

**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
)	

**COMMENTS OF THE
ASSOCIATION OF COMMUNICATIONS ENTERPRISES**

The Association of Communications Enterprises (“ASCENT”), through undersigned counsel, and pursuant to *Public Notice*, DA 02-376, published in 67 Fed. Reg. 13332 (March 22, 2002), hereby comments in response to the *Public Notice*. The Commission seeks comment upon the request of AT&T Corp. (“AT&T”) that the Commission “permit it to contribute based on its projected revenues for the current quarter, subject to true up with actual revenues, instead of contributing to universal service based on historical revenues from two quarters prior.”¹ Inability to calculate USF contributions in this manner, and instead being forced to utilize the Commission’s proposed universal service fund assessment proposed factor, has resulted in AT&T’s “need to assess its residential customers a universal service contribution of 11.5% commencing January 1, 2002”, as compared to the 9.0% consumer line-item charge which would result if AT&T were permitted to utilize projected revenues.² AT&T makes clear that it is “[t]he continued existence of a six-month lag between the assessment and recovery of carrier’s universal service contributions, coupled with AT&T’s sharply diminishing interstate and international telecommunications revenues, [which]

¹ *Public Notice*, DA 02-376 (March 22, 2002).

² Letter from Robert W. Quinn, Jr., AT&T Corp. to Magalie Roman Salas, Secretary, Federal

requires this precipitous increase in its residential line-item USF charge.³

Communications Commission, December 13, 2001, p. 1.

³ Id.

AT&T's request dramatically highlights the flaws inherent in a system which assesses universal service contributions predicated upon stale revenue data. In a *Notice of Proposed Rulemaking* released last Spring in the above docket,⁴ the Commission requested comment on the means by which these flaws may be eliminated, or at least significantly minimized. At that time, ASCENT and other commenters urged the Commission to calculate the quarterly percentage contribution factor based upon revenue projections, with actual USF contributions to be submitted based upon current collected revenues, as AT&T requests in its submission of December 13, 2001. In its comments submitted July 9, 2001, AT&T advised the Commission that "the six-month lag is still severely anticompetitive. Carriers with increasing interstate and international revenues obtain an artificial competitive benefit under this system, because they are not obligated to contribute to the USF for six months, when they can spread the recovery of those contributions over a larger revenue base."⁵ The Iowa Utilities Board also supported the use of a projected revenue method for purposes of calculating the universal service contribution factor, noting that this method "would address the issue regarding the interval between the reporting of revenues and the assessment of contributions. The application of this methodology should no longer place carriers with declining interstate revenues at a significant competitive disadvantage with respect to carriers with increasing

⁴ Federal-State Joint Board on Universal Service, 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, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Notice of Proposed Rulemaking, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, FCC 01-145 (rel. May 8, 2001) ("*Universal Service Streamlining NPRM*").

⁵ Comments of AT&T Corp. on *Universal Service Streamlining NPRM* (July 9, 2001), p. 9.

revenues.”⁶

⁶ Comments of Iowa Utilities Board. on *Universal Service Streamlining NPRM* (July 9, 2001), p. 2.

In a *Further Notice of Proposed Rulemaking*⁷ recently released in the same proceeding, the Commission “seek[s] further comment on whether to reform the assessment and recovery of universal service contributions,”⁸ noting that the *Universal Service Streamlining NPRM* “generated a significant record on this issue, with some commenters advocating retention of the existing system, and others proposing various modifications, including reliance on current or projected revenues rather than historical revenue. . . . All of these proposals remain under consideration.”⁹ The *FNPRM* recognizes that “modify[ing] the current system to rely on projected revenue data . . . could help to address the concerns of some commenters regarding the impact on certain contributors of reliance on historical revenues and make contribution assessments more reflective of current market conditions.”¹⁰ Likewise, “[a] current-revenue assessment methodology could have similar benefits to a projected-revenue assessment methodology.”¹¹

ASCENT continues to agree with AT&T’s position that “the Commission should eliminate, once and for all, the lag between accrual and assessment of universal service

⁷ Federal-State Joint Board on Universal Service, 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, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans with Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Further Notice of Proposed Rulemaking and Report and Order, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, FCC 02-43 (rel. Feb. 26, 2002) (“*FNPRM*”).

⁸ Id., ¶ 30.

⁹ Id., ¶ 84.

¹⁰ Id., ¶ 85.

¹¹ Id., ¶ 87.

obligations.”¹² As the Commission itself has noted, revamping the present system to ensure that “a carrier’s assessment amount would be dependent on current collected revenues, rather than historical gross-billed revenues . . . would eliminate concerns about the interval between the reporting of revenues and the assessment of universal service contributions,”¹³ the precise dilemma giving rise to AT&T’s present request.

The detrimental effect of the current backward-looking assessment scheme on carriers with declining revenues is vividly demonstrated by AT&T’s request. Like AT&T, any carrier in a similar position will face the same obligation to satisfy a universal service contribution obligation based upon application of a contribution factor to a revenue figure which is now both inaccurate and artificially high. The inevitable result is that under the present system, carriers with declining revenues pay an effectively higher percentage contribution than their competitors with stable or increasing revenues. Compounding this inequity, the lag time inherent in the present USF contribution mechanism means that while carriers with declining revenues are paying (and oftentimes recovering from their end-user customers) disproportionately high assessments, new market entrants – including the former Bell Operating Companies which are just beginning to provide intraLATA, in-region long distance in states following receipt of Section 271 approval – as well as those carriers with rapidly increasing revenues, receive a financial advantage commensurate with their pace of growth by contributing less than their actual collected end-user revenues would otherwise require.

¹² AT&T *Universal Service Streamlining NPRM* Comments, p. 2.

¹³ *Universal Service Streamlining NPRM*, ¶ 23.

ASCENT notes that in the *FNPRM*, the Commission also “seek[s] comment on a proposal to fundamentally reform the contribution assessment system by assessing contributions based on the number and capacity of connections provided to a public network.”¹⁴ Among other things, such a sweeping modification “would have the effect of making local exchange carriers and mobile service providers responsible for a larger portion of the universal service funding,”¹⁵ mitigating to a certain extent above-noted underrecovery of contributions from incumbent LECs. However, precisely because “a connection-based methodology would constitute a significant change from the current system,” the Commission also seeks comment on “whether it can be implemented immediately, or whether a transition period would be necessary.”¹⁶ While recognizing on the one hand that any transition period “may delay realization of the potential benefits of a new, connection based approach,” the Commission also recognizes that a transition “might enable contributors and USAC to prepare for implementation of the new mechanism . . . [and] provide additional time for contributors to update their billing and accounting systems to accommodate changes.”¹⁷

A drastic alteration of the current USF methodology is likely to draw significant comment from all aspects of the industry and will be followed by deliberate consideration by the Commission of all viewpoints expressed, placing the effective date of any such modification reasonably far down the road. Absent Commission action as requested by AT&T, however,

¹⁴ *FNPRM*, ¶ 31.

¹⁵ *Id.*, ¶ 36.

¹⁶ *Id.*, ¶ 83. Indeed, as the *FNPRM* notes, a 12-month transition period has already been proposed by the USF Coalition.

¹⁷ *Id.*

throughout that entire period of time, carriers with decreasing revenue bases will continue to be forced to calculate USF contributions based upon stale and inflated historical revenue data, with the inequitable results noted above. ASCENT urges the Commission to act now to address the problem highlighted by AT&T by adopting on an accelerated basis the proposal presently pending pursuant to which calculation of universal service contributions would be predicated upon projected or current, rather than historic, revenues. In the event the Commission ultimately determines to restructure the USF contribution mechanism to provide for a connection-based methodology, ASCENT urges the Commission to allow carriers to utilize projected or current revenues to calculate

USF contributions not only until the effectiveness of the change but also throughout the totality of any transition period decreed by the Commission.

Respectfully submitted,

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April 12, 2002

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CERTIFICATE OF SERVICE

I, Catherine M. Hannan, do hereby certify that a true a correct copy of the foregoing Comments of the Association of Communications Enterprises has been served by the First Class Mail, postage prepaid, on the individuals listed below, on this 12th day of April, 2002:

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/s/

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