

# LATHAM & WATKINS LLP

October 24, 2008

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

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**Re: *Universal Service Contribution Methodology, WC Docket No. 06-122; Federal-State Joint Board on Universal Service, CC Docket No. 96-45***

Dear Ms. Dortch:

On behalf of USA Mobility, Inc., this letter responds to the most recent Universal Service Fund (“USF”) contribution methodology proposal advanced by AT&T and Verizon.<sup>1</sup> AT&T and Verizon propose a flat monthly USF fee of \$0.85 per assigned telephone number—regardless of whether the number is assigned to a residential or business customer. They also appear to acknowledge that some exemptions may be appropriate, but they suggest that customers should be required to seek reimbursement from USAC after first paying the numbers-based assessment. This proposed regime—no less than their previous proposal—would have a devastating impact on providers and consumers of paging services, and in turn would cause substantial harm to the public interest. USA Mobility therefore reiterates its view that, consistent with Section 254(d), the Administrative Procedure Act, and Commission precedent, paging services should not be subject to massively increased USF charges.<sup>2</sup>

First, AT&T and Verizon assert that their revised numbers-based USF contribution methodology would benefit residential and business consumers by lowering USF charges and making the contribution methodology more certain and efficient.<sup>3</sup> While that may be true for wireline and wireless *voice* customers, an \$.85 per-number monthly charge, to nearly the same degree as a \$1.00 charge, would dramatically *increase* costs for consumers of *paging* services and likely cripple what remains of the paging industry. As reflected in data submitted previously by USA Mobility, an \$.85 per-number charge would increase USF fees more than *tenfold* for

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<sup>1</sup> See Letter of Mary L. Henze, AT&T Services, Inc. and Kathleen Grillo, Verizon, WC Docket No. 06-122, CC Docket No. 96-45 (Oct. 20, 2008) (“AT&T/Verizon October 20 Ex Parte”).

<sup>2</sup> See Letter of USA Mobility, Inc., WC Docket No. 06-122, CC Docket No. 96-45, at 2-4 (Oct. 16, 2008) (“USA Mobility October 16 Ex Parte”).

<sup>3</sup> See AT&T/Verizon October 20 Ex Parte at 2.

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many paging subscribers,<sup>4</sup> and it would exceed USA Mobility's interstate revenues from such subscribers in violation of settled precedent.<sup>5</sup>

Second, the customer-reimbursement process suggested by AT&T and Verizon would fail to provide meaningful relief. AT&T and Verizon appear to contemplate that customers would pay numbers-based USF charges and then apply to USAC for partial reimbursement based on "special hardship" or other factors.<sup>6</sup> But carriers such as USA Mobility cannot develop workable business plans if the entitlement to exemptions from the numbers-based charge is uncertain. Moreover, even if the Commission were to make clear in advance that telephone numbers assigned to paging subscribers are not subject to a flat numbers-based charge, it would be pointless to force carriers to remit such payments only for customers to seek subsequent reimbursement. The administrative costs of such a mechanism would far outweigh any purported benefits. Indeed, especially for paging customers with a relatively small number of units in service—and even for larger accounts—the prospect of submitting monthly rebate requests would be so cumbersome that they would be far more likely to abandon their service. It would make far more sense for a paging carrier simply to refrain from imposing the numbers-based assessment in the first place (and instead impose whatever alternative assessment the Commission deems appropriate—and consistent with Section 254(d)).

USA Mobility therefore opposes the imposition of any numbers-based fee with respect to paging carriers and their customers. The Commission instead should maintain the existing revenue-based assessment for paging services or develop an alternative flat-rate mechanism based on current contribution levels.

Please contact the undersigned if you have any questions regarding this letter.

Sincerely,

/s/ Matthew A. Brill

Matthew A. Brill  
Counsel for USA Mobility, Inc.

cc: Nick Alexander                      Jeremy Marcus  
Amy Bender                                Alexander Minard  
Scott Bergmann                         Erica Myers  
Scott Deutchman                         Carol Pomponio  
James Eisner                               Cindy Spiers  
Greg Guice                                 Rodger Woock  
Jim Lande

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<sup>4</sup> USA Mobility October 16 Ex Parte, Attachment at 8.

<sup>5</sup> *See Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393, 434 (5th Cir. 1999).

<sup>6</sup> AT&T/Verizon October 20 Ex Parte at 4-5.