside the hospital and in the surrounding community); local fire and police departments (which need to page personnel in the surrounding community in the event of emergencies); small local businesses such as delivery services and construction contractors (which need to page transient employees within the community during the work day, but do not want to bear the cost or liability risks of giving cell phones to their employees); and parents (who want to be able to locate and contact their adolescents, but not pay for excessive cell phone usage). SPCA members provide these customers with the basic, low cost and no-frills local paging services that they need. Because these local customers do not require national or regional coverage or bundled information services, SPCA members are not in competition with the large national and regional paging carriers.

SPCA members do not have sophisticated terminal equipment that can monitor and track the origin of each individual page delivered to them via the trunks of local telephone companies. However, they know their customers and markets, and know that the hospitals, public safety

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<sup>2</sup> The Regulatory Flexibility Act and the SBA define a "small business" in the telecommunications industry as one that has fewer than 1,500 employees and that is not "dominant" in its field of operations. The Commission's spectrum auction rules define a "small business" as one having attributable average gross revenues of \$15 million

agencies, local businesses, and families subscribing to their services are using them virtually entirely for pages that are initiated and terminated locally. One SPCA member that surveyed its customers with respect to their paging usage patterns estimates that only a handful of the pages that it terminates (far less than one percent of its paging traffic during the period studied) originate from outside the local community, much less from outside the state.

The Commission has acknowledged that it has an obligation to ensure that the universal service contribution system is “reflective of current market trends” and “does not shift more than an equitable share of carrier contributions to any class of customers.” NPRM, para. 6. With respect to the paging market, this means that the Commission must recognize that small, local paging carriers carry virtually no interstate traffic, and derive virtually none of their end user gross revenues from interstate communications. Moreover, as cellular, broadband PCS, digital SMR and national/regional paging carriers continue to develop bundled service offerings for wireless markets, small paging carriers will be limited more and more to their local niche markets, and the small number of interstate pages that they presently terminate will continue to decrease until they disappear altogether.

The SPCA does not know what "safe harbor" is appropriate for large national and regional paging carriers. However, the present "safe harbor" percentage of 12 percent for paging carriers is far too high for small, local paging carriers, and should be reduced to no more than one percent. If necessary, the Commission should recognize the separate characteristics of national/regional paging carriers and small paging carriers (as it has recognized the separate characteristics of digital SMR providers and analog SMR providers), and designate a separate one percent "safe harbor" percentage for small paging carriers.

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or less for the previous three years, and a "very small business" as one having attributable average gross revenues of \$3 million or less for the previous three years.

### **The Commission Should Retain The *De Minimis* Exemption**

Congress has authorized the Commission to exempt a carrier or class of carriers that provide interstate telecommunications services from contributing to the USF when the carrier's activities "are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be *de minimis*." 47 U.S.C. Sec. 254(d). The Commission has determined that the purpose of the *de minimis* exemption was to prevent waste resulting from requiring contributions to the Universal Service Fund when the administrative costs of collecting these contributions exceeded the required contribution amounts.<sup>3</sup>

While the Commission initially considered only USAC's costs of collection,<sup>4</sup> it shortly thereafter expanded the scope of the *de minimis* exemption rule to encompass the administrative costs of both USAC and the companies potentially required to contribute to the USF.<sup>5</sup> It held that public and private resources should not be wasted, and acknowledged that the "public interest would not be served if compliance costs associated with contributing to universal service were to exceed actual contribution amounts."<sup>6</sup> The Commission found that the *de minimis* exemption would reduce the reporting burdens on approximately 1600 small entities,<sup>7</sup> a group which presently includes most SPCA members.

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<sup>3</sup> *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, paras. 801-05 (rel. May 7, 1997).

<sup>4</sup> *Id.*

<sup>5</sup> *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, 95-72, 13 FCC Rcd 5318 (rel. Dec. 30, 1997).

<sup>6</sup> *Id.* at para. 295.

<sup>7</sup> *Id.* at para. 297.

Accordingly, SPCA requests that the Commission reject proposals to eliminate or reduce the *de minimis* exemption. The exemption is an efficient mechanism designed to prevent a waste of public resources that would result from requiring USAC and small entities to calculate, collect and administer USF contributions at costs higher than the contribution amounts themselves.

### **Response to Initial Regulatory Flexibility Act Analysis**

The Commission's Initial Regulatory Flexibility Act (RFA) analysis acknowledges that any rules or rule modifications adopted in this proceeding "could modify the reporting and record keeping requirements of telecommunications service providers," by requiring the filing of monthly or quarterly reports.<sup>8</sup> Additionally, the Commission acknowledges that any such reporting requirements could require the use of professional legal and accounting services.<sup>9</sup> As a result, the Commission is unable to "accurately estimate the cost of compliance . . . by small telecommunications service providers."<sup>10</sup>

For the reasons discussed above, SPCA submits that the Commission's proposals will adversely affect small paging carriers. The SPCA believes that the Commission has not adequately evaluated the impact that the proposed increase in the "safe harbor" percentage and the elimination or reduction of the *de minimis* exemption will have on small paging carriers such as the members of the SPCA.

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<sup>8</sup> NPRM at para. 74.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

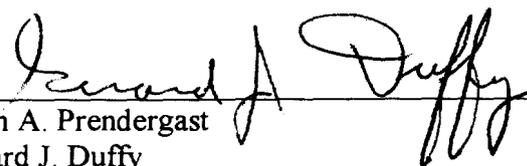
**Conclusion**

Therefore, SPCA recommends that the Commission reduce the "safe harbor" percentage for small paging companies from the current twelve percent to one percent, and retain the current *de minimis* exemption in its present form.

Respectfully submitted,

**THE SMALL PAGING CARRIER ALLIANCE**

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