

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	)	CC Docket No. 98-171
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	)	CC Docket No. 90-571
Hearing and Speech Disabilities, and the Americans with	)	
Disabilities Act of 1990	)	
	)	
Administration of the North American Numbering Plan	)	CC Docket No. 92-237
and North American Numbering Plan Cost Recovery	)	NSD File No. L-00-72
Contribution Factor and Fund Size	)	
	)	
Number Resource Optimization	)	CC Docket No. 99-200
	)	
Telephone Number Portability	)	CC Docket No. 95-116
	)	
Truth-in-Billing and Billing Format	)	CC Docket No. 98-170

To: The Commission

**REPLY COMMENTS OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.**

The American Mobile Telecommunications Association, Inc. (“AMTA” or “Association”), in accordance with Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) Rules and Regulations, respectfully submits its Reply Comments in the above-entitled proceeding.<sup>1</sup>

1. **Any Universal Service Contribution Methodology Must Recognize Distinctions Among Various Types of Contribution Entities.**

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<sup>1</sup>*Further Notice of Proposed Rulemaking*, CC Docket No. 96-45, FCC 02-43 (rel. Feb. 26, 2002) (“FNPR” or “Notice”).

1. AMTA shares the concerns expressed in certain comments that switching to a per connection-based assessment could cause an “inequitable shift of burden away from interexchange carriers and onto local exchange carriers and wireless providers.”<sup>2</sup> As stated in the Association’s comments, it is the Commission’s obligation to consider the significant contribution burden for which certain segments of the interstate telecommunications industry would be responsible under the connection-based assessment proposal. Whether the Commission determines to modify the existing assessment methodology or switch to a connection-based methodology, it should thoroughly understand the implications associated with its decision.

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<sup>2</sup>The Rural Independent Competitive Alliance, Comments at p.5 (April 22, 2002). See also Nextel Communications, Inc. Comments at p. 17-20 (April 22, 2002)(“Nextel Comments”).

2. In its earlier filed comments submitted in response to the FCC's Notice of Proposed Rulemaking, CC Docket 96-45, FCC 01-145, 16 FCC Rcd 9892 (2001), which initiated this proceeding, the Association urged the Commission not to draw overly broad generalizations from the cited market trends and assume they are affecting all segments of the "interstate telecommunications carrier" industry comparably, an industry Congress and the FCC have defined so broadly as to encompass a multiplicity of disparate service offerings.<sup>3</sup> AMTA continues to stress the importance of this distinction as the Commission reviews the comments in response to the FNPR.<sup>4</sup> Certain of those comments make suggestions based on overly broad generalizations that do not apply equally to all interstate wireless carriers especially, and especially not to the majority of AMTA's members which serve a discrete niche of the multi-faceted wireless market.

## **II. The Safe Harbor Percentage Should Be Retained if the Commission Modifies the Revenue-based Assessment Methodology**

3. A number of parties have suggested that instead of adopting a new connection-based assessment, the Commission should revise the current revenue-based assessment for determining an entity's universal service obligation. Certain commenters suggested the FCC should eliminate the safe harbor percentages in conjunction with such modifications.<sup>5</sup> For example, the National Telephone Cooperative Association ("NTCA") claims:

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<sup>3</sup>AMTA, Comments at ¶ 3 (June 25, 2001).

<sup>4</sup>This sentiment is echoed in other comments filed in response to the FNPR. For example, in its comments, Nextel Communications, Inc. states "[t]he Commission did not intend that CMRS - or even the telecommunications market as a whole - be, or become a one-size fits all industry. Any regulation that ignores this would constitute arbitrary and capricious decision making and would undermine the very competition the Commission, through other policies, has sought to encourage." Nextel Comments at p. 24.

<sup>5</sup>The National Exchange Carrier Association, Inc., Comments at p 3-4(April 22, 2002)("NECA Comments"); National Telecommunications Cooperative Association, Initial Comments at p. 5-6 (April 22, 2002)("NTCA Comments");

[t]he safe harbor percentages are severely outdated and fail to represent the wireless industry's true USF contribution obligation. . . . As a result of the wireless safe harbor provisions, wireline carriers have been subsidizing wireless carrier contributions to the interstate universal service fund for several years.<sup>6</sup>

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<sup>6</sup>NTCA Comments at p.6.

4. AMTA strongly disagrees with NTCA's assessment as applied to the SMR industry.<sup>7</sup>

As the Association has explained previously, with the exception of the very small number of regional or national SMR operators with fully interconnected digital SMR systems, AMTA's members typically operate systems that generate very low levels of interstate traffic. Some are classified by the FCC as interstate providers even though they are not interconnected with the PSN at all, simply because their repeater facilities are capable of transmitting across state lines. Those that are interconnected generally offer a very limited capability, often restricted to a handful of fleet owners that are satisfied with less than toll-quality service as an adjunct to their primary dispatch capability. The overwhelming trend in this industry segment is to limit any type of PSN interconnection at all in light of intense competition in that marketplace.

5. There is no evidence to support a claim that the 1% safe harbor percentage available for SMR operators is either "outdated" or "substantially understated."<sup>8</sup> In fact, for the vast majority of AMTA's members the 1% safe harbor percentage is an overstatement of their interstate telecommunication revenues. In discussing interstate service it is not appropriate to include the typical SMR operator with consumer-oriented wireless carriers.

6. AMTA also is compelled to address certain statements that "wireless carriers can easily distinguish their customers' local and long distance calls."<sup>9</sup> This simply is not the case for the typical SMR system. As AMTA has explained to the Commission previously, most SMR systems, in particular dispatch only-systems, have never distinguished revenues on the basis of interstate versus intrastate communications and have no practical ability to do so. The system

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<sup>7</sup>In fact, adoption of NTCA's position would be contradictory to its further exhortation that contributions must be related directly to the amount of interstate service used by customers of the contribution. *See, e.g.*, NTCA Comments at p. 2.

<sup>8</sup>NECA Comments at p.4.

operator has no way of knowing whether a particular customer radio unit is being used on the intra- or interstate side of a state boundary. Indeed, its location *vis-a-vis* the state border may change many times during the course of the unit's travel throughout the coverage area. It is not possible on site-specific dispatch systems to identify the location of each unit each time it uses the system, information that is of no import whatsoever to the operator or its customers, and has significance only for the purpose of calculating universal service contributions should the safe harbor provision be abandoned.

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<sup>9</sup>NTCA Comments at p.7.

7. The Telecommunications Act of 1996 mandated that all providers of interstate telecommunications service should contribute to the Federal universal service in some equitable and nondiscriminatory manner.<sup>10</sup> The safe harbor percentage recognizes there are differences amongst telecommunication providers and that certain industry segments traditionally have not, and in some instances cannot, differentiate interstate from intrastate service revenues. The safe harbor percentage provides the small business SMR operator with an efficient means for reporting interstate revenue. It should not be eliminated.

### **III. Conclusion**

8. For the reasons described above and in its earlier filed comments, AMTA recommends that the Commission proceed with its examination of the universal service obligation consistent with the position expressed herein.

Respectfully submitted,

**AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.**

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<sup>10</sup>47 U.S.C. § 254(d).

