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BEFORE THE
# Federal Communications Commission
WASHINGTON, D.C.

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OFFICE OF THE SECRETARY

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| In the Matter of | ) | |
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| 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<br>NSD File No. L-00-72 |
| | ) | |
| Number Resource Optimization | ) | CC Docket No. 99-200 |
| | ) | |
| Telephone Number Portability | ) | CC Docket No. 95-116 |

**COMMENTS OF THE**
**CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

Michael F. Altschul
Senior Vice President, General Counsel

**CELLULAR TELECOMMUNICATIONS**
**& INTERNET ASSOCIATION**
1250 Connecticut Avenue, N.W.
Suite 800
Washington, D.C. 20036
(202) 785-0081

Its Attorney

June 25, 2001

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## COMMENTS OF THE CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION

The Cellular Telecommunications & Internet Association ("CTIA")[1] hereby submits its Comments in response to the above captioned proceeding.[2]

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1 CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

2 Federal-State Joint Board on Universal Service, et. al., *Notice of Proposed Rulemaking*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237 and NSD File No. L-00-72, and CC Docket Nos. 99-200 and 95-116, FCC 01-145 (rel. May 8, 2001) ("Notice").

## I. INTRODUCTION AND SUMMARY

In the Notice, the Commission sought comment on a broad range of issues related to the mechanism it uses to determine the level of carriers' contributions to the Universal Service Fund ("USF"), and in turn, carriers' recovery of these contributions from their end-user customers. Among the issues addressed in the Notice is the safe harbor for determining the interstate contribution base for CMRS carriers.[3] In 1998, the Commission recognized the impracticability of requiring CMRS carriers to jurisdictionally separate revenues to determine USF contributions due to the mobile nature of their services and the design of their networks. To address these concerns, the Commission adopted the interim safe harbor to allow carriers to report 15 percent of their revenues as interstate for universal service contribution purposes.[4] CMRS carriers have come to rely on the safe harbor as a mechanism to help them apply rules suited to wireline carriers to the unique CMRS context. Not only should the Commission maintain the safe harbor, it should adjust the percentage using the methodology it adopted in the Safe Harbor Order by reducing the safe harbor percentage to 13.25 percent.

In addition, the Commission seeks comments addressing a number of issues related to the administration of the contribution mechanism. CTIA requests that the Commission modify the requirements in an effort to minimize administrative burdens on carriers. First, the Commission proposes strict new limits on carriers' ability to recover their USF contributions through a line-item charge on customer bills.[5] The Commission proposes to mandate the label of the line item

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3 See id. ¶ 24.

4 See Federal-State Joint Board on Universal Service, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 96-45, 13 FCC Rcd 21252, ¶¶ 11, 13 (1998) ("Safe Harbor Order").

5 See Notice ¶¶ 42-44.

and to restrictively regulate the charges assessed on each customer's bill. If applied to CMRS carriers, these rules would contravene carriers' First Amendment commercial speech rights and would impose unnecessary regulation on an unquestionably competitive market in clear contradiction of the Act's deregulatory goals.

Second, the Commission seeks comment on the assessment of USF contributions, specifically, whether it should modify the current revenue-based assessment or adopt an alternative flat-fee approach.[6] CTIA supports the continued use of a revenue-based contribution mechanism, but submits that the proposed projected revenue method would create even more burdens on carriers than the existing reporting requirements. Furthermore, the proposal is unnecessary to address certain carriers' concerns given that the Commission only recently adopted new reporting and assessment rules that reduce the assessment interval to six months.

Third, CTIA proposes that the Commission allow wireless carriers to combine revenue reporting for all wireless affiliates of a particular wireless carrier in a single form. This proposal would significantly reduce administrative burdens on carriers that do not otherwise separate revenues in this fashion.

Fourth, the Commission seeks comment on whether the *de minimis* exemption should be modified or eliminated.[7] To the extent that the Commission retains the *de minimis* exemption, the Commission should clarify and maintain the requirement that a qualified reseller must notify its underlying carriers that the reseller is exempt from contributions. Underlying carriers that are not properly notified by a reseller in compliance with the Commission's rules should not be liable for contributions based on wholesale revenues received from the exempt reseller.

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6 See id. ¶¶ 18-30.

7 See id. ¶ 31.

For these reasons, CTIA respectfully requests that the Commission adopt USF contribution rules that take into consideration the unique nature of wireless services and the administrative burdens imposed on carriers in accordance with the recommendations described in these comments.

## II. THE COMMISSION SHOULD MAINTAIN A SAFE HARBOR FOR CMRS CONTRIBUTIONS.

### A. The Reasons Underlying The Adoption Of The CMRS Safe Harbor Continue To Exist Today.

Recognizing the difficulties that wireless carriers confront in attempting to jurisdictionally separate revenues, the Commission adopted the interim safe harbor to allow carriers to reasonably approximate the percentage of interstate telecommunications revenues that they generate.[8] Nothing has changed to obviate the need for a CMRS safe harbor. The mobile nature of CMRS services makes it burdensome and impracticable to accurately separate revenues between the intrastate and interstate jurisdictions. Indeed, wireless carriers need not jurisdictionally separate revenues for any purpose other than universal service reporting and contributions.

As CTIA has previously explained, mobile wireless services do not easily fit into regulatory models designed primarily for wireline carriers. CMRS carriers provide services and design networks without regard to political boundaries, pursuant to federal licenses that often do not respect state lines. CMRS providers typically permit customers to call from anywhere within large geographic areas and from constantly changing locations (i.e., mobility). In fact, a number of CMRS networks now have nearly nationwide footprints.[9] The mobility of CMRS allows

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8 See Safe Harbor Order ¶ 11.

9 See "Sixth Annual CMRS Competition Report", FCC 01-192, Opening Remarks of Thomas J. Sugrue, FCC Monthly Agenda Meeting at 8 (June 20, 2001), available at

customers to move freely across state lines without limitations on the use of their wireless phones. Indeed, networks are routinely designed to serve both sides of state lines. Furthermore, CMRS carriers frequently carry interstate calls "on net" without routing them to an interexchange carrier. In spite of good faith efforts by carriers to apply the USF reporting requirements to mobile services, the Commission agreed in 1998 that the absence of a safe harbor left some carriers over-reporting and others under-reporting, causing significant variances among competing carriers' contributions.

As a result, the Commission appropriately acted to adapt its universal service contribution mechanism to the unique characteristics of CMRS carriers. The Commission adopted the safe harbor under which cellular, broadband PCS, and digital SMR providers could report 15 percent interstate revenues as a base for universal service contributions without concern that the Commission would find it necessary to review or question the data underlying the reported percentages.[10] Carriers retained the option of reporting a percentage other than the safe harbor under the condition that the provider document the method used to calculate its revenue base and make the information available to the Commission or USAC upon request.[11]

The Commission has sought comment on whether it should retain the safe harbor for CMRS.[12] As explained, the need for a safe harbor has not changed in any way since it was adopted. The Commission has recognized that the nature of CMRS networks and traffic makes determining whether mobile wireless calls, and therefore the revenue derived from them, are

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<http://www.fcc.gov/Bureaus/Wireless/News_Releases/2001/nwl0117a.ppt> ("Sixth Annual CMRS Competition Report").

10 See Safe Harbor Order ¶¶ 11, 13.

11 See id.

12 See Notice ¶ 24.

jurisdictionally interstate for universal service contribution purposes a difficult undertaking. CMRS services and networks are no more suited to identification of interstate and intrastate traffic than they were when the safe harbor was first adopted. In order to ensure that CMRS carriers have a uniform and equitable method of estimating interstate revenues, the Commission should maintain a safe harbor for CMRS carriers' use in USF reporting. Eliminating it would create the same obstacles to proper separation of revenues that led the Commission to adopt the safe harbor initially. In addition, the Commission should retain the option of reporting a percentage other than the safe harbor for carriers that may be able to identify interstate revenues without significant hardship. This approach will allow carriers maximum flexibility to accurately report revenues while maintaining the integrity of the USF contribution mechanism.

**B. The Commission Should Reduce The Safe Harbor Percentage To 13.25 Percent.**

In the Safe Harbor Order, the Commission adopted a 15 percent safe harbor for approximating the interstate revenues of CMRS carriers for the purpose of determining the contribution base for the USF.[13] Once the Commission concluded that establishing a safe harbor would be appropriate, it then needed to set a percentage for the safe harbor. The Commission sought a reasonable analogy upon which it could base its choice of a safe harbor percentage. The Commission noted that it did not "have evidence before [it] to indicate that the level of interstate wireless traffic experienced by cellular and broadband PCS providers [was] less than the level experienced by wireline providers."[14] Therefore, the Commission chose to set the percentage based on the level of interstate traffic experienced by wireline providers, using the "percentage of interstate wireline traffic reported for purposes of the Dial Equipment Minutes (DEM)

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13 See Safe Harbor Order ¶ 13.

14 Id.

weighting program ... as a proxy for the percentage of interstate wireline traffic as a whole."[15] Based on the DEMs analogy, a 15 percent safe harbor was adopted.

The Commission should now adjust the safe harbor percentage to reflect updated data on which the safe harbor is based. Based on the most recent DEMs data reported to the Commission by the National Exchange Carriers Association, the interstate percentage of DEMs is 13.25 percent.[16] As at the time that the Commission adopted the safe harbor, there is no objective evidence on the record that the level of CMRS interstate traffic varies significantly from wireline interstate usage. In the Notice, the Commission speculates that the proliferation of one-rate wireless calling plans may be shifting long distance calling from wireline carriers to wireless carriers, resulting in CMRS interstate usage that exceeds the safe harbor percentage.[17] To the extent that the Commission has concerns that one-rate plans are increasing interstate usage, these concerns should be allayed by the Commission's newly-adopted CMRS Competition Report, which concludes that approximately 18 percent of CMRS customers subscribe to calling plans that include long distance at no additional charge.[18] This relatively low percentage of users with one-rate plans is unlikely to significantly impact interstate wireless

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15 Id.

16 See National Exchange Carrier Association, Network Usage by Carrier: 1996-1999 (2001), available at <http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/neca.html>.

17 See Notice ¶ 24.

18 See Sixth Annual CMRS Competition Report at 4.

calling as a whole.[19] Therefore, the DEMs methodology remains a reasonable proxy for wireless interstate usage. Accordingly, the Commission should adjust the safe harbor to 13.25 percent.

### C. Principles Of Administrative Law Support Both Maintaining The Safe Harbor And Adjusting The Percentage.

Fundamental principles of administrative law dictate that "an agency changing its course must supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored."[20] The Commission, therefore, should not eliminate the safe harbor for CMRS carriers or depart from the DEMs methodology for setting the safe harbor percentage. The substantial record developed in this proceeding through multiple rounds of comments does not support the repeal of the safe harbor, but instead strongly supports its continuing availability to remedy the unique obstacles faced by CMRS carriers in complying with the Commission's USF revenue reporting requirements. "An agency changing its course by rescinding a rule is [no less] obligated to supply a reasoned analysis."[21]

It is equally true that the Commission must develop a reasoned analysis based on the record to depart from the DEMs methodology for setting the safe harbor percentage.[22] The universal service record offers no superior methodology based on objective evidence. Unsubstantiated anecdotal evidence that certain wireless calling plans may be increasing or

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19 It is important to note also that a large number of calls by subscribers with calling plans that include long distance calling at no additional charge are still likely to be comprised of a significant amount of intrastate calling.

20 Greater Boston Television Corp. v. FCC, 444 F.2d 841, 852 (D.C. Cir. 1970); see also Motor Vehicles Mfrs. Ass'n v. State Farm Mutual Automobile Ins. Co., 463 U.S. 29, 41-44 (1983).

21 See Motor Vehicles Mfrs. Ass'n, 463 U.S. at 42.

22 Id.

might in the future increase interstate calling relative to intrastate calling does not justify deviating from DEMs as a basis for the safe harbor percentage.[23]

Indeed, administrative law principles support the continued application of the safe harbor to interstate CMRS revenues. Reviewing courts "have long held that an agency must provide adequate explanation before it treats similarly situated parties differently. But the converse is also true. An agency must justify its failure to take account of circumstances that appear to warrant different treatment for different parties."[24] In this instance, the Commission has justified the safe harbor for CMRS and cannot abandon it without reason. Therefore, the Commission should retain the CMRS safe harbor and should consistently apply the DEMs methodology by decreasing the safe harbor percentage to 13.25 percent.

### D. The Distortionary Effects That Universal Service Contributions Have On The Consumption Of CMRS Services Suggest That The Commission Recover The Least Amount Necessary To Meet The Statutory Obligations Of Section 254.

The distribution of universal service fund obligations across telecommunications carriers involves consideration and balancing of various policy objectives. For instance, the Commission must consider the effects that universal service fund contributions may have on consumption of telecommunications services. Thus, to the extent that the Commission seeks to raise the CMRS interstate safe harbor, it must consider the effects that an increase in federal universal service contributions will have on an industry such as CMRS, that experiences a higher elasticity of demand than other types of telecommunications service providers. It is well established, and recently reaffirmed, that demand for wireless service is relatively elastic, compared with demand

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23 See Bechtel v. FCC, 10 F.3d 875, 886-87 (1993) (explaining that reasoned agency decision-making should not be based on "intuitive judgments" of the Commission).

24 Petroleum Communications Inc. v. FCC, 22 F.3d 1164, 1172 (D.C. Cir. 1994) (citations omitted).

for wireline services.[25] This means that as telecommunications carriers pass the costs of contributing to the universal service fund onto consumers, demand for highly elastic services will be suppressed.[26] Thus, as prices increase, consumers will first stop using services with highly elastic demand -- such as mobile wireless services.

The wireless services industry has experienced rapid growth over the last five years -- as of December 31, 2000 there were 109.5 million wireless subscribers in the U.S., up from 86 million subscribers in 1999.[27] The competitive pricing and nationwide availability of wireless services have significantly contributed to the nation's economy, and has allowed the industry to begin to compete with other telecommunications services. If the CMRS industry is required to contribute an increased percentage of revenues to the universal service fund, consumption of this socially important service is likely to be negatively affected.

The Commission should recognize that CMRS carriers currently contribute a reasonable and proportionate percentage of revenues to the USF, and should not increase the CMRS safe harbor. The CMRS industry has paid millions of dollars in the federal universal service fund based on its interstate and international revenues, and millions more into state universal service funds based upon its intrastate revenues, thereby contributing a reasonable share of its revenues into the funds. Accordingly, the Commission should not increase the CMRS safe harbor percentage.

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25 See Jerry Hausman, Efficiency Effects on the U.S. Economy from Wireless Taxation, at 1 (2000), available at <http://web.mit.edu/jhausman/www/wireless.pdf>.

26 See id. at 3.

27 See FCC Adopts Annual Report on State of Competition in the Wireless Industry, FCC News Release at 1 (June 20, 2001).

## III. THE COMMISSION SHOULD AMEND THE ADMINISTRATIVE REQUIREMENTS FOR UNIVERSAL SERVICE CONTRIBUTIONS.

Current administrative requirements for universal service reporting and contributions should be amended to minimize any burdens carriers experience when complying with these requirements. Specifically, the Commission should refrain from regulating cost recovery of universal service contributions, use the current contribution mechanism for reporting revenues rather than projected revenue estimates, revise its reporting requirements and, to the extent it maintains the *de minimis* exemption, reiterate and clarify resellers' obligations to notify underlying carriers of their exempt status.

### A. The Commission Should Not Regulate CMRS Carriers' Recovery Of Universal Service Contributions.

In the Notice, the Commission proposes to limit carriers' flexibility in the recovery of their universal service contributions to ensure that carriers' recovery of USF contributions remains reasonable.[28] For those carriers that choose to recover contributions through a line-item charge on customer bills, the Commission proposes to require carriers to use a uniform charge, described as the "Federal Universal Service Charge."[29] At least for CMRS carriers, the Commission should not regulate carriers' recovery of universal service fund contributions. Moreover, in considering whether to regulate cost recovery, the Commission must not ignore carriers' First Amendment commercial speech rights.

The Commission has recognized on several occasions that regulation of cost recovery is unnecessary for the CMRS industry.[30] For a competitive market, not subject to rate regulation,

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28 Notice ¶ 42.

29 Id.

30 See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Second Memorandum Opinion and Order*, CC Docket No.

such as CMRS, it is unnecessary to regulate carriers' recovery of costs, as competitive market forces will ensure that carriers keep their rates and charges at competitive levels.[31] When it decided not to regulate carriers' recovery of costs for E911, the Commission noted that "the public generally benefits from the promotion of competition among CMRS carriers that results from market-based pricing for their services."[32] Accordingly, by not regulating rates or cost recovery mechanisms, the Commission enables CMRS carriers to respond quickly to changes in consumer demand and market forces, and keep charges and rates at reasonable levels.[33]

Moreover, the manner in which CMRS carriers' recover their USF contributions will also be impacted by the negative reputational effects that carriers are likely to suffer if they impose unreasonable charges on customers. CMRS providers are highly concerned with customer loyalty, customer churn, and their overall reputation in the market. Companies that are concerned with long term revenues and retaining customers recognize that the reputational effects of misusing a cost recovery mechanism will affect profits and the customer base over the

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94-102, RM-8143, 14 FCC Rcd 20850, ¶ 19 (1999) (concluding that "it is not necessary for the Commission to mandate a cost recovery mechanism for carriers that are not subject to rate regulation"); see also Telephone Number Portability, *Third Report and Order*, CC Docket No. 95-116, RM-8535, 13 FCC Rcd 11701, ¶ 136 (1998) (concluding that all carriers not subject to rate regulation may recover the costs of local number portability "in any lawful manner consistent with their obligations under the Communications Act").

31 CMRS carriers also use innovative billing methods not accounted for by the Commission's proposed cost recovery regulations. For example, prepaid wireless customers do not receive a bill, and CMRS carriers simply include universal service fees as part of the prepaid plan.

32 Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, *Fifth Memorandum Opinion and Order*, CC Docket No. 94-102, 15 FCC Rcd 22810, ¶ 23 (2000).

33 Id. ¶ 23 n.58 (citing Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, *Second Report and Order*, GN Docket No. 93-252, 9 FCC Rcd 1411, ¶ 177 (1994)).

long term.[34] Thus, CMRS carriers will be forced to adopt reasonable cost recovery rates in order to remain competitive in the market, rendering Commission regulation of CMRS bills for universal service contributions unnecessary.[35]

Finally, as the Commission acknowledged in its Truth-in-Billing proceeding, the protections found in the First Amendment operate as a bar to federal government censorship of legitimate commercial expressions.[36] This means that so long as a carrier's billing descriptions for cost recovery are not "deceptive,"[37] or otherwise misleading, they cannot be banned as a matter of course. If the Commission adopts any regulations with regard to cost recovery of universal service contributions, it should be cognizant of this fundamental limitation on government action.

### B. The Commission Should Continue To Assess USF Contributions Based On Historical Revenues.

In the Notice, the Commission sought comment on a proposed contribution mechanism under which carriers would report and subsequently be assessed on projected, rather than

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34 See Frank X. Taney, Rewriting the Law of Resale Price Maintenance: The Kodak Decision and Transaction Cost Economics, 143 U. Pa. L. Rev. 321, 362, n.218 (1994) (noting that "the reputational effects from [a firm's] dishonesty will affect the manufacturer only in the long run").

35 See Michael S. Baram, Corporate Risk Management and Risk Communication in the European Community and the United States, 2 Harv. J. Law & Tec. 85, 93 (1989) (observing that reputational effects "can lead to loss of markets and competitive position").

36 Truth-in-Billing and Billing Format, *Notice of Proposed Rulemaking*, CC Docket No. 98-170, 13 FCC Rcd 18176, ¶ 15 (1998) ("restrictions on speech that ban truthful, non-misleading commercial speech about a lawful product cannot withstand scrutiny under the First Amendment") (citation omitted).

37 See id. (citing Virginia Board of Pharmacy v. Virginia Citizens Consumer Council, Inc., 425 U.S. 748, 772, n.24 (1976)).

historical, interstate revenues.[38] Further, the Notice explains that "carriers might be required to report their collected revenues on a regular basis" and that carriers' contributions would be subject to true-ups.[39] In adopting USF contribution rules, the Commission should be mindful of the administrative burdens it places on carriers and the resulting costs.

The Commission's proposed contribution mechanism using a projected revenue contribution base would further add to carriers' burdens. This proposal could require carriers to make more complicated calculations than currently required in attempts to project revenues for USF contribution purposes. In addition, true-ups would be routinely required, further burdening carriers by creating additional accounting procedures.[40] While the details of how the proposed projections, reporting, and true-ups would be implemented are sparse, this mechanism could create uncertainty that would depend on the accuracy of a carrier's projections. Further, it could introduce short-term incentives to under- or over-report, depending on the market position of the carrier and the recovery methods the Commission adopts in this proceeding.

The Commission is seeking comment on the proposed projected revenue methodology in response to concerns expressed by some carriers that the historical contribution base disadvantages carriers with declining revenues and advantages certain new entrants.[41] However, the Commission has recently adopted a new contribution mechanism that should significantly reduce these concerns. The Commission's recently-adopted quarterly revenue reporting decreases the contribution interval to six months, greatly reducing the relative advantages and

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38 See Notice ¶ 20.

39 Id. ¶ 22.

40 Given the rate of churn in the CMRS industry, true-ups have the additional effect of unfairly burdening certain subscribers.

41 See Notice ¶¶ 14, 20.

disadvantages of carriers based on their market positions.[42] Although this action also increased carriers' reporting burdens, it adequately addresses these concerns, while allowing carriers to use actual accounting data for reporting the revenue base. The existing historical revenue base contribution mechanism has demonstrated through experience that it provides universal service support that is "specific, predictable and sufficient."[43] The Commission should not now abandon the historical revenue methodology, which could heighten the complexity and impose increased administrative costs on carriers.

### C. The Commission Should Reduce The Administrative Burdens Associated With Current Filing Requirements.

The Commission's current administrative procedures require each affiliate of a company to report revenues to the Commission separately, on individual Form 499-Q and Form 499-A.[44] CMRS carriers, however, do not separate their revenues according to affiliates for any purpose other than to comply with this Commission reporting requirement. Thus, the separate filing requirement imposes an unnecessary administrative burden on CMRS carriers without providing any appreciable benefits. The same results could be realized by allowing CMRS carriers to report revenues for all affiliates on one form, and listing the relevant tax identification numbers on the form.

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42 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) (adopting Form 499-Q).

43 See 47 U.S.C. § 254(b)(5).

44 47 C.F.R. § 54.711.

### D. If The Commission Retains The *De Minimis* Exemption, It Should Also Maintain The Requirement That Qualifying Entities Must Notify The Underlying Carrier Of Their Exemption Status.

In the Notice, the Commission seeks comment on whether the *de minimis* exemption should be modified or eliminated.[45] The Commission established the exemption for those service providers whose universal service compliance costs exceeded contribution amounts, determining that those carriers whose annual contribution would be less than $10,000 are not required to contribute to the universal service fund.[46] Thus, to the extent that the administrative costs of contributing to the fund have been reduced since the creation of the exemption, the Commission proposes to adjust or eliminate the *de minimis* exemption accordingly.

When the Commission established the $10,000 *de minimis* contribution threshold in the Fourth Order on Reconsideration, it also required entities that resell telecommunications services and qualify for the exemption to notify the underlying facilities based carriers from which they purchase service that they are exempt from the universal service contribution requirements.[47] To the extent that the Commission retains the *de minimis* exemption with some modifications, the Commission should also clarify and maintain the requirement that qualified resellers notify the underlying carriers that they are exempt from the contribution requirements.

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45 Notice ¶ 31.

46 47 C.F.R. § 54.708; 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, ¶¶ 295, 297 (1997).

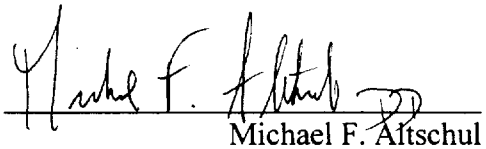
47 Id. ¶ 298.

## IV. CONCLUSION

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

Respectfully submitted,

**CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**



Michael F. Altschul
Senior Vice President, General Counsel

**CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**
1250 Connecticut Avenue, N.W.
Suite 800
Washington, D.C. 20036
(202) 785-0081

Its Attorney

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