

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
1998 Biennial Regulatory Review –	)	CC Docket No. 98-171
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	)	CC Docket No. 90-571
Individuals with Hearing and Speech	)	
Disabilities, and the Americans with	)	
Disabilities Act of 1990	)	
	)	
Administration of the North American	)	CC Docket No. 92-237
Numbering Plan and North American	)	NSD File No. L-00-72
Numbering Plan Cost Recovery	)	
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

**AT&T CORP.’S REPLY TO OPPOSITIONS TO AND COMMENTS ON ITS  
PETITION FOR EXPEDITED RECONSIDERATION AND CLARIFICATION**

Pursuant to Section 1.429(g) of the Commission’s Rules,<sup>1</sup> AT&T Corp.  
 (“AT&T”) hereby replies to comments and oppositions filed regarding its Petition for

---

<sup>1</sup> 47 C.F.R. § 1.429(g).

Expedited Reconsideration and Clarification<sup>2</sup> of certain aspects of the Commission's *Interim USF Order* in this proceeding.<sup>3</sup> No party opposes AT&T's alternative proposal that the Commission state its quarterly contribution factor to three decimal places (*i.e.*, tenths of a percent), rather than to six decimal places (*i.e.*, ten thousandths of a percent). Nor does any party present any detailed substantive objection to AT&T's request that the Commission clarify AT&T's ability to recover unbillables through a stand-alone line-item or a separate line-item that also includes USF-related administrative costs. In addition, there is no reason to deny AT&T's request for relief with respect to the line-item billing problems created by unbillables, especially if the Commission grants the LEC requests for billing flexibility regarding recovery of USF assessments related to PIC change and PICC fees.

**I. THE FCC SHOULD ISSUE CONTRIBUTION FACTORS ROUNDED TO THREE DECIMAL PLACES, OR SHOULD PERMIT CARRIERS TO ROUND UP WITH A TRUE-UP.**

No party opposes AT&T's alternative proposal that the FCC state its contribution factor rounded to three decimal places (*i.e.*, tenths of a percent) in order to accommodate limitations in carrier billing systems, and Sprint and Verizon both support AT&T's

---

<sup>2</sup> AT&T Petition for Expedited Reconsideration and Clarification, CC Dockets No. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72 (filed Jan. 29, 2003) ("Petition").

<sup>3</sup> *In re 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, Report & Order & Second Further Notice of Proposed Rulemaking*, FCC No. 02-329 (rel. Dec. 13, 2002) ("*Interim USF Order*").

proposal.<sup>4</sup> This proposal is administratively simple because USAC and the Commission would do whatever rounding is necessary in promulgating the factor, and then can address overcollections through the usual USAC mechanisms.<sup>5</sup> In addition, the Commission can adopt this solution immediately, because the number of decimal places of the contribution factor is a matter of Commission discretion. Indeed, in 1999 alone, the Commission variously stated contribution factors at four, five and six decimal places.<sup>6</sup>

If the Commission nevertheless continues to state the contribution factor at more than three decimal places, as the Bureau has now proposed for the second quarter of 2003,<sup>7</sup> it should grant AT&T's Petition and allow carriers to round up their contribution factors for billing purposes subject to true-up. NASUCA's premise in opposing AT&T's request—that the true-up mechanism will automatically “correct” all of the losses that carriers will face due to having to round down every assessment<sup>8</sup>—is simply not correct. If the Commission were to require AT&T systematically to undercollect its recovery by dropping additional digits, it should then also permit an addition to the recovery charge at

---

<sup>4</sup> Sprint Comments at 5; Verizon Comments at 3.

<sup>5</sup> See Letter from Amy L. Alvarez, AT&T, to Marlene H. Dortch, FCC (filed Mar. 5, 2003) (explaining the impact of rounding the universal service contribution factor to three digits).

<sup>6</sup> See, e.g., Public Notice, *Proposed Second Quarter 1999 Universal Service Contribution Factors*, 14 FCC Rcd 5072, 5075 (1999) (prescribing a four-decimal-place contribution factor); Public Notice, *Proposed Fourth Quarter 1999 Universal Service Contribution Factors*, DA-99-1857, 1999 FCC LEXIS 4417 (rel. Sept. 10, 1999) (prescribing a five-decimal-place contribution factor); Public Notice, *Proposed Fourth Quarter 1999 Universal Service Contribution Factor for Nov. & Dec. 1999*, DA-99-2109, 1999 FCC LEXIS 5026 (rel. Oct. 8, 1999) (prescribing a six-decimal-place contribution factor).

<sup>7</sup> See Public Notice, *Proposed Second Quarter 2003 Universal Service Contribution Factor*, DA-03-689, CC Docket No. 96-45 (rel. Mar. 7, 2003) (proposing a contribution factor of 9.0044 percent).

<sup>8</sup> See NASUCA Comments at 6.

the time of true-up. It is much easier to true-up charges downward, rather than upward, especially if the Commission maintains an upper limit on universal service recovery fees.

## **II. THE COMMISSION SHOULD PERMIT RECOVERY OF “UNBILLABLE” USF ASSESSMENTS THROUGH THE USF LINE-ITEM.**

Several commenters wrongly assert that the Commission expressly addressed the question of the appropriate recovery of “unbillables” in the *Interim USF Order*.<sup>9</sup> These parties misread the *Order*. In fact, the FCC merely declined to remove “unbillables” from a carrier’s universal service contribution base; *i.e.*, the Commission simply declined to remove unbillables from the initial calculation of a carrier’s assessment.<sup>10</sup>

AT&T’s Petition addresses a different issue: the recovery of contributions that cannot be recovered through a line-item after AT&T has already been assessed for those contributions. And although the Commission expressed an intent to allow AT&T, consistent with Section 254(g), to combine universal service recovery with other service charges on a geographically specific basis, there is no evidence in the record that such a solution is actually implementable by April 1, 2003, or even during the presumably brief life of the interim mechanism. It will be difficult and costly to transition billing systems to the Commission’s apparently preferred interim alternative, and as Verizon points out, serial changes to billing systems will significantly inflate the administrative costs carriers incur with respect to universal service contributions.<sup>11</sup>

---

<sup>9</sup> See AOL Time Warner Comments at 3; EarthLink Comments at 3-4; NASUCA Comments at 5; Verizon Comments at 6.

<sup>10</sup> *Interim USF Order* at ¶ 57.

<sup>11</sup> Verizon Comments at 1; *see also* Sprint Comments at 2 (urging the Commission to let carriers avoid “complex billing changes ... for what is only an interim system”); SBC Comments at 4 (urging the Commission to let carriers avoid “difficult and potentially unnecessary implementation issues”); CTIA Comments at 3 (noting that billing systems

AT&T's uncollectible issue is just another one of the many implementation difficulties and inequities created by the Commission's limitation on USF recovery line-items. All of these issues—AT&T's unbillables, the LECs' PICC charges and PIC change fees, and the CMRS carriers' wireless charges—are at bottom the same. All reflect difficulties in either calculating or billing to a specific end user the universal service contribution attributable to that end user's interstate and international telecommunications services.<sup>12</sup>

Some parties argue that these problems simply disappear if viewed from a high enough level of abstraction.<sup>13</sup> While flying at 40,000 feet will, indeed, avoid all mountains, it does not follow that the mountains of implementation difficulties and systems reconfiguration costs would thereby cease to exist. The Commission has an obligation not to assume away the practical implementation problems of its policy choices, and must decide whether it really is desirable to have consumers (the ultimate payors) fund two sets of billing changes—one to implement the interim system and then another to enable whatever permanent system the Commission ultimately adopts.

At the same time, no reason exists to favor one set of carriers' USF recovery line-item billing issues over another's. If the Commission is going to grant relief from

---

would have to be “completely revamped” two times if the Commission ultimately adopts a connections- or numbers-based mechanism).

<sup>12</sup> The ILECs' pleas to be able to reduce their USF line-item recovery charge to Centrex users and to recover that reduction from all other business users presents no justifiable case for relief from the prohibition on averaging, in the absence of a general waiver of the averaging prohibition. For Centrex lines, the ILECs know the amount of interstate revenue derived from that Centrex customer – the interstate subscriber line charge – and they can readily bill a USF line-item of that amount times the USF contribution factor. They simply do not want to do so.

<sup>13</sup> See, e.g., EarthLink Comments at 4.

issues related to the calculation and billing for USF recovery fees, it should do so for all sectors—LECs, IXC's and CMRS carriers—and should not prefer one sector over another. Indeed, to do so would be blatantly discriminatory.

The Commission, therefore, should grant AT&T's Petition and allow AT&T to average the recovery of unbillables across all billable customers. Alternatively, the Commission should grant SBC's Petition and defer implementation of the line-item recovery restrictions entirely pending completion of the Commission's deliberations on a permanent USF contribution mechanism.<sup>14</sup>

**III. THE COMMISSION SHOULD CLARIFY THAT AT&T MAY COMBINE UNBILLABLE RECOVERY WITH RECOVERY OF OTHER ADMINISTRATIVE EXPENSES IN A SEPARATE LINE-ITEM.**

In its Petition, AT&T requested that the Commission clarify its intention to allow carriers to recover unbillables through either a stand-alone line-item or a line-item that combines unbillables with other USF-related administrative expenses.<sup>15</sup> AT&T also requested clarification that such a combined charge could be billed only in "billable" areas.<sup>16</sup> These clarifications are necessary to ensure that AT&T and other carriers have the flexibility to fully and fairly recover USF administrative costs and USF contributions.

Ad Hoc's overheated rhetoric about the specter of "disguise[d]" charges and "mischaracterization concerns"<sup>17</sup> is unavailing. Ad Hoc's goal of limiting or prohibiting administrative line-items is simple rate prescription, which the Commission has rightly

---

<sup>14</sup> See SBC Comments at 4.

<sup>15</sup> AT&T Petition at 4.

<sup>16</sup> *Id.* at 5.

<sup>17</sup> See Ad Hoc Comments at 3.

declined to apply to non-dominant carriers in competitive markets<sup>18</sup> and which the Commission cannot adopt in any event without “a full opportunity for hearing.”<sup>19</sup> With respect to charges by non-dominant carriers, there is no basis for the Commission to engage in detailed regulation of rate structures or rate levels. Moreover, no “truth-in-billing” issue arises so long as the combined “unbillable” and administrative expense line-item is not labeled as USF-related or otherwise presented in a misleading fashion.<sup>20</sup> The Commission should reject Ad Hoc’s approach and let the highly competitive marketplace determine the sustainability of any administrative cost/unbillables line-items or other alternative rate structures and levels.

No other party actually presents any substantive reason why the Commission should not grant this portion of the AT&T Petition. In arguing that line-items are inherently confusing and thus should be prohibited,<sup>21</sup> NASUCA urges the Commission

---

<sup>18</sup> See Nextel Comments at 5; see also *Truth-in-Billing Order*, 14 FCC Rcd at 7523 (¶ 50) (“While we adopt guidelines to facilitate consumer understanding of these charges and comparison among service providers, we decline the recommendations of those that would urge us to limit the manner in which carriers recover these costs of doing business.”).

<sup>19</sup> 47 U.S.C. § 205(a).

<sup>20</sup> See 47 C.F.R. § 64.2401(b) (requiring that telephone-bill explanations be “brief, clear, non-misleading, [and] plain language”); see also *In re Truth-in-Billing & Billing Format*, First Report & Order & Further Notice of Proposed Rulemaking, 14 FCC Rcd 7492, 7527 (¶ 56) (1999) (allowing carriers “broad discretion” in describing charges, “provided only that they are factually accurate and non-misleading”). The *Interim USF Order* never found that the existing charges were misleading; accordingly, Verizon Wireless and CTIA correctly argue that the Commission’s new recovery rules violate the First Amendment. See CTIA Comments at 4-5.

<sup>21</sup> See NASUCA Comments at 2-3.

to micromanage the provider/customer relationship in newly intrusive ways, but otherwise presents no reason why the Commission should deny AT&T's requested clarification.

\* \* \*

Accordingly, the Commission should grant AT&T's Petition for Expedited Reconsideration and Clarification.

Respectfully submitted,

AT&T Corp.

By: /s/ Judy Sello  
Mark C. Rosenblum  
Lawrence J. Lafaro  
Judy Sello  
AT&T CORP.  
Room 3A229  
One AT&T Way  
Bedminster, New Jersey 07921  
(908) 532-1846

March 10, 2003

## CERTIFICATE OF SERVICE

I, Tracy Rudnicki, do hereby certify that a copy of the foregoing AT&T Corp.'s Reply to Oppositions to and Comments on Its Petition for Expedited Reconsideration and Clarification was served this 10<sup>th</sup> day of March 2003, upon the following parties:

Mark J. O'Connor  
Kenneth R. Boley  
Lampert & O'Connor, P.C.  
1750 K Street, N.W., Suite 600  
Washington, DC 20006  
*Counsel for EarthLink, Inc.*

Dave Baker, Vice President  
Law and Public Policy  
EarthLink, Inc.  
1375 Peachtree Street, Level A  
Atlanta, GA 30309

Richard Juhnke  
Sprint Corporation  
401 9<sup>th</sup> Street, N.W.  
Washington, DC 20004

Jeanne Jansenius, President  
ACUTA, Inc.  
152 West Zandale Drive  
Suite 200  
Lexington, KY 40503

James S. Blaszak  
Levine, Blaszak, Block & Boothby, LLP  
2001 L Street, N.W.  
Suite 900  
Washington, DC 20036  
*Counsel for The Ad Hoc Telecommunications  
Users Committee*

Richard A. Askoff  
80 South Jefferson Road  
Whippany, NJ 07981  
*Counsel for National Exchange Carrier  
Association, Inc.*

Laura H. Phillips  
Laura S. Gallagher  
Jason Friedrich  
Drinker Biddle & Reath LLP  
1500 K Street, N.W., Suite 1100  
Washington, DC 20005-1209  
*Counsel for Nextel Communications, Inc.*

Leonard J. Kennedy  
Lawrence R. Krevor  
Garnet M. Goins  
Nextel Communications, Inc.  
2001 Edmund Halley Drive  
Reston, VA 20191

Jeffrey A. Brueggeman  
Gary L. Phillips  
Paul K. Mancini  
SBC Communications Inc.  
1401 Eye Street, N.W.  
Suite 1100  
Washington, DC 20005

Lawrence E. Sarjeant  
Indra Sehdev Chalk  
Michael T. McMenamin  
Robin E. Tuttle  
1401 H Street, N.W., Suite 600  
Washington, DC 20005  
*Counsel for United States Telecom Association*

Lawrence W. Katz  
c/o Verizon  
1515 North Courthouse Road  
Suite 500  
Arlington, VA 22201-2909  
*Counsel for Verizon*

Lori Wright  
Associate Counsel  
WorldCom, Inc.  
1133 19<sup>th</sup> Street, N.W.  
Washington, DC 20036

Donna N. Lampert  
Mark J. O'Connor  
Linda L. Kent  
Lampert & O'Connor, P.C.  
1750 K Street, N.W., Suite 600  
Washington, DC 20006  
*Counsel for AOL Time Warner, Inc.*

Steven N. Teplitz  
Vice President and Associate General Counsel  
AOL Time Warner, Inc.  
800 Connecticut Avenue, N.W.  
Suite 200  
Washington, DC 20006

Michael Altschul  
Senior Vice President and General Counsel  
Cellular Telecommunications &  
Internet Association  
1250 Connecticut Avenue, N.W.  
Suite 800  
Washington, DC 20036

Robert S. Tongren  
David C. Bergmann  
NASUCA  
8300 Colesville Road, Suite 101  
Silver Spring, MD 20910

John T. Scott III  
Anne E. Hoskins  
Verizon Wireless  
1300 Eye Street, N.W.  
Suite 400 West  
Washington, DC 20005

Donald S. Hill  
Commissioner  
State House Annex, Room 120  
25 Capitol Street  
Concord, NH 03301

Hale Irwin  
President  
NASTD  
10 Baldwin Street  
Montpelier, VT 05633

Gerry Worthington  
President  
NASCIO  
167 W. Main Street, Suite 600  
Lexington, KY 40507

/s/ Tracy Rudnicki  
Tracy Rudnicki