Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link Up	)	WC Docket No. 03-109
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	
Numbering Resource Optimization	)	CC Docket No. 99-200
	)	
Implementation of the Local Competition	)	
Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Developing a Unified Intercarrier Compensation	)	
Regime	)	CC Docket No. 01-92
	)	
Intercarrier Compensation for ISP-Bound Traffic	)	CC Docket No. 99-68
	)	
IP-Enabled Services	)	WC Docket No. 04-36

COMMENTS OF TRILOGY INTERNATIONAL ENTERPRISES, LLC

Trilogy International Enterprises, LLC ("Trilogy") urges the Commission to include the TRS, NANPA and LNP funds in any reform to the universal service contribution mechanism, rather than leave these funds assessed through the current Form 499 revenue reports while creating a new parallel reporting obligation of telephone numbers and/or connections for universal service. The Commission therefore should not adopt the text of the proposed footnote that would change the USF contribution system but leave that system in place for other funds.

One of the primary reasons that small carriers such as Trilogy have supported USF contribution reform is that the current system is highly burdensome and confusing.

As the Further Notice observes, "interstate end-user telecommunications service revenues are becoming increasingly difficult to identify as customers migrate to bundled packages of interstate and intrastate telecommunications and non-telecommunications products and services."[1] Trilogy has spent countless hours, at great expense, in trying to determine the correct method of reporting its revenues from certain international services, where the current system is especially unclear. It has received conflicting answers to its questions from different customer support persons at USAC, and found terms in the instructions that USAC personnel conceded that they did not understand. Trilogy therefore wholeheartedly agrees with the Further Notice that "The system of contributions to the universal service fund is broken"[2] and "requires a comprehensive overhaul."[3]

Establishing a new reporting scheme based upon telephone numbers and/or end-user connections – but leaving the existing "broken" system in place for other programs – would make the overall situation even worse, not better. Carriers would remain subjected to the burdensome and confusing revenue reports *and* have new reporting obligations on top of it. Instead, the Commission should keep all programs within a single, revised Form 499 that relies only on telephone numbers and/or end-user connections.

Bifurcating the reporting requirements and assessment formulas would reverse the Commission's deliberately-chosen policy to unify them in 1999. Previously, the various fund programs had been reported on separate forms and assessed on different bases. The Commission consolidated the forms into a single Form 499, and changed the revenue basis for assessing contributions to TRS and NANPA to be consistent with the basis used

[1] Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, Attachment A, ¶ 95.
[2] *Id.*, ¶ 97.
[3] *Id.*, n. 230.

for contributions to the universal service. The Commission undertook this reform for the very purpose of avoiding the duplicative burdens that its new proposal would recreate. The Commission explained:

> We expect that using the same funding basis for all of these purposes would reduce confusion and minimize the amount of information we need to collect from contributors. Numerous commenters praised this proposal because it would simplify our requirements. Indeed, using the same revenue basis for all four funds furthers the deregulatory, burden-reducing objectives that we seek to achieve by creating a unified contributor collection worksheet.[4]

The Commission further observed that "Adopting a single worksheet not only will reduce regulatory burdens on carriers and service providers, but will also reduce the costs to administrators and the public costs of regulation by conserving Commission resources associated with auditing and cross-checking data submissions,"[5] and that

> carriers and administrators were nearly unanimous in their support of this proposal. The record indicates that consolidating the four existing contributor forms into one worksheet will result in tangible administrative savings for carriers and service providers. We also conclude that adopting one worksheet to satisfy these obligations will reduce confusion for carriers and should increase compliance, particularly by smaller carriers. Finally, we believe that adopting a consolidated worksheet and granting administrators the ability to share revenue data will reduce the costs for administrators and, thereby, further effect savings overall.[6]

For all of these reasons, the public interest would be disserved if the Commission reversed course and restored all of the inefficiencies and problems that it worked to eliminate in 1999. Trilogy therefore urges the Commission not to adopt the text of the

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[4] *1998 Biennial Regulatory Review: Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms,* CC Docket No. 98-171, Report and Order, FCC 99-175, ¶ 65 (1999) ("*Form Consolidation Order*").

[5] *Form Consolidation Order*, ¶ 3.

[6] *Form Consolidation Order*, ¶ 9.

proposed footnote that would change the USF contribution system but leave that system in place for other funds.[7] In that footnote, the proposals state:

> We decline to adopt the suggestion by AT&T and Verizon to transition the Telecommunications Relay Services Fund, local number portability cost recovery, and numbering administration to a numbers/connections-based assessment methodology. *See* AT&T and Verizon Oct. 20, 2008 *Ex Parte* Letter at 6. Although these programs rely on the revenue information reported in the current FCC Form 499-A, they do not rely on many of the revenue distinctions, such as interstate and intrastate, that necessitate the change from a revenue-based assessment for the universal service fund.

In the first place, this conclusion is incorrect. Even carriers exempt from universal service and reporting only for TRS and other fund purposes struggle mightily with the Form 499 distinctions between telecommunications and information services, and between international or foreign services subject to the programs and those that are not.[8]

Second, even if the Commission believed that the other funds do not currently pose any unique problems does not mean, obviously, that the Commission should now make them a problem, or that it should leave them out of the solution. Third, there is no compelling excuse for the Commission to decline to port the other funds to the numbers/connections framework simply because they currently use somewhat different formulas from USF today. That was also true in 1999 when the Commission initially consolidated the reporting schemes, and the Commission can change the formula for TRS to one based upon telephone numbers and/or end-user connections if it also does so for

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[7] FNPRM, Attachment A, n. 373; Attachment B, n. 239; Attachment C, n. 364.

[8] *See* Letter from Mary Henze, AT&T, to Marlene H. Dortch, Docket 06-122 (Nov. 21, 2008) at 6-7 ("The Commission is incorrect in asserting that these other funds do not rely on revenue distinctions that necessitate changing USF to the new methodology. For example, all of these other funds would require telecommunications providers to continue identifying and separating telecommunications service revenues from information service revenues. This analysis is far more difficult and subject to varying degrees of interpretation than the interstate/intrastate distinction noted by the Commission in its footnote. Moreover, perpetuating the revenues-based assessment for these funds is contrary to the Commission's stated benefits of adopting a number-based assessment.").

USF. The statutory requirement for TRS assessment is more flexible than USF, not less so.[9] The Commission has already found that "End users are a reasonable proxy for subscribers, so collecting contributions from carriers based on revenue derived from end users satisfies section 225."[10] End-user telephone numbers and connections therefore offer a lawful and much simpler basis for collecting TRS, especially if the Commission decides to assess USF on those bases as well.

In the event that the Commission believes there has been insufficient public notice to change the contribution formula and reporting for TRS and other fees to coincide with changes to USF contribution, it should issue a public notice immediately to seek further comment on the question. The Commission should then act on such issue in time to implement the changes to all fees in a new consolidated Form 499 at the same time on the proposed transition date of January 1, 2010.

Trilogy commends the Commission for its efforts to fix the broken, overcomplicated revenues reporting system now in place. But the Commission should not make the system more complicated by keeping the broken system partly intact and adding additional complications to it. Instead, all programs now covered by Form 499 should be moved to the new numbers/connections formula at the same time in 2010.

Respectfully submitted,

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[9] *Form Consolidation Order* , ¶ 66. ("For the purposes of TRS contributions, we conclude that, because section 225 states that the costs of telecommunications relay services should be borne by 'all subscribers,' the Act allows for, but does not require, contributions from all carriers. Accordingly, we conclude that the modifications made herein will effectively carry out the Congressional intent reflected in section 225.").

[10] *Form Consolidation Order*, ¶ 59.