

VIA ELECTRONIC DELIVERY

January 22, 2007

Chairman Kevin Martin
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Deborah Tate
Commissioner Robert McDowell
Federal Communications Commission (via e-mail)

Re: Ex Parte Communication, FCC Dockets 96-45, 01-92, 03-133, 04-36, 06-122

Dear Chairman Martin and Commissioners:

It has been six months since National Association of State Utility Consumer Advocates (“NASUCA”) filed its previous *ex parte* communication with regard to the proper contribution mechanism for the federal universal service fund (“USF”).¹ At that time, NASUCA praised the Federal Communications Commission’s (“Commission’s”) decision to require providers of voice over Internet protocol (“VoIP”) service to contribute directly to the fund.²

We find ourselves compelled to reiterate again,³ that the current contribution mechanism for the USF, based on carriers’ interstate and international revenues, is **not** at risk.

¹ NASUCA *ex parte* (June 21, 2006). The June 21, 2006 *ex parte* also noted the many apparent opportunities for arbitrage in a numbers-based mechanism like those described by the proponents.

² *In the Matter of Universal Service Contribution Mechanism, WC Docket 06-122, et al.*, Report and Order and Notice of Proposed Rulemaking, FCC 06-94, 21 FCC Rcd 7518 (rel. June 27, 2006) (“06-94”); appealed sub nom. *Vonage v. FCC*, No. 06-1276 (D.C. Cir.). NASUCA intervened in that appeal and filed a brief in support of the Commission’s decision. In 06-94, the Commission also increased the USF assessment for many wireless providers.

³ NASUCA *ex parte* (February 27, 2006). NASUCA’s February 27 *ex parte* refuted the primary arguments for the move away from the revenue-based mechanism to a connections- or numbers-based mechanism. The February 27 letter also referenced NASUCA’s September 30, 2005 comments filed in the CC Docket No. 96-45, including its appendices, which discussed these issues at length.

Again, this is in the face of claims to the contrary.⁴

It was unfortunate that the Commission based its decision in 06-94 in part on the assumption that funding for the USF is imperiled.⁵ More recently, the same assertions were made in the brief filed on behalf on the Commission in the *Vonage* appeal.⁶ As shown in NASUCA's *Vonage* brief, the Commission's authority to assess VoIP providers is not dependent on the existence of a fund at risk.

Again attached to this ex parte is updated graphic information on the state of the revenue-based mechanism. This shows that over the last year the revenue base has increased 0.54%; over the last two years has increased 12.9%; over the last three years increased 7.72%; and over the last four years has increased 7.66%. It is only when the current base is compared with that from **five years ago** has there been any decrease, and that was 8.4%.

Indeed, as NASUCA has stated, the Commission's action on assessing VoIP "bolsters the current mechanism."⁷ **Thus there is no pressing need to move to a connections-based or numbers-based mechanism.** Of course, the situation would be improved if the Commission renews assessment of DSL providers,⁸ and equally assesses cable modem providers.

In the end, the best solutions for the USF will be to both broaden the contribution base and limit the size of the fund. Currently, some of the proposals on the intercarrier compensation issue threaten to balloon the fund while also increasing the burden on end-use customers.⁹ The Commission must not guarantee revenues to carriers in the name of universal service where the revenues are not demonstrably needed to create reasonably comparable, affordable, and just and reasonable rates.

The Commission has many proposals before it to **limit** the growth in the fund; NASUCA's proposals in this regard were also presented in its comments filed on September 30, 2005. Further, as NASUCA has previously demonstrated, the revenue-

⁴ See WC Docket 06-122, NASUCA Reply Comments (September 8, 2006) at 2-8.

⁵ 06-94, ¶ 18.

⁶ Brief for Respondents (November 21, 2006) at 9.

⁷ NASUCA ex parte (June 21, 2006)

⁸ As the open meeting where 06-94 was adopted, it was estimated that not assessing DSL would reduce the revenue base by \$350 million.

⁹ See 01-92, Missoula Plan Supporters ex parte (July 24, 2006), Executive Summary at 13 (**\$2.225 billion** increase in the USF). As shown in NASUCA's comments in that docket opposing the Missoula Plan, a more accurate assessment of the impact of the Missoula Plan is an increase of **over \$2.8 billion** in the USF. (Comments filed October 25, 2006, at 75.

based mechanism is actually more robust and equitable than a connection-based mechanism, even when the needs of the fund grow substantially.¹⁰

As also stated in NASUCA's February 27, 2006 letter:

NASUCA continues to oppose these proposals because a connection-based mechanism inevitably shifts USF responsibility from those who use interstate services (as with the current revenue mechanism) to those who merely have access to the local network, regardless of their interstate usage, or even of their intrastate usage. This inevitably shifts the burden of supporting the entire USF and all the programs it contains onto lower use and lower income consumers. This shifting of burdens is not in the public interest.

The updated data supports NASUCA's position that the Commission should not move away from the current revenue-based USF contribution mechanism. As NASUCA stated in the February 27, 2006 letter, there are more gradual, less radical changes that will adequately preserve and advance the USF.

Respectfully submitted,

/s/ David C. Bergmann

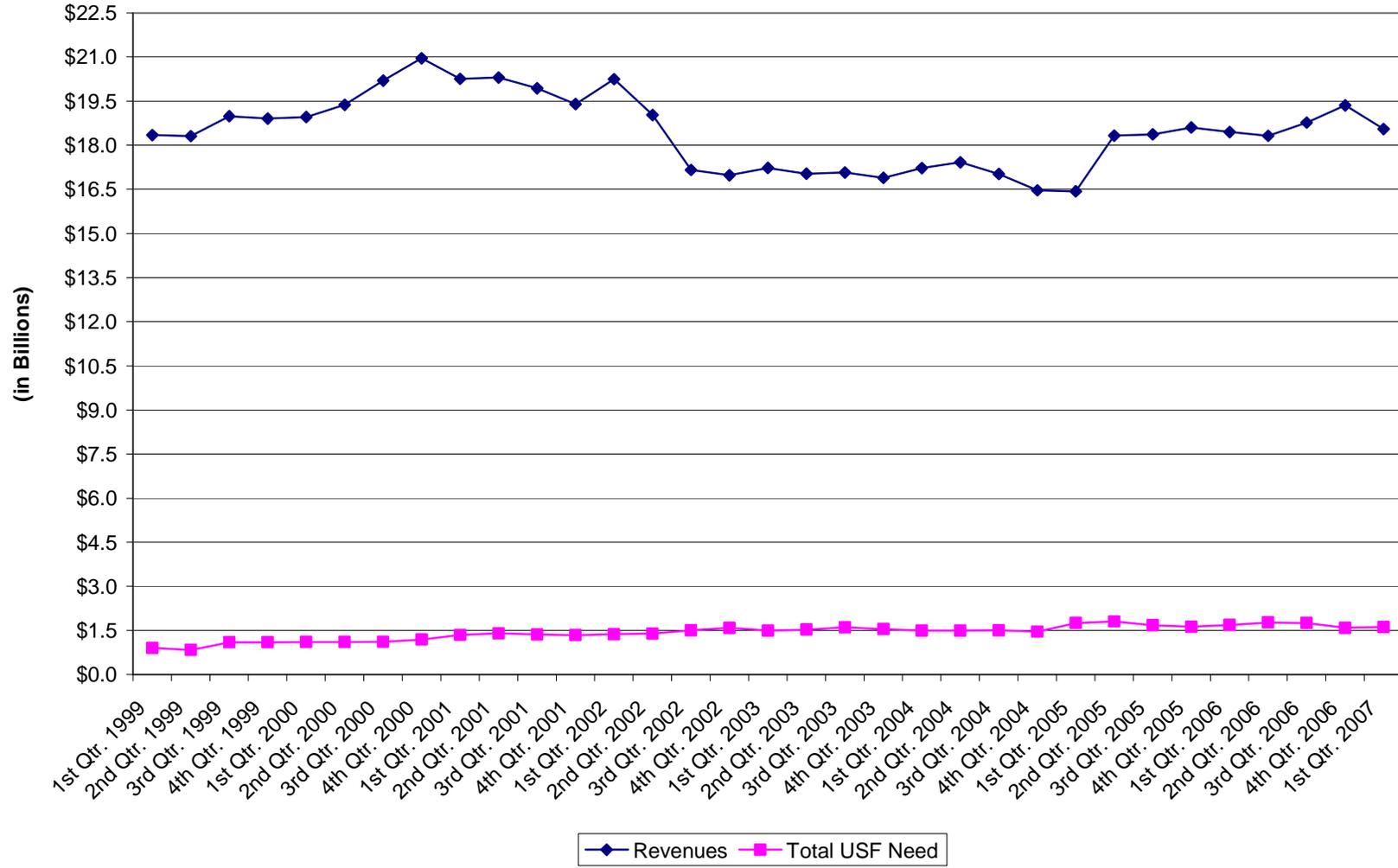
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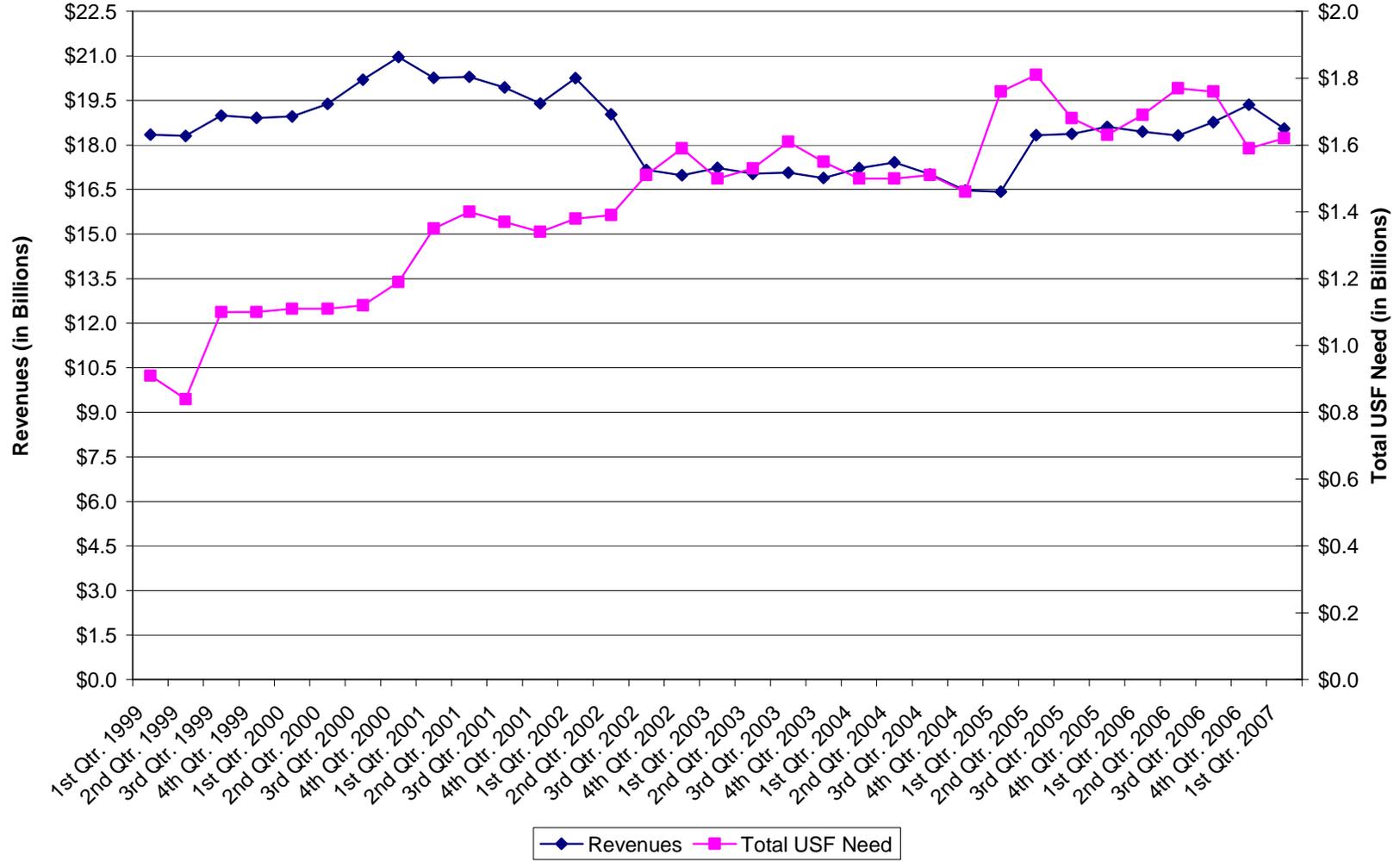
CC: Federal-State Joint Board on Universal Service (and Joint Board Staff).

¹⁰ CC Docket No. 96-45, et al., NASUCA Reply Comments on Staff Study (May 16, 2003) at 7-11. No party has, to NASUCA's knowledge, attempted to refute these findings.

Chart 1



Universal Service Fund



USF Contribution Fund

	Revenues (\$ billions)	Total USF Need (\$ billions)	Contribution Factor
1st Qtr. 1999	18.35	0.91	0.050
2nd Qtr. 1999	18.31	0.84	0.046
3rd Qtr. 1999	18.99	1.10	0.058
4th Qtr. 1999	18.91	1.10	0.058
1st Qtr. 2000	18.96	1.11	0.059
2nd Qtr. 2000	19.38	1.11	0.057
3rd Qtr. 2000	20.20	1.12	0.055
4th Qtr. 2000	20.96	1.19	0.057
1st Qtr. 2001	20.26	1.35	0.067
2nd Qtr. 2001	20.30	1.40	0.069
3rd Qtr. 2001	19.94	1.37	0.069
4th Qtr. 2001	19.40	1.34	0.069
1st Qtr. 2002	20.25	1.38	0.068
2nd Qtr. 2002	19.03	1.39	0.073
3rd Qtr. 2002	17.16	1.51	0.088
4th Qtr. 2002	16.98	1.59	0.093
1st Qtr. 2003	17.23	1.50	0.087
2nd Qtr. 2003	17.03	1.53	0.091
3rd Qtr. 2003	17.07	1.61	0.095
4th Qtr. 2003	16.89	1.55	0.092
1st Qtr. 2004	17.22	1.50	0.087
2nd Qtr. 2004	17.42	1.50	0.087
3rd Qtr. 2004	17.02	1.51	0.089
4th Qtr. 2004	16.47	1.46	0.089
1st Qtr. 2005	16.43	1.76	0.107
2nd Qtr. 2005	18.33	1.81	0.111
3rd Qtr. 2005	18.37	1.68	0.102
4th Qtr. 2005	18.61	1.63	0.102
1st Qtr. 2006	18.45	1.69	0.102
2nd Qtr. 2006	18.32	1.77	0.109
3rd Qtr. 2006	18.77	1.76	0.105
4th Qtr. 2006	19.36	1.59	0.091
1st Qtr. 2007	18.55	1.62	0.097