

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

In the Matter of

Universal Service Contribution Methodology

WC Docket No. 06-122

**COMMENTS OF
BELLSOUTH CORPORATION**

BellSouth Corporation, on behalf of itself and its wholly-owned subsidiaries (“BellSouth”), hereby submits its comments on the *Notice of Proposed Rulemaking* (“NPRM”) in the above-captioned proceeding.¹ As discussed more fully below, the time has come for the Commission to undertake comprehensive universal service reform. Accordingly, rather than modifying the interim safe harbor and traffic study requirements for providers of wireless and interconnected voice over Internet Protocol (“VoIP”) service recently adopted in the June 27, 2006 *Order*, the Commission should proceed with establishing a permanent mechanism that assesses contributions based on working telephone numbers.

I. BACKGROUND

On June 27, 2006, the Commission released a *Report and Order* (“*Order*”) in which it adopted two interim modifications to its approach for assessing universal service contributions. First, the Commission increased the wireless “safe harbor” percentage used to estimate interstate

¹ *Universal Service Contribution Methodology, et al.*, WC Docket No. 06-122, *et al. Report and Order and Notice of Proposed Rulemaking*, FCC 06-94 (rel. June 27, 2006). (“*Order*” and “*Notice*”).

revenue from 28.5% to 37.1% of total end-user telecommunications revenue.² Second, the Commission expanded the base of contributors to include providers of interconnected VoIP service and adopted a safe harbor of 64.9% of total VoIP revenue for VoIP contributions to the universal service fund.³ The Commission explained that these interim measures were intended to stabilize the universal service fund in the near-term and minimize the impact on consumers, USF contributors, and USF administration, while the Commission considers more fundamental reform to the contribution methodology.⁴ The companion *Notice* seeks comment on the new interim requirements and also welcomes suggestions for a permanent approach to USF contributions.⁵

BellSouth believes that the interim actions taken by the Commission are reasonable and appropriately tailored to ensure the continued viability of the universal service fund in the short-term. However, in order to sustain the long-term continuity of the universal service fund, the Commission must move forward quickly to reform the universal service contribution mechanism. Rather than further adjusting the recently adopted safe harbors for wireless and VoIP providers or modifying the traffic study requirements, the Commission should replace permanently the current revenue-based methodology with one based on working telephone numbers. By completely reforming the method for assessing universal service contributions on all providers at the same time, the Commission would eliminate the need to revisit the interim solutions on a piecemeal basis.

² *Order*, ¶¶ 2, 16, 23.

³ *Id.* ¶¶ 2, 16, 35.

⁴ *Id.* ¶¶ 1, 20.

⁵ *Id.* ¶¶ 65-69.

II. A NUMBERS-BASED CONTRIBUTION METHODOLOGY OFFERS SIGNIFICANT BENEFITS.

As the record demonstrates, there are significant advantages associated with a properly designed numbers-based method for assessing universal service contributions. These advantages include, among other things, a more stable funding base. As the Commission has recognized, the current revenue-based system, which assesses providers based upon interstate and international revenues, is not sustainable in the long-term. More than four years ago, the Commission pointed out that “marketplace developments have blurred the distinctions between interstate/intrastate and telecommunications/non-telecommunications revenues on which the current contribution system is based.”⁶ The increased difficulty in distinguishing revenues continues as bundled offerings become more prevalent. Moreover, the blurring of jurisdictional boundaries has created “opportunities to mischaracterize revenues that should be counted for contribution purposes” thereby “decreas[ing] . . . the assessable revenue base.”⁷ To minimize the incentives and opportunities for providers to avoid their contribution obligations, the Commission should replace the revenue-based system with a numbers-based mechanism.

Second, the Commission should adopt a numbers-based methodology because it is competitively and technology neutral. Any service that uses a telephone number would contribute to the universal service fund, regardless of the technology. This approach would allow the Commission to capture in the contribution base those entities that have historically

⁶ *Federal-State Joint Board on Universal Service, et al.*, CC Docket Nos. 96-45, *et al. Further Notice of Proposed Rulemaking and Report and Order*, 17 FCC Rcd 3752, 3758, ¶ 12 (2002).

⁷ *Federal-State Joint Board on Universal Service, et al.*, CC Docket Nos. 96-45, *et al. Report and Order and Second Further Notice of Proposed Rulemaking*, 17 FCC Rcd 24952, 24955, ¶ 3 (2002).

been subject to universal service contribution obligations (*e.g.*, wireline, wireless, cable) as well as newly covered contributors such as VoIP providers.⁸

To ensure that no provider is competitively disadvantaged, the Commission should assess providers only on those working telephone numbers for which the provider has a retail relationship with the end user. This approach ensures that each provider bears the responsibility for contributing to universal service based on its end-user relationship. For example, under this proposed system, a reseller or VoIP provider that obtains numbers from another provider, instead of obtaining numbers directly from the North American Numbering Plan Administrator or the Pooling Administrator, would be assessed based on telephone numbers associated with the services for that reseller's or VoIP provider's end-user customers. Similarly, providers that receive ported telephone numbers would be assessed the universal service contribution instead of the provider from whom the number was ported. Basing contributions on numbers associated with services for which a provider has a retail relationship with an end user is appropriate because that provider is in the best position to recover the assessment from its end users.

Third, in addition to assigning "equitable and nondiscriminatory"⁹ universal service obligations on providers, regardless of technology, a numbers-based approach, once

⁸ Relying on its permissive authority pursuant to Section 254(d) and its Title I ancillary jurisdiction, the Commission has already concluded that it is authorized to subject interconnected VoIP providers to the universal service contribution requirements. *Order*, ¶ 35. The Commission may continue to rely upon this authority to require VoIP providers to contribute to universal service under a numbers-based contribution methodology.

⁹ 47 U.S.C. § 254(b)(4).

implemented and designed appropriately,¹⁰ would be easy to administer and simple for consumers to understand. Assessing a provider based on a telephone number is straightforward, and the resulting flat fee is far easier for consumers to understand than multiplying the quarterly contribution factor times the interstate revenue on a bill.

Fourth, a numbers-based contribution methodology is beneficial because it can be designed to address low-income consumers. To ensure that low-income consumers are not adversely affected by a numbers-based assessment, BellSouth recommends that the Commission preclude providers from recovering USF contributions from Lifeline and Link-Up customers. This approach would be more advantageous to these customers when compared with the current assessment mechanism, which charges Lifeline and Link-Up subscribers a fee based on their interstate and international service usage. Thus, a numbers-based approach can be tailored to minimize any negative effects on low-income consumers.

III. IF THE COMMISSION ADOPTS A NUMBERS-BASED CONTRIBUTION MECHANISM, IT MUST ALLOW AN IMPLEMENTATION PERIOD OF AT LEAST ONE YEAR.

Although BellSouth supports adopting a contribution mechanism based on working telephone numbers, the Commission must realize that such a drastic change from the current revenue-based system cannot occur overnight. The industry will require a minimum of one year to implement a numbers-based system.¹¹ Providers will need adequate time to modify and test

¹⁰ BellSouth, along with others in the industry, believes that sufficient time must be allowed for the proper implementation of any new contribution mechanism and suggests that a period of at least one year is necessary to effectuate the required changes. *See* Section III. *infra*.

¹¹ For a more detailed discussion of the necessary systems and procedural changes required to implement a new numbers-based mechanism, see Letter from Jeanine A. Poltronieri, Vice President, Federal Regulatory, BellSouth to Ms. Marlene Dortch, Secretary, FCC, Re: Federal-

their billing systems. The Commission will need to either develop a new reporting form or modify the existing FCC forms (Form 499 or Numbering Resource Utilization/Forecast (“NRUF”) Form¹²) in order to assess companies. Finally, the Universal Service Administration Company (“USAC”) will need to modify its processes and procedures to account for a new contribution methodology. A numbers-based approach, while advantageous, involves a complete overhaul of the existing system and affects multiple players (millions of customers, hundreds of providers, the Commission, and USAC). To ensure as smooth a transition as possible and to stabilize universal service support, the Commission should allow the industry at least one year to implement a new numbers-based contribution methodology.

State Joint Board on Universal Service, CC Docket No. 96-45, Attached Presentation at 2 (Oct. 24, 2005).

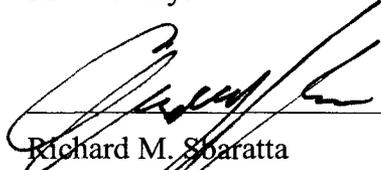
¹² As BellSouth has demonstrated previously, the use of NRUF data to assess universal service contributions is inappropriate for a number of reasons. *See, e.g.*, Letter from Jeanine A. Poltronieri, Vice President, Federal Regulatory, BellSouth to Ms. Marlene Dortch, Secretary, FCC, Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (July 6, 2005); Letter from Mary L. Henze to Ms. Marlene Dortch, Assistant Vice President, Federal Regulatory, Re: Federal-State joint Board on Universal Service, CC Docket No. 96-45, at 2-9 (March 23, 2005); For example, the current NRUF form does not have a category for “working telephone numbers.” This fact is significant because the “assigned” number category on NRUF includes “ported out” numbers, numbers used by resellers, and numbers assigned to UNE-P service. As a result, reliance on “assigned” numbers as the basis of the universal service assessment would overstate a provider’s obligations. In addition, there are inconsistencies in the manner in which providers interpret the definition of “intermediate numbers.” Some providers categorize those numbers as “assigned,” while others designate such numbers as “intermediate.” This lack of consistency makes the “assigned” number category on NRUF an unreliable basis upon which to assess a provider’s universal service contribution obligation.

Respectfully submitted,

BELLSOUTH CORPORATION

Its Attorneys

By:



Richard M. Sparatta
Angela N. Brown

Suite 4300
675 West Peachtree Street, N. E.
Atlanta, Georgia 30375-0001
(404) 335-0724

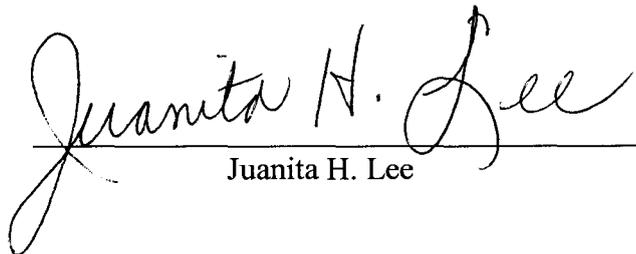
August 9, 2006

CERTIFICATE OF SERVICE

I do hereby certify that I have this 9th day of August 2006 served the following parties to this action with a copy of the foregoing **COMMENTS OF BELLSOUTH** by electronic filing addressed to the parties listed below.

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
The Portals, 445 12th Street, S. W.
Room TW-A325
Washington, D. C. 20554

Best Copy and Printing, Inc.
The Portals, 445 12th Street, S. W.
Room CY-B402
Washington, D. C. 20554



Juanita H. Lee