

June 2, 2006

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Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington, DC 20554

Re: ***Ex Parte Communication***
Federal-State Joint Board on Universal Service; CC Docket No. 96-45

Dear Ms. Dortch:

On June 2, 2006, Christopher Guttman-McCabe, Vice President, Regulatory Affairs, Paul Garnett, Assistant Vice President, Regulatory Affairs, and Brian Josef, Director, Regulatory Affairs, CTIA – The Wireless Association®, met with Scott Deutchman, Legal Advisor to Commissioner Michael Copps, to discuss proposals to increase and revise rules pertaining to the interim safe harbor used by many wireless carriers to report interstate telecommunications revenues for purposes of calculating contributions to universal service and other Federal Communications Commission (“Commission”) programs.

At the meeting, CTIA urged the Commission to ensure that wireless carriers retain the flexibility to contribute to universal service and other programs based on their actual telecommunications revenues determined as a result of traffic studies. The FCC has long expressed a preference for wireless carriers to contribute to universal service based on their actual revenues (as determined by traffic studies), not according to a safe harbor percentage that often bears no relationship to an individual wireless carrier’s business.¹ The wireless safe harbor has always been a fall back for wireless carriers that choose not to complete traffic studies for purposes of determining their interstate telecommunications revenues. Indeed, the last time the Commission increased the safe harbor to 28.5 percent, it stated “[s]etting the safe

¹ See *In the Matters of Federal-State Joint Board on Universal Service, Access Charge Reform, Petition for Reconsideration and Clarification of the Fifth Circuit Remand Order of BellSouth Corporation*, Order, CC Docket Nos. 96-45, 96-262, DA 05-2320, para. 8 (Wireline Comp. Bur. 2005); *Federal-State Joint Board on Universal Service*, Order and Order on Reconsideration, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, 18 FCC Rcd, 1421, 1425, paras. 7-8 (2003); *Federal-State Joint Board on Universal Service*, Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, 17 FCC Rcd 3752, 3761, para. 22 (2002) (*2002 Contribution Methodology Order and Second FNPRM*); *Federal-State Joint Board on Universal Service*, Memorandum Opinion and Order and Second Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 13 FCC Rcd 21252, 21254-60, paras. 5-15 (1998).

harbor at the high end of the range of estimates provided by the wireless studies should provide mobile wireless providers an incentive to report their actual interstate telecommunications revenues if they are able to do so.”²

Providing wireless carriers with an incentive to report based on their actual interstate telecommunications revenues is good policy and is consistent with Section 254(d) of the Act, which requires that telecommunications carriers contribute to universal service “on an equitable and nondiscriminatory basis.”³ Any new Commission rule that would, as a practical matter, prevent wireless carriers from reporting actual revenues based on traffic studies would be a reversal from eight years of Commission precedent and would directly contradict Section 254(d) of the Act. To the extent that the Commission is concerned about the accuracy of traffic studies, it retains the option of auditing carrier revenue reports.

Finally, CTIA discussed its continued support for swift Commission adoption and implementation of a numbers-based universal service contribution mechanism that addresses the concerns of low-income and low average revenue per unit customers. Any interim changes to the revenues-based universal service mechanism will be inferior substitutes to more fundamental reforms to the universal service contribution methodology, because they will not address mounting concerns about the migration of revenue to services that are not adequately assessed universal service contributions. It is critical, therefore, that the Commission soon begin the transition to a new universal service contribution methodology based on numbers and capacity.

Pursuant to Section 1.1206 of the Commission’s rules, a copy of this letter is being filed via ECFS with your office. Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Paul Garnett

Paul Garnett

cc: Scott Deutchman

² See *2002 Contribution Methodology Order and Second FNPRM*, 17 FCC Rcd at 3761, para. 22.

³ See 47 U.S.C. § 254(d).