

**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 – Stream-)	CC Docket No. 98-171
lined Contributor Reporting Requirements)	
Associated with Administration of Telecom-)	
munications 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)	CC Docket No. 90-571
Americans with Disabilities Act of 1990)	
)	
Administration of the North American Num-)	
bering Plan and North American Numbering)	CC Docket No. 92-237
Plan Cost Recovery Contribution Factor and)	NSD File No. L-00-72
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

REPLY COMMENTS OF VONAGE HOLDINGS CORP.

Vonage Holdings Corp. (“Vonage” or “Company”), by its undersigned counsel and pursuant to section 1.405 of the Commission’s Rules, 47 C.F.R. § 1.405, respectfully submits the following Reply Comments pursuant to the Commission’s Second Further Notice of Proposed Rulemaking¹ in the above-captioned proceeding.

¹ CC Docket No. 96-45, *et al.*, Report and Order and Second Further Notice of Proposed Rulemaking, FCC 02-329 (released Dec. 13, 2002).

I. INTRODUCTION

Vonage is a leading provider of digital voice over Internet Protocol (“VoIP”) services over high-speed Internet connections. Vonage Digital Voicesm provides consumers with a high quality, feature-rich and cost effective protocol conversion service creating an interface for voice communications between the synchronous Public Switched Telephone Network and asynchronous Internet Protocol (IP) networks over any broadband connection.² Vonage also offers a wholesale services product.

Vonage is filing these Reply Comments to respond to specific allegations about its services made by other parties in their comments filed in this proceeding. As explained below, contrary to the statements of SBC Communications, Inc. (“SBC”) and BellSouth Corporation (“BellSouth”), Vonage, as an information service provider and a purchaser of telecommunications services, does share the burden of funding universal service under current rules. At this time, the Company takes no position on the issue of whether the Commission should adopt a revenue-based methodology or connection-based methodology for universal service contributions.

II. VONAGE DOES SHARE THE BURDEN OF FUNDING UNIVERSAL SERVICE

A. End Users, Not Carriers, Bear the Real Cost of Universal Service

Pursuant to Section 254(d) of the Communications Act of 1934, as amended by the 1996 Act (“the Act”), “[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis,” to universal service

² Vonage does not offer broadband connections to the Internet; its customers must purchase their access connections from another provider. Similarly, Vonage does not offer telephone service or access to telecommunications networks. Rather, Vonage provides a means of inter-communications between Internet users (who purchase access from an Internet service provider) and users of the Public Switched Telephone Network (PSTN) (who purchase access from a telecommunications carrier).

mechanisms established by the FCC.³ Accordingly, the FCC requires that entities providing interstate telecommunications for a fee to the public must directly contribute to the Universal Service Fund (“USF”).⁴ Currently, these entities contribute to the USF based on their end-user telecommunications revenues.⁵ End-users do not directly contribute to USF.

The FCC should not kid itself, though. **Carriers do not bear the real costs of funding universal service – customers do.** Even though interstate telecommunications providers directly contribute to USF, the costs caused by those contributions are passed directly or indirectly to their end-user customers. Almost all carriers now pass these costs through explicitly to their end-user customers through bill surcharges. Indeed, this practice is so prevalent that the FCC itself found it necessary to adopt regulations governing these charges.⁶ The FCC has acknowledged that the burden of USF on end-users is significant, including through indirect means:

We are mindful of the effects that expanded universal service mechanisms may have on consumers, and adopt specific measures designed to ensure that the costs of universal service are no higher than needed to comply with the statutory mandates of section 254 [W]e will continue to monitor subscribership and rates and, if necessary, will propose measures designed to ensure that consumers in all regions of the country receive universal service at just, reasonable and affordable rates.⁷

Therefore, the significance of the FCC’s contribution rules is not *who pays*, but *how* the contribution burden is allocated among consumers. The Commission should hence discount comments from carriers who raise the specter of “erosion” of the contribution base, but do not

³ 47 U.S.C. § 254(d).

⁴ 47 C.F.R. § 54.706.

⁵ 47 C.F.R. § 54.709.

⁶ See 47 C.F.R. § 54.712.

⁷ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 125 (1997) (subsequent history omitted).

analyze how this so-called erosion will affect the allocation of the USF burden among consumers.

B. Vonage, as an Information Service Provider, Helps to Fund Universal Service

Vonage does not provide interstate telecommunications services, but instead provides enhanced VoIP services that include a protocol conversion as an inherent component of the service. As such, Vonage is an information service provider and is treated as an end-user of telecommunications services. Similar to many Internet Service Providers (“ISPs”) and other information service providers, Vonage purchases telecommunications lines from interstate telecommunications carriers for the provision of its information services. Because a connection to the Public Switched Telephone Network is an inherent functionality of Vonage’s service, Vonage necessarily purchases significant amounts of telecommunications services, and the volume of those purchases increases as the size of Vonage’s business grows.

As a purchaser of telecommunications services, Vonage bears a share of the burden of funding universal service, as explained in the previous section. The carriers from which Vonage buys service treat Vonage as an end-user, and pass through their universal service contribution costs to Vonage through explicit charges on their bills. Likewise, the consumers of Vonage’s information services indirectly bear the cost of USF funding through the rates and charges they pay to Vonage. Therefore, claims by SBC and BellSouth that Vonage and similar providers do not contribute to universal service and cause “erosion” of the contribution base⁸ **are simply not true.**

Vonage does not imperil the USF funding base. Instead, Vonage, like other end-users of interstate telecommunications, shares the burden of funding USF. This burden is real and

⁸ Joint Comments of SBC Communications, Inc. and BellSouth Corporation at 5-6.

significant, as acknowledged by the Commission itself. Moreover, information service providers such as Vonage in no way “jeopardize” the continuation of the USF program as some carriers claim.⁹ Rather, under the current contribution system, Vonage and other information service providers are contributors to, and share the burden of, USF funding. Services provided by Vonage, which rely upon connections to the PSTN, should be distinguished from other broadband information services, such as Internet access, which do not require a connection to the PSTN and therefore do not bear a share of the USF funding burden under current rules.

III. VONAGE WOULD CONTINUE TO SHARE THE BURDEN OF USF FUNDING UNDER A CONNECTION-BASED SYSTEM

As demonstrated above, Vonage, as an end-user of telecommunications, contributes to USF under the FCC’s current revenue-based USF methodology. In their comments, SBC and BellSouth have suggested that the FCC should adopt a connections-based USF methodology, instead of a revenue-based methodology, so that information service providers such as Vonage would “contribute” to USF funding.¹⁰ Under the connection-based methodology proposed in this proceeding, interstate telecommunications carriers would contribute to USF based on each connection to the Public Switched Telephone Network (“PSTN”).¹¹

Vonage submits that, for the essentially same reasons described above, the Company also would be a contributor to USF under a connection-based USF methodology. Specifically, Vonage relies on connections to the PSTN to provide its information service to its customers. As such, under a connection-based methodology, Vonage would share in the burden of USF funding through the rates and charges it pays to the interstate telecommunication carriers from whom the

⁹ *See id.* at 6.

¹⁰ *Id.* at 6-7.

Company purchases telecommunications lines that connect to the PSTN. Again, as an end-user of telecommunications services, Vonage would contribute to USF funding and thus not be a cause of “erosion” of the contribution base.¹²

IV. CONCLUSION

While Vonage at this time takes no position on the merits of the appropriate USF methodology to be adopted by the FCC, the Company submits these Reply Comments in order to correct erroneous claims that Vonage does not contribute to USF funding. Contrary to these allegations, Vonage does, in fact, bear a share of the burden of USF funding as an end-user of telecommunications services, and, because the Company relies on connections to the PSTN for the provision of its information services, this burden will remain even if the Commission were to adopt the connection-based USF methodology under consideration in this proceeding.

¹¹ *Federal-State Board on Universal Service*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170 and NDS File No. L-00-72, Report and Order, FCC 02-329 (rel. Dec. 13, 2002).

¹² On the other hand, providers of broadband information services that do *not* offer a connection to the PSTN still would not bear a share of the USF funding burden under a connection-based scheme, unless the term “connection to an interstate network” were defined to include connections to networks that provide no telecommunications services at all; however, it appears doubtful that the Commission’s statutory authority could permit such a broad definition.

Respectfully submitted,



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