**Before the**
**FEDERAL COMMUNICATIONS COMMISSION**
**Washington, DC 20554**

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| In the Matter of | ) | |
| | ) | |
| 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 |
| | ) | |
| Truth-in-Billing and Billing Format | ) | CC Docket No. 98-170 |

**REPLY COMMENTS OF WORLDCOM, INC.**


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## REPLY COMMENTS OF WORLDCOM, INC.

WorldCom, Inc. ("WorldCom"), by its attorneys, submits these reply comments in response to the Further Notice of Proposed Rulemaking ("*Further NPRM*") issued by the Federal Communications Commission ("Commission") in the above-captioned proceeding.[1]

## I. INTRODUCTION

As WorldCom explained in its initial comments, the existing universal service contribution methodology is in urgent need of reform. The connection- and capacity-based assessment mechanism and "collect-and-remit" recovery method proposed by the Coalition for Sustainable Universal Service ("Coalition")[2] provides the most sensible solution to the problems currently plaguing the universal service fund ("USF"). In particular, the Coalition's proposal is sustainable, non-discriminatory, competitively-neutral, technology-neutral and pro-consumer. WorldCom therefore continues to support fully the Coalition's proposal and its filings in this proceeding.

WorldCom files these separate reply comments to emphasize several key points. WorldCom urges the Commission to:

- Continue to allow contributors to recover the full amount of their USF-related administrative costs through an explicit line item on end users' bills;
- Establish a realistic safe harbor for mark-ups; and
- Reject proposals to base contributions on projected revenues.

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[1] *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; Truth-in-Billing and Billing Format*, 17 FCC Rcd 3752 (2002).

[2] *See* Comments of the Coalition for Sustainable Universal Service, CC Dockets No. 96-45, *et al.* (Apr. 22, 2002) ("Coalition Comments").

In addition, WorldCom urges the Commission not to delay the reform of the existing USF mechanism while it conforms the contribution mechanisms for other supported services, such as Telecommunications Relay Services ("TRS"), to follow the USF mechanism or addresses other issues.

## II. DISCUSSION

### A. Carriers Must Be Allowed to Recover Costs They Incur to Implement the FCC's USF Program

The Commission should continue to permit carriers to recover the full amount of their USF-related administrative costs through an explicit USF line item.[3]

#### 1. <u>Carriers Incur Costs in the Collection and Remittance of USF</u>

Some commenters argue that contributors to the USF should not be permitted to recover the costs of administering the USF by adjusting the assessment percentage upward. Rather, they contend that WorldCom and other contributors should be required to treat those administrative costs as general costs of doing business.[4] Indeed, commenters do not appear to dispute the fact that contributors incur such costs; instead they question whether these costs are sufficiently related to the USF to be recovered

[3] Comments of WorldCom, Inc., CC Dockets No. 96-45, *et al.*, at 8-10 (Apr. 22, 2002) ("WorldCom Comments").

[4] *See, e.g.,* Comments of the Ad Hoc Telecommunications Users Committee, CC Dockets No. 96-45, *et al.*, at 19-20 (Apr. 22, 2002) ("Ad Hoc Comments"); Comments of the California Public Utilities Commission and the People of the State of California, CC Dockets No. 96-45, *et al.*, at 13-14 (Apr. 22, 2002) ("California Comments"). *See also* Comments of the National Association of State Utility Consumer Advocates, CC Dockets No. 96-45, *et al.*, at 17 (Apr. 22, 2002) ("NASUCA Comments"); Comments of Consumers' Union, *et al.*, CC dockets No. 96-45, *et al.*, at 20-21 ("Consumers' Union Comments").

through USF line items,[5] or claim that mark-ups cause customer confusion and therefore should not be allowed.[6]

As WorldCom demonstrated in its initial comments, carriers incur costs in the administration of the federal USF program. These include billing costs, as well as customer service costs, such as responding to verbal and written questions and providing invoices or other written communications.[7] Because carriers in fact incur costs as a result of their administration of the USF program, consistent with the Act, Commission precedent, and federal case law, the Commission must continue to permit carriers to recover these costs through an explicit USF line item.[8] The Commission also should authorize the amendment of existing customer contracts to adjust for changes in the universal service contribution mechanism, as it did when it established the current USF contribution approach in 1997.[9]

Moreover, since it is clear that USF administrative costs may vary between different customer groups, the FCC should not mandate a uniform charge for residential and business customers, as proposed by California.[10] Customer service costs, for example, may vary depending on the customer class, and carriers should have the

[5] Ad Hoc Comments at 20.

[6] Comments of the General Services Administration, CC Dockets No. 96-45, *et al.*, at 8-9 (Apr. 22, 2002) ("GSA Comments"); Consumers' Union Comments at 19.

[7] WorldCom Comments at 9; Comments of SBC Communications Inc., CC Dockets No. 96-45, *et al.*, at 13 (Apr. 22, 2002) ("SBC Comments") (urging the Commission to allow providers to recover their billing and other administrative costs).

[8] WorldCom Comments at 9.

[9] *See Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776 (1997) at ¶ 851 (finding that it would serve the public interest to allow telecommunications carriers and providers to make changes to existing contracts for service in order to adjust for new contribution requirements).

[10] California Comments at 13.

flexibility to recover those costs efficiently, by applying different mark-ups to residential and business services. In addition, a connection-based approach, combined with a single line item on customers' bills that recovers the assessment as well as any costs incurred by the contributor in administering the USF program, would facilitate end users' ability to compare carriers' charges.

2. The Commission Should Establish a Realistic Safe Harbor

In its initial comments, WorldCom stated that any "safe harbor" adjustment for the recovery of administrative costs should be realistic and should not foreclose a carrier from establishing a mark-up that exceeds the safe harbor. The Commission could exercise its audit authority to examine those mark-ups that it believes may unreasonably exceed the safe harbor. The audited carrier then would have to demonstrate that its individual administrative costs in fact exceed the safe harbor level. At this stage in the proceeding, it would be premature to suggest a specific safe harbor adjustment level, because the administrative costs that a carrier incurs will depend directly on the particular contribution and recovery mechanism the Commission adopts. For example, the mark-up needed under a collect-and-remit system would be lower than under the current system.

Allowing carriers to set a mark-up that exceeds the safe harbor, subject to audit, is essential, given the different cost structures that competing carriers face.[13] As WorldCom stated in its initial comments, different carriers will incur different administrative costs.[14]

[13] *See* WorldCom Comments at 10 (explaining that any safe harbor rule should permit carriers to recover unique administrative costs not borne by all USF contributors).
[14] *See* WorldCom Comments at pp. 9-10.

For example, due to the existence of scale economies (and, in some cases the need to contract out certain tasks), competitive carriers are likely to have higher per-unit billing costs than the incumbent LECs. In addition, if the Commission declines to adopt a collect-and-remit mechanism, competitive carriers may need a higher mark-up to account for uncollectibles, as their uncollectible rates in some cases are higher than those of the incumbent LECs. Thus, a mark-up that falls within the safe harbor should be deemed reasonable, but contributors with costs outside the safe harbor should be permitted to recover those costs through a higher mark-up, subject to the Commission's authority to request cost support for such a mark-up.

**B. The FCC Should Reject Proposals to Amend the USF Rules to Use Prospective Revenues**

WorldCom opposes proposals to assess USF contributions based on projected interstate revenues. The ostensible benefit of that approach is that it would be "more reflective of current market conditions" and, therefore, would reduce the disadvantages that the current system imposes on contributors with declining interstate revenues.[15] As WorldCom has previously explained, the use of projected revenues only addresses one of the many problems that afflict the current assessment mechanism.[17] Consequently, implementation of a projected-revenues system would not avoid the universal service

[15] *Further NPRM* at ¶ 85.
[17] WorldCom Comments at 14.

"death spiral."[18] It would only lead to needless delay and create substantial administrative burdens for both USAC and USF contributors.[19]

WorldCom previously has stressed that the fundamental problem with any revenue-based assessment mechanism, whether based on historic or projected revenues, is that such schemes are unsustainable.[20] For example, a projected revenues assessment system would not address the problem of identifying the interstate revenues generated by service offerings that bundle for a single price interstate telecommunications services, intrastate services, non-telecommunications services, and customer premises equipment.

Proponents of a projected-revenues approach contend that it would slow the rise in the universal service percentage factors that carriers with declining revenues must assess to recover their contribution. There is good reason, however, to doubt even that outcome would be achieved. First, and most importantly, because the revenue assessment base is declining, projected revenues will be less than actual revenues, and consequently, a projected-revenues assessment system would cause the contribution factor for all interstate carriers to increase. This higher contribution factor may put upward pressure on carriers' USF surcharges. Second, carriers would have an incentive to develop very conservative forecasts of future revenues in order to minimize the risk of overpayment into the fund. The cumulative effect, therefore, would be to decrease the

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[18] *See* WorldCom Comments at 3.

[19] *See* WorldCom Comments at 14 (detailing the burdens involved in calculating future revenues and in conducting and auditing true-ups); Comments of WorldCom, Inc., CC Docket No. 96-45, at 10-13 (Apr. 12, 2002) ("WorldCom Waiver Comments"); *see also* Reply Comments of AT&T Corp., CC Dockets No. 96-45, *et al.*, at 9-10 & n.10 (July 9, 2001).

[20] *See* WorldCom Comments at 14.

interstate revenue base and, correspondingly, put upward pressure on the universal service percentage factor.

Moreover, because projections are inherently uncertain, USAC may find it necessary to require the recovery of an added, reserve amount to protect against the contingency that actual revenues fall short of the carriers' projections. This would require a true-up. Additional uncertainty about the effect of the true-up process on future rates and the sustainability of any revenue-based system almost certainly would contribute to consumer confusion and hamper the ability of large businesses that rely heavily on telecommunications to develop and implement their business plans.[21] It would therefore be far more sensible to adopt the Coalition's proposal, which would provide a long-term solution to the problems facing USF.

### C. The Commission Should Not Delay Implementation of Urgently Needed Reforms to the USF Contribution and Collection Mechanism

As the Coalition's comments and reply comments demonstrate, reform of the USF contribution mechanism is urgently required. Certain issues that have been raised by parties or by the Commission can and should be decided separately; the resolution of those issues therefore should not be allowed to delay USF reform.

*Other Federal Support Programs.* WorldCom agrees that the Commission should adopt a connection-based assessment system for other federal support programs, such as TRS, North American Numbering Plan ("NANP"), and Local Number Portability ("LNP"), that rely on revenue classifications similar to the ones used by USF.[22] These

[21] *See Further NPRM* at ¶ 85.

[22] *See Further NPRM* ¶ 82.

changes need not be implemented immediately, however.[23] Rather, the Commission should defer consideration of these other programs until it has concluded this proceeding. Any rules necessary to conform these other collection mechanisms can then be adopted and implemented during the one-year transition period for special access and private line services.[24] It is imperative, however, that reforms to the USF contribution mechanism are not postponed while the Commission considers issues relating to other programs.[25]

*ISPs*. WorldCom disagrees with SBC's characterization of "Internet Service Providers" as providers of telecommunications.[26] As WorldCom explained in its recently filed comments in the Commission's *Wireline Broadband Framework* proceeding, Internet access service providers provide "information services," not "telecommunications" or "telecommunications services."[27] In any case, this issue is currently the subject of a separate proceeding and its resolution need not and should not delay urgently needed USF reform. The Coalition specifically has developed a universal service reform proposal that can accommodate any future Commission decisions relating to these issues and implementation of the Coalition's proposal should not be delayed while these difficult legal and policy issues are resolved.

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[23] *See* WorldCom Comments at 15.

[24] Coalition Comments at 58.

[25] As WorldCom noted in its initial comments, TRS, LNP and other similar programs do not appear to be plagued by the anticompetitive concerns affecting USF, and therefore are not in the same urgent need of reform. WorldCom Comments at 16.

[26] *See* SBC Comments at Appendix A, p. 1.

[27] *See* Joint Comments of WorldCom, Inc., the Competitive Telecommunications Association, and the Association for Local Telecommunications Services, CC Dockets No. 02-33, *et al.*, at 57-58 (May 3, 2002) ("*Wireline Broadband Framework* Comments").

## III. CONCLUSION

The Commission should immediately adopt the Coalition's proposal for a connection-based assessment methodology and a collect-and-remit recovery scheme. In doing so, the Commission should ensure that carriers continue to have a reasonable opportunity to recover their costs of administering the USF program.

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Dated: May 13, 2002

**Certificate of Service**

I, Denise Owusu, hereby certify that on this 13th day of May, 2002, caused a copy of the attached Reply Comments of WorldCom, Inc. to be served by hand delivery on the following:

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