maintained or reduced[56]and many non-wireless carriers argued that the safe harbor percentage should be increased, no party provided any data on interstate wireless usage or revenues. AT&T Wireless stated that "wireless carriers are unable to determine with any certainty the amount of revenue attributable to interstate traffic."[57] Verizon Wireless refers to widespread wireless offerings where customers are given a monthly allowance of airtime usage minutes that can be used for interstate or intrastate calls and concludes, "carriers do not have the ability to determine the precise jurisdictional category of each revenue item, further complicating the task of breaking down their revenues into separate intrastate and interstate totals."[58] The wireless carriers claim that this state of ignorance supports their call for maintaining the safe harbor as an integral part of the revenue-based contribution system. WorldCom believes that the complete inability to identify interstate wireless revenues at a time when wireless service is being widely substituted for traditional interstate wireline service by itself completely undermines the viability of a revenue-based USF contribution system.

The problem of measuring wireless interstate telecommunications revenues today is symptomatic of a large and growing shortcoming of any revenue-based contribution system. The comments of SBC are especially edifying on this point.[59] SBC first argues that because

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[56] CTIA proposes (at 7 in its Comments) that the safe harbor be reduced to 13.25 percent because in the most recent DEMS data reported to the Commission by NECA, the interstate percentage of DEMS fell to 13.25 percent. But there is absolutely no basis for assuming that the proportion of interstate to intrastate minutes or revenues for wireless carriers tracks the proportion for wireline local carriers. Certainly the growth in national and regional wireless calling plans – for which there are no analogous offerings among wireline carriers – argues for a complete break between the wireless safe harbor and the DEMS data.

[57] AT&T Wireless Comments at 3.

[58] Verizon Wireless Comments at 4-5.

[59] SBC Comments at 11-12.

CLECs are not required to perform jurisdictional separations, there is no way to identify what portion of their revenues are generated by interstate revenues. SBC therefore alleges that the CLECs do (or could) game the system and understate their interstate revenues. SBC therefore proposes that '[t]he Commission could establish a safe harbor interstate allocation percentage for the exchange access component of each access line and give CLECs the option of performing a separations calculation to justify a different interstate allocation percentage."[60] In the very next section of its comments, however, SBC challenges the current 15 percent safe harbor for wireless carriers, "urg[ing] the Commission to reexamine the wireless safe harbor in light of the market developments that have occurred."[61]

If a safe harbor approach is not working for wireless carriers, however, why would a safe harbor or other revenue-based contribution system work for CLECs or any other carriers with bundled offerings of interstate telecommunications services and intrastate telecommunications services, enhanced services, and/or customer premises equipment? The answer is that a revenue-based contribution system is no longer viable and should be replaced by a connection- and capacity-based assessment that relies on readily measurable parameters.

This very real market fact goes to the heart of an otherwise intriguing proposal that Sprint makes to reform the USF contribution system. Sprint proposes a "Collect and Remit" process in which interstate factors would be used to derive interstate revenues from the total revenues of carriers and then universal service costs would be recovered from customers on a per-line basis.[62] The LECs would collect from wireline customers on behalf of both themselves and the IXCs to whom their customers are presubscribed. The Sprint proposal

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60 SBC Comments at 11.

61 SBC Comments at 12.

62 Sprint Comments at 8-10.

has great superficial appeal – it would be the easy to implement since it relies on simple "interstate factors" that are mechanically applied to carriers' total revenues. But this superficial appeal masks a fatal flaw. There is absolutely no basis for setting the "interstate factors" that would be assigned to different categories of carriers – in effect the safe harbor percentages for wireless carriers, local exchange carriers, and interexchange carriers. Moreover, as CLECs and cable providers and satellite providers offer interstate telecommunications services, what would be the appropriate "interstate factors" for them? Unless all these interstate factors could be accurately determined – and they cannot – the Sprint proposal would perpetuate competitive bias in the USF contribution system.

VI. THE COMMISSION SHOULD ALLOW CARRIERS TO FILE CONSOLIDATED REPORTS

A number of carriers, responding to the Commission's request for recommendations on how to streamline the manner in which the Commission assess carrier contributions to the universal service mechanisms, propose that carriers be allowed to file a single USF report covering all of its subsidiary licenses.[63] WorldCom agrees with these carriers that allowing consolidated reporting would help to streamline the process with no apparent downside.

VII. FLAT CONNECTION-BASED UNIVERSAL SURCHARGES WOULD MEET THE GOALS OF THE ACT AND PROMOTE CONSUMER WELFARE

The Commission should not mandate how carriers recover from their end-user customers the assessments, uncollectibles, and administrative costs associated with the USF. But flat connection-based universal service surcharges are consistent with the goals of the Communications Act and promote consumer welfare and therefore the Commission should

explicitly sanction them as a means of recovery. Several parties explained in their comments the benefits of recovering universal service costs on a flat fee basis.[64] WorldCom believes that this is the most equitable, competitively neutral, and consumer-friendly method of assessing and recovering universal service payments.[65] Furthermore, although WorldCom agrees with the Commission's suggestion that universal service surcharges should "correspond to" the assessment amount,[66] WorldCom concurs with the many parties asserting that carriers must be able to account in their universal service recovery surcharges for costs associated with universal service – *e.g*, uncollectibles and administrative costs.[67]

Some carriers propose a methodology whereby carriers remit to USAC only the amount that they collect from customers.[68] WorldCom supports this approach in that it alleviates the risk to carriers of having to pay an assessment on revenues they do not collect, but even under this approach carriers must be able to account in their surcharge for administrative and other associated costs.

WorldCom disagrees with parties arguing that the Commission should set a uniform amount that all carriers must assess to account for these administrative and other associated costs.[69] As noted by Nextel and others, the Commission should recognize the economic and

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63 *See, e,g,* Verizon Wireless Comments at 17, Nextel Comments at 12, Cingular Wireless Comments at 8.

64 *See, e.g.,* AT&T Comments at 3-9; Sprint Comments at 8; Telstar Comments at 4; Ad Hoc Comments at 26.

65 *See, e.g.,* WorldCom Comments at 17.

66 *See Notice* at para. 42.

67 *See, e.g.,* AT&T Comments at 3, n.1; CTIA Comments at 11; Excel Comments at 9; Ascent Comments at 8.

68 *See, e.g.,* Sprint Comments at 10.

69 *See, e.g.,* AT&T Comments at 3.

business reality of varying circumstances and cost structures among carriers and should provide carriers with the flexibility to account for these circumstances in their surcharges.[70] WorldCom therefore recommends that the Commission set a "safe-harbor" amount that would include the level of administrative costs that the Commission deems reasonable.[71] The Commission could investigate any surcharge amount exceeding this "safe-harbor."

Some parties claim that carriers should be entirely prohibited from assessing universal service surcharges to recover their universal service payments.[72] These parties indicate that universal service payments simply represent costs of doing business, and, like salaries, insurance, or any other costs of doing business, should not be recovered through surcharges.[73] Although WorldCom wholeheartedly supports the universal service programs, which, among other benefits, help increase connectivity to the network, it is disingenuous to ignore that universal service payments are regulatory requirements that carriers have no flexibility to reduce or avoid incurring. They cannot simply be "competed away." Universal service payments more closely resemble a "tax" than they do the discretionary costs of doing business such as salaries and facilities maintenance. And, like any other "tax," carriers should be able to separately identify and recover these charges on consumer bills. As the Commission has found on numerous occasions, carriers should have "the flexibility to structure their recovery of the costs of universal service in many ways, including creating

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70 *See, e.g.,* Nextel Comment at 13; Excel Comments at 9; Telstar Comments at 10.

71 *See* WorldCom Comments at 28.

72 *See* NASUCA Comments at 7; Texas OPC Comments at 4.

73 *See* NASUCA Comments at 12; Texas OPC Comments at 3.

new pricing plans subject to monthly fees."[74] An outright ban on universal service fees would run contrary to Commission precedent and rest on dubious legal grounds.

Furthermore, it is unclear to WorldCom why, as NASUCA and Texas OPC maintain, recovering universal service payments in per-minute rates is necessarily more helpful to most consumers. Flat, connection-based surcharges -- as advocated by WorldCom in this proceeding – are predictable and more easily identifiable than percentage-based surcharges or recovery amounts contained in per-minute rates. As explained by Z-Tel and Nextel,[75] flat line- or connection-based surcharges therefore are simpler for consumers to understand and compare across carriers. When consumers are readily able to comparison-shop among carriers for the universal service surcharge that best fits their needs, carriers will have the incentive to keep their surcharges as low as possible, achieving Texas OPC's goal of carriers "competing costs away." [76]

Texas OPC also raises concerns about the effect on low-volume users of a flat universal service surcharge.[77] Specifically, Texas OPC is concerned that low-volume users are disproportionately low-income customers who would be disproportionately harmed by a shift to per-connection surcharges.[78] Under WorldCom's proposal, eligible low-income (i.e., Lifeline) customers would not be assessed *any* universal service surcharge. WorldCom also expects that market forces would dictate that its proposed $1.00 carrier assessment for residential and single-line business connections would be recovered from customers through

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74 Universal Service First Report and Order at para. 855.

75 Z-Tel Comments at 7 and Nextel Comments at 7.

76 *See* Texas OPC Comments at i.

77 *See* Texas OPC Comments at 9.

78 *See* Texas OPC Comments at 9.

a simple line item connection-charge of $1.00 plus a reasonable markup to recover associated administrative costs. Consistent with Texas OPC's concern that business users not "escape" universal service surcharges,[79] WorldCom's proposal places the residual (and heavier) burden on business users, based on the capacity of the connections used. WorldCom believes these assessment amounts simultaneously would minimize the impact of universal service recovery on the customers who are most sensitive to surcharges, while achieving the competing goal of maintaining the sufficiency of the USF.

WorldCom disagrees with NECA that rate of return carriers should be treated differently than price cap carriers in their recovery of universal service contributions. NECA asserts that recovery of universal service contributions by rate of return carriers should not be limited to end-user charges, as is the case with price cap carriers.[80] NECA claims that end-users of the rural rate of return carriers are deserving of special treatment compared to other end-users.[81] Less than a month ago, however, the Common Carrier Bureau on its own motion waived certain rules so that rate of return carriers could recover their universal service contributions "only through the same type of end-user charges *that are already paid by the vast majority of telephone consumers*" (emphasis added).[82] Accordingly, in its June 18, 2001 tariff filing, NECA introduced a universal service surcharge to be assessed on end-users and removed its universal service costs from access charges.[83] WorldCom believes that rate of return carriers should continue to recover their universal service costs in this manner.

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79 *See* Texas OPC Comments at 6.

80 NECA Comments at 9.

81 *Id.* at 11.

82 *In the Matter of Waiver of Sections 69.3(a) and 69.4(d) of the Commission's rules*, CCB/CPD 01-15, DA 01-1429 (rel. June 14, 2001) at para. 4.

83 NECA Tariff Transmittal No. 901 (filed June 18, 2001).

NECA has not proffered a persuasive basis on which to justify a change in course. NECA claims that the customers of rural rate of return carriers will be harmed by end-user charges without explaining how these customers differ from those of rural price cap carriers (e.g., Citizens Telephone Co. and Valor Telephone Co.), who have paid universal service charges without any apparent hardship. NECA also maintains that the access reductions that IXCs would receive if universal service contributions were removed from access charges would not be passed onto IXCs' end-user consumers. This claim is unfounded, because IXCs' rate reductions are spread evenly across their customers pursuant to the averaging requirement contained in section 254(g) of the Act. For these reasons, rate of return carriers should be treated no different than price cap carriers and required to pass through to their end-user customers their universal service contributions.

VIII. CONCLUSION

The comments in this proceeding demonstrate that the current revenue-based USF contribution system is fundamentally broken. It is neither equitable, competitively neutral, nor sustainable. The comments overwhelmingly demonstrate that it is very difficult, if not impossible, to accurately measure the interstate telecommunications revenues of many carriers today and that major market trends in the industry will only exacerbate this situation. The potential that ever increasing surcharges on the portion of revenues that can be identified as interstate telecommunications threatens the sustainability of any revenue-based contribution system is very real. An interstate connection- and capacity-based contribution system is the solution, and it needs to be implemented quickly – before the USF expands beyond the current $5.5 billion level that already is barely sustainable.

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July 9, 2001

STATEMENT OF VERIFICATION

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 July 9, 2001.

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