

**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 Inter-carrier Compensation Regime	)	CC Docket No. 01-92
	)	
Inter-carrier Compensation for ISP-Bound Traffic	)	CC Docket No. 99-68
	)	
IP-Enabled Services	)	WC Docket No. 04-36

**COMMENTS OF  
ADHOC TELECOMMUNICATIONS USERS COMMITTEE**

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November 26, 2008

## SUMMARY

Appendices A and C do not provide sound proposals for inter-carrier compensation or Universal Service Fund (USF) reform. The inter-carrier compensation reform proposals are plagued by an apparent commitment to “revenue neutrality.” Revenue neutrality may sound innocuous, but it is anything but innocuous. It is predicated not on cost recovery or on assuring just and reasonable rates. Instead, revenue neutrality protects carrier interests without any quantitative analysis demonstrating that the resulting rates would satisfy the just and reasonable standard embedded in section 201 of the Communications Act.

Appendices A and C would confront residential and business consumers with major Subscriber Line Charge (SLC) increases, not the modest increases suggested in Appendices A and C. Those Appendices seem to misperceive the role of “caps’ and costs under currently effective rules. Carriers must charge the lesser of cost-based SLCs or SLCs capped pursuant to Commission rule. The average SLCs for all of the RBOCs are below the capped levels, i.e. the cost-based SLCs are lower than the capped SLCs. Raising the cap and allowing the RBOCs to price up to the cap without regard to the cost of providing the providing SLCs would result in about a 110% increase for multi-line business service customers. These astonishing increases must be evaluated against the backdrop of excessive RBOC earnings on interstate services in 2007 (25% to 53%) and the dire conditions affecting the entire economy.

Appendices A and C also make misguided proposals for reforming the USF contribution assessment methodology. Both Appendices propose a numbers-based USF assessment for residential subscribers, and seemingly would freeze that

assessment absent affirmative Commission action to increase the assessment. This proposal alone should cause the Commission to reject the USF assessment approach reflected in Appendices A and C because it would effectively mean that future increases in the USF would be viewed as a “free good” by residential advocates because business subscribers would likely fund such increases. Decision making about the extent to which the USF should grow would largely lack the accountability to voters that characterizes good public finance decision making.

Appendices A and C would continue to assess USF contributions associated with business subscribers on the basis of revenues for an indeterminate period while the residential monthly assessment is frozen at \$0.85. As result the revenue-based assessment attributable to business subscribers would increase by about 2.5%, with monthly surcharge approaching 14% under current conditions. Thus, Appendices A and C would create even greater incentive for businesses to seek ways to avoid this astronomical surcharge. This incentive would make put USF funding in even greater risk than today because business users would shoulder a materially larger portion of the USF funding burden.

Appendix B, on the other hand, provides, with relatively minor modifications a sound basis for reforming the funding and sizing of the USF. Appendix B is not afflicted with residual funding and with discrimination between residential and business customers. All customers would be subject to per-number USF assessments that seem not to frozen for any class of subscribers.

Appendix B would, however, also impose capacity-based USF assessments on the special access connections to which business customers subscribe. In that respect,

Appendix B unjustly discriminates between business and residential subscribers. Both utilize broadband connections for voice, Internet access and countless other applications. There is no basis offered by any of the Appendices for concluding that broadband connections have greater utility for business customers than they have for residential customers. Accordingly, discrimination based on an assessment of relative utility would constitute arbitrary and capricious decision-making.

Moreover, business users would more than carry share of the USF burden under a pure numbers-based USF contribution assessment regime. Unrefuted evidence shows that under a pure numbers-based regime business subscribers would fund over 50% of the USF even though residential subscribers account for about 70% of the switched access connections. Similarly, evidence demonstrates that under a pure numbers-based methodology business subscribers would contribute 55% of USF funding and residential subscribers would pay only 45% of USF funding. Given these facts it would be ludicrous to suggest that business subscribers would “get off easy” under a pure numbers-based USF contribution assessment regime.

AdHoc recognizes that section 254(d) *may* present an obstacle to pure numbers-based USF assessments. If some telecommunications carriers provide only services for which there are not associated telephone numbers, the Commission could assess those carriers based on the capacity of the special access connections that they supply, unless these carriers qualify for the *de minimus* exemption embedded in section 254(d). There is no need to impose capacity-based assessments on carriers who offer services for which there are associated numbers because these carriers would make “equitable and non-discriminatory” USF contributions under a numbers-based regime.

The capacity-based tiers suggested in Appendix B should, however, be modified whether applied (1) to carriers who provide special access connections and services with associated numbers or (2) only to carriers who provide services for which there are not associated numbers because of the potential serious adverse effect on many customers and applications relying on DS1 level connectivity. Using reasonable pricing assumptions and the current interstate USF assessment factor, the USF surcharge for DS1 level connections would approximately double. To correct this problem, the lowest capacity tier should include DS1 connections, and the USF assessment for this capacity tier would increase from \$5.00 to \$10.00. Special access connections above the first tier would bear a USF contribution assessment of \$35.00. The impact on the per number charge would be minor. AdHoc believes that the per number charge would increase from \$0.85 to about \$0.94. With these changes, Appendix B would reflect a reasonable balancing of competing considerations.

Finally AdHoc supports the Appendix B proposal to use reverse auctions to size and distribute USF high cost subsidies.

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IP-Enabled Services	)	WC Docket No. 04-36

**COMMENTS OF THE ADHOC TELECOMMUNICATIONS USERS COMMITTEE**

The AdHoc Telecommunications Users Committee hereby responds to the Commission's invitation for comments on Appendices A, B and C to the November 5, 2008 *Order on Remand and Report and Order and Further Notice of Proposed Rulemaking*<sup>1</sup> in the above-captioned proceedings.<sup>1</sup> The Commission should not adopt

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<sup>1</sup> *High-Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, WC Docket No. 06-122, CC Docket No. 99-200, CC Docket No. 96-98, CC Docket No. 01-92, CC Docket No. 99-68, WC Docket No. 04-36 (*Remand Order and FNPRM*).

any of the three Appendices as proposed. Appendix B, however, with the modifications suggested below, warrants consideration.

**I. Appendices A and C Would Take The Commission Down The Wrong Intercarrier Compensation Reform Path.**

The AdHoc Telecommunications Users Committee (“AdHoc”) supports, and has consistently supported, adoption of a single, economically rational intercarrier compensation regime. Appendices A and C, however, fall far short of such a system.

Carriers currently pay each other vastly different rates for functionally the same origination and termination services. This situation is economically irrational and distorts investment and purchase decisions. The distortions inevitably produce economic loss that harms buyers of telecommunications goods and services and the country more generally. Despite the need for a single, rational intercarrier compensation scheme, the Commission should not adopt either Appendix A or C because both Appendices are premised on maintaining carrier revenues. Neither of the Appendices justify revenue neutrality. The Regional Bell Operating Companies (RBOCs) are earning excessive interstate returns and the Commission has no idea what rural local exchange carriers (RLECs) are earning. AdHoc does not doubt that RLECs derive a material portion of their revenues from access charges and universal service payments. That, however, is far from justification for a “make whole” component.

**A. The Commission Should Not Adopt Intercarrier Compensation Rules That Assure Existing Revenue Levels.**

Appendices A and C both propose to allow the incumbent local exchange carriers (ILECs) to increase Subscriber Line Charges (SLCs) to offset some, if not all, of the revenue reductions that will occur from reducing inter- and intra-state switched access charges and potentially to allow an increase in the size of the Universal Service Fund (USF) to offset switched access charge revenue reductions. The proposals are addressed in a section entitled “Revenue Recovery Opportunities” that begins from a fundamental premise (that has never been justified ) that a reduction in revenues resulting from a reduction in switched access price levels necessarily should be recovered elsewhere. This underlying premise is wrong.

Three and a half years ago, in its March 2005 *Intercarrier Compensation Regime Further Notice of Proposed Rulemaking* in this same docket, the Commission asked whether it is, “[l]egally obligated to make any transition to a new compensation regime revenue neutral for the affected carriers.”<sup>2</sup> The Commission raised the question in a section of the earlier *2005 ICC FNPRM* entitled “Cost Recovery Issues.”<sup>3</sup> The real issue, however, was not cost recovery; the real issue was the extent to which the Commission would assure existing “revenue” levels. Fast forwarding to 2008, without answering its own questions or addressing any of the responses of parties in that proceeding, Appendices A and C appear to have determined that revenue neutrality is an appropriate goal, but both fail to justify the decision.

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<sup>2</sup> *Developing a Unified Intercarrier Compensation Regime*, Further Notice of Proposed Rulemaking, CC Docket No. 01-92, FCC 05-33 (rel. Mar. 3, 2005). (*2005 ICC FNPRM*) ¶ 100, 20 FCC Rcd 4685.

<sup>3</sup> *Id.* ¶¶ 32, 43, 46, 48 53, 98-113. At ¶ 99 the Commission asked, “What is the Commission’s legal obligation to provide alternative cost recovery mechanisms?”

As AdHoc has stated in the past, the Commission does not have a legal obligation to ensure revenue neutrality, but it does have a legal obligation to ensure that rates are just and reasonable.<sup>4</sup> Merely stating that an increased SLC rate is within a “zone of reasonableness”<sup>5</sup> without offering any evidence as to the basis for that finding or any empirical analysis of the cost underlying the provision of SLCs does not pass for reasoned ratemaking.

In discussing SLC increases, Appendices A and C attempt to justify the proposal to allow the ILECs to “recover at least a part of their lost intercarrier compensation revenues” from increased SLCs with language used to justify the initial creation of the SLC during the initiation of access charges. The reference to a 1983 finding “that users of the local telephone network should be responsible for the costs that they actually cause”<sup>6</sup> does not justify the instant proposal to increase SLCs specifically to recover revenues that have no demonstrated relationship at all to the “costs” caused by the purchaser of a SLC loop. The proposed SLC increase is all about “revenue neutrality” and not at all about “cost recovery.” Cost recovery and revenue neutrality are different concepts. Consequently, AdHoc addresses revenue neutrality and cost recovery separately.

## **B. Alternative Cost Recovery Mechanisms Are Not Justified.**

There is no evidence that either some or all local exchange carriers would be unable to earn reasonable rates of return if the Commission adopts an intercarrier

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<sup>4</sup> Comments of the AdHoc Telecommunications Users Committee, *In the Matter of Developing A Unified Intercarrier Compensation Regime*, CC Docket No. 01-92 ( May 23, 2005).

<sup>5</sup> *Remand Order and FNPRM*, Appendix A ¶ 296 and Appendix C ¶ 291.

<sup>6</sup> *Id.* referencing *First Reconsideration of 1983 Access Charge Order*, 97 FCC2d ¶7, at 686.

compensation model that significantly reduces switched access charges. That is the case with respect to price cap carriers and rate of return carriers.

Case law teaches that it is the effect of a rate order that determines whether a regulatory authority has acted unlawfully.<sup>7</sup> Even if a new intercarrier compensation regime reduces carriers' revenues, the carriers still must demonstrate that they would be unable to realize a reasonable rate of return as a result of such an order. Carriers claiming to need to recover costs, should be required to make showings that include, but may not be limited to, (1) the usage sensitive access revenue lost as a result of a new intercarrier compensation regime, (2) the demand stimulation effect of lower access charges, (3) the revenue effect of increased line charges authorized by the Commission, (4) other possible rate changes and their effect on revenues, (5) anticipated revenues and earnings after implementation of new intercarrier compensation rules, taking into account all carrier revenues and earnings, and (6) the rate of return deemed reasonable given the risks and market conditions confronting the carrier. To the best of AdHoc's knowledge, carriers have not made such showings. These showings would not be easily made, but would be necessary before the Commission could reasonably adopt, or allow carriers to implement, an increase to the SLC rate element.

Indeed, when it comes to recovering any "loss of intercarrier compensation revenue" above and beyond what would be generated by increases in SLC caps with USF subsidy, Appendices A and C would have the Commission, "[t]ake steps here to ensure that any new universal service subsidies are targeted carefully to situations

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<sup>7</sup> *Duquense Light Co. v. Barasch*, 488 U.S. 299, 310 (1989).

where they are most critically needed,”<sup>8</sup> and as a result requires that before being able to avail themselves of additional universal service funds, carriers must make a showing that they would be unable to earn a “normal profit” (for Price Caps Carriers) or their authorized return (for ROR Carriers) absent the additional USF funds.<sup>9</sup>

The Commission should apply this same standard to carriers before allowing any increase in SLCs as well. After acknowledging that many companies are consistently paying dividends and using the same networks to provide nonregulated services, it would be irresponsible for this Commission to do otherwise.<sup>10</sup>

As AdHoc and others have argued repeatedly, the Commission may not rely on existing revenue levels as a measure of reasonable cost recovery. Western Wireless in another proceeding has asserted that, “[n]o comprehensive audit of the regulatory accounts of the vast majority of rural ILECs has been conducted in the past decade, either by the FCC, state commissions, NECA, the Universal Service Administrative Co. (USAC), or independent auditors retained by the ILECs themselves.”<sup>11</sup> Western Wireless also demonstrated that RLECs have opportunity and incentive to misallocate costs in ways that would “[i]mproperly augment universal service disbursement and ‘pad their rates.’”<sup>12</sup> AdHoc urged the Commission to start the rulemaking sought by Western Wireless. AdHoc reasoned that despite the fact that states are, “[t]o file annual certifications with the Commission to ensure that carriers use universal service support ‘only for the provision, maintenance and upgrading of facilities and services for which

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<sup>8</sup> Appendix A, ¶ 312 and Appendix C, ¶ 307.

<sup>9</sup> Appendix A, ¶¶ 321 – 325.

<sup>10</sup> Appendix A, ¶¶ 312-313 and Appendix C, ¶¶ 307 – 308.

<sup>11</sup> Western Wireless, Petition for Rulemaking at 26 (footnote omitted), RM-10822, CC Docket No. 96-45.

<sup>12</sup> *Id.*

the support is intended' consistent with section 254(e)," the certification requirement has not produced the level of regulatory oversight needed to prevent cost misallocations.<sup>13</sup>

The bottom line is that the Commission has no reasonable basis on which to assess the LECs current level of earnings or their projected earnings after implementation of new intercarrier compensation rules. Neither price cap ILECs nor rate of return RLECs have provided the data needed to support a Commission finding that additional cost recovery would be needed because of the implementation of a new intercarrier compensation model.<sup>14</sup>

### **C. A Revenue Neutrality Mechanism Is Not Justified.**

Appendices A and C state that proposed SLC increases "address commentor's concerns about the need for some end-user recovery in light of lost intercarrier compensation revenues."<sup>15</sup> None of the proponents of revenue neutrality have justified such revenue recovery. Certainly, the Commission is not legally required "[t]o make any transition to a compensation regime revenue neutral for the affected carriers."<sup>16</sup>

None of the applicable statutory provisions require revenue neutrality. The Commission may not require carriers to offer service at rates that would fail to yield

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<sup>13</sup> AdHoc, Comments on Western Wireless' Petition for Rulemaking to Eliminate Rate-of-Return Regulation of Incumbent Local Exchange Carriers, RM-10822, at 7.

<sup>14</sup> Price cap LECs, of course, do not operate under a cost of service regulatory regime. They may seek a low end adjustment to their Actual Price Indices if their earnings fall below the just reasonable zone. Each of the RBOCs, however, gave up their ability to seek a low end adjustment when opting into the Commission's pricing flexibility plan *Pricing Flexibility Order*, 14 FCC Rcd 14221,14397, ¶ 168. To propose to not only increase SLC charges up to a level that would guarantee them the 10.25% earning guarantee that they traded away, but to in fact lock in revenue streams substantially greater than that – is unconscionable – particularly given that their interstate rates of return range from almost 25% to almost 53% for calendar year 2007. Source: FCC, ARMIS Report 43-04, Access Report: Table I, YE 2007, Accessed November 20, 2008. Available at <http://www.FCC.GOV/WCB/EAFS/>

<sup>15</sup> Appendix A, ¶ 298 and Appendix C, ¶ 293.

<sup>16</sup> 2005 *ICC FNRPM*, ¶ 100.

adequate returns,<sup>17</sup> and section 254 of the Communications Act of 1934, as amended, sets out universal service requirements. But neither Appendix A nor Appendix C have shown that the carriers' returns would fall outside the zone of reasonableness.

Although carriers may experience reduced revenues, a showing of reduced revenues is far from a showing that rural carriers will not be able to offer services that are reasonably comparable to the services offered in urban areas at rates reasonably comparable to the rates charged in urban areas or that carriers will earn inadequate returns.<sup>18</sup>

The Commission should not leap to maintain current RLEC revenues that it has itself acknowledged may be excessive in a new intercarrier compensation regime.<sup>19</sup> It simply makes no sense for the Commission to dramatically increase the amount of SLCs or USF subsidies flowing to ILECs.

## **II. The SLC Increases Proposed In Appendices A and C Suggest A Misunderstanding Of How SLC Rates Have Been Set And What They Are Designed To Recover.**

Appendices A and C suggest serious misperceptions about SLCs. Unlike other interstate access elements regulated under the FCC's Price Caps regime the "caps" on the individual SLC categories do not represent a ceiling up to which prices may float based upon a carrier's discretion, but rather a "cap" on the amount of loop costs that may be recovered from the SLC element based upon each individual carrier's cost

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<sup>17</sup> 47 USC §201(b).

<sup>18</sup> 47 USC §254(b).

<sup>19</sup> Appendix A, ¶¶ 312 -313 and Appendix C, ¶¶ 307 - 308.

characteristics.<sup>20</sup> Whether the SLC element in a particular carrier's tariff is "at" or "below" the cap is a function of that carrier's particular loop costs (density, loop length, etc.) and nothing more. Carriers set their interstate SLCs at levels that do not exceed caps set out in the Commission's rules or their SLC costs, whichever is lower.

The statement that "we note that there is evidence that incumbent LECs charge rates below even the existing caps in a number of instances"<sup>21</sup> suggests a belief that the SLC level charged by a LEC is something that is set at its discretion – it is not. Taken in the context of the relevant discussion, Appendices A and C seem to suggest that because some LECs charge rates below the existing caps now, they might do so in the future after the SLC cap is raised and restructured to reflect non-cost based elements. There is, however, no reason to expect that to be true.

In fact, the formula for setting SLC rates today is designed to recover the fully-distributed cost of those facilities – including an allocation of overhead costs and profit.<sup>22</sup> At fully compensatory rates the "average" SLC rate of all three of the RBOCs is well below the existing SLC caps. The FCC's most recent Trends Report identifies only Hawaiian Tel, Windstream and those small carriers offering service under the NECA tariff as having SLC rates set at the cap – meaning that on average, the SLC prices for all other carriers are presently set equal to their fully distributed costs. Amazingly, the Commission here is proposing to price intercarrier compensation based upon an incremental cost standard that does not contribute to any of the common costs of

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<sup>20</sup> 47 CFR Part 69.104 (for Rate of Return Carriers), 47 CFR Part 69.152 (for Price Caps Carriers) and 47 CFR Part 61.3 (d) and 61.3 (cc).

<sup>21</sup> Appendix A, ¶ 298 and Appendix C, ¶ 293.

<sup>22</sup> 47 CFR Part 69.104 (for Rate of Return Carriers), 47 CFR Part 69.152 (for Price Caps Carriers) and 47 CFR Part 61.3 (d) and 61.3 (cc).

operating the ILEC networks and to price SLCs to end users at a level significantly in excess of their fully distributed costs. The Commission cannot lawfully, and should not, go down this path.

**A. The proposed plan would result in non-cost-based SLC rates, turning the SLC into a “bail-out” rate element for profitable ILECs.**

For the first time in the Commission’s history, the intercarrier compensation reform plans contained in Appendices A and C would increase the Subscriber Line Charges (SLCs) for business and residential customers far above the actual costs of those lines, even in areas served by the country’s largest telephone companies who are earning record-breaking profits. A decade after the Telecommunications Act of 1996 Act required the *elimination of implicit subsidies*, following years of effort to eliminate those subsidies and identify those that remain and recover them explicitly through the Universal Service Fund, the Commission proposes to take one giant step backwards and institutionalize the cross-subsidization of intercarrier services with charges from the basic access lines purchased by residential and business customers. This proposal does not represent reasoned ratemaking.

While characterized as “modest increases” in the SLC caps, the rate increases that subscribers would face are anything but modest.<sup>23</sup> Even on its face, the increase in the “cap” represents an increase ranging between 20% (residence and business single line) and 25% (business multiline).<sup>24</sup> However, given that for the vast majority of residential lines and in excess of 95% of business multilines the existing SLC price is

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<sup>23</sup> Appendix A, ¶ 298 and Appendix C, ¶ 293.

<sup>24</sup> Single Line SLC increase of \$1.50 on a \$6.50 base ( $1.50 / 6.50 = 21\%$ ) Business multiline SLC increase of \$2.30 on a \$9.20 based ( $2.30 / 9.20 = 25\%$ ).

below (sometimes substantially below) the existing “cap,” the increase that subscribers would confront would be greater than the “modest” 20% or 25% indicated in Appendices A and C.

Consider that approximately 50% of all ILEC multiline business subscribers are provided service by AT&T and that the average multiline business SLC across AT&T territory was \$5.50 as of June 2008.<sup>25</sup> Per the FCC rules, the existing \$5.50 average SLC charge fully compensates AT&T for the interstate portion of the loop over which that service is provided – including an apportionment of the overhead costs and profit.<sup>26</sup> The proposal in Appendices A and C to increase the “cap” on the multiline SLC would allow that price to increase from the cost-based average \$5.50 at which it is set today, to something that is more than twice that at \$11.50 (a 110% increase). Since no actual data relative to how much lost “revenue” would need to be recovered (nor even how the revenue shortfall would be calculated) has been filed by any of the providers, it is impossible to determine whether the “revenue neutrality” bail-out component of AT&T’s new SLC would require the full \$6.00 increase that would be implemented under the proposed rule – but there is no reason to assume that it would not. In essence Appendices A and C would require business subscribers (including the banks and auto makers presently seeking assistance from the Federal Government and US taxpayers) to pay a pure subsidy element of \$6.00 per line per month to AT&T, a company whose earnings reached record levels in 2007 and are three times the 11.25% rate last authorized by the Commission (35%). The situation with other carriers is not dissimilar.

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<sup>25</sup> FCC *Trends*, Table 1.3.

<sup>26</sup> 47 CFR Part 69.104 (for Rate of Return Carriers), 47 CFR Part 69.152 (for Price Caps Carriers) and 47 CFR Part 61.3 (d) and 61.3 (cc).

Verizon's interstate earnings for 2007 were 25%. Qwest reported an amazing 53% on interstate regulated earnings. The SLC (both residential and business) in the District of Columbia is presently below \$4.00 per month – reflecting the relatively high density and short loop lengths of local service plant in the District. Yet under Appendices A and C Verizon would be able to double the SLC for residential subscribers in the District, and almost triple it for business subscribers – all without regard to the lower cost of actually providing those services within the District.

**B. A return to “value of service” based pricing is not warranted nor supported by the record in this proceeding.**

The proposal in Appendices A and C to increase the SLC “caps” for residence primary lines and business single lines to \$8.00, for non-primary residence lines to \$8.50, and for business multilines to \$11.50 (reflecting increases of \$1.50, \$1.50 and \$2.30 per month respectively) with no explanation of how those “caps” were chosen or why different SLC categories are being treated differently is as troubling as any other aspect of the proposed plan. While the Commission claims discretion to deviate from cost-based pricing (citing specifically its *Price Caps Order*), the present “deviation” is of an entirely different sort.

The difference in treatment between residential and business subscribers under the proposed plan is much greater than even the nominal difference in the amount of the cap increase (the \$2.30 increase in the multiline cap is 53% greater than the increase proposed for residence and single line subscribers). The actual magnitude of the increase to be assessed on business multilines is likely to be substantially greater (more than 100%). Consider the example of AT&T again. In AT&T territory the average

fully compensatory existing residence and single line business SLC rate is \$5.54 – meaning that an increase to the full level of the CAP would result in an increase of \$2.46 per month on the “average” AT&T residential local service subscriber. As discussed above the average fully compensatory multiline SLC across AT&T territory is \$5.50 per month – allowing the SLC rate to float up to the restructured “cap” proposed here would result in an increase for the multiline subscriber of \$6.00 per month. Appendices A and C do not (nor could they) offer any justification for this differential treatment of residential and business subscribers, nor for this magnitude of divergence from a cost basis for either category of customer.<sup>27</sup> The sole justification for this dramatic departure from cost-based pricing is “to help mitigate regulatory burdens during the transition.”<sup>28</sup> Foisting this added and unjustified burden on business subscribers in the current economic environment while the RBOCs are earning excessive returns would be incompatible with governmental efforts to assist businesses and would be inexplicable.

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<sup>27</sup> On October 30, 2008, fifteen days after the relevant *ex parte* contact, Consumers Union (CU) filed in CC Docket No. 01-92, CC Docket No. 96-45 and WT Docket No. 08-95, a notice of such contact with Chairman Martin and his Chief of Staff. This notice fails, however, to satisfy the requirements of section 1.1206(b)(2) of the Commission’s Rules, which specifies that *ex parte* contacts, “[m]ust contain a summary of the substance of the *ex parte* presentation and not merely a listing of the subjects discussed.” CU’s *ex parte* notice merely states that it discussed “[u]niversal service and intercarrier compensation.” The Commission should require CU to file an *ex parte* notice that satisfies the requirements of the Commission’s Rules. During that contact, was there discussion about shifting greater revenue requirement recovery responsibility to business users? If yes, what was the substance of the discussion on that matter? Before the Commission can proceed with intercarrier compensation reform, an accurate recounting of the substance of that discussion must be included in the record, and parties must be given an opportunity to respond.

<sup>28</sup> *Remand Order and FNPRM*, Appendix A, ¶ 301 and Appendix C, ¶ 296.

### **III. Correct Reform Of The USF Assessment Methodology Is Critically Important To The Sustainability Of The USF.**

All of the Appendices correctly conclude that continued assessment of interstate Universal Service Fund (USF) contributions based on interstate end user revenues is not sustainable.<sup>29</sup> All of the Appendices also find that assessing USF contributions based on “assessable numbers” would be far preferable. AdHoc fully agrees with these conclusions.

Using assessable numbers for USF contributions associated with residential subscribers and a different methodology to calculate USF contributions associated with business customers would not, however, serve the public interest. Appendices A and C would continue the use of revenue-based assessments for USF contributions associated with business customers for an indeterminate interim period while the Commission develops a connections-based assessment methodology. Appendix B would seem to impose USF assessments on business customers based on both numbers and the capacity, *i.e.*, speed, of assessable connections, and on residential customers based on numbers. Of the three Appendices, Appendix B presents the best approach to reforming the USF contribution assessment methodology.

#### **A. The Commission Should Adopt A Pure Numbers-Based Assessment Methodology.**

All of the Appendices state that it would be inequitable if business subscribers face only assessable telephone number-based USF assessments because some

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<sup>29</sup> Appendix A, ¶¶ 94–97; Appendix B, ¶¶ 41–44 and Appendix C, ¶¶ 89–93.

business users utilize special access connections for which there are no associated assessable telephone numbers and because business users derive greater utility from special access connections.<sup>30</sup> The Commission's focus seems to be on particular kinds of connections, rather than on (1) equity among business and residential consumers generally and (2) the economic efficiency of a USF assessment scheme. The Commission also tentatively concludes that section 254(d) precludes adoption of a pure numbers-based USF contribution assessment methodology.<sup>31</sup>

Although AdHoc in 2002 and 2003 had supported the application of USF surcharges on special access services based on capacity tiers, since 2005 AdHoc has consistently urged the Commission to adopt a pure numbers-based USF contribution assessment methodology.<sup>32</sup> AdHoc changed its position in the wake of the Commission's *Broadband Wireline Internet Access Order*.<sup>33</sup> AdHoc has explained that a USF assessment mechanism that would not impose capacity-based USF assessments on broadband connections used for Internet access, but would impose such assessments on other broadband connections would in the long run inject instability in the USF funding mechanism and would be incompatible with emerging network technology. Accordingly, AdHoc explained that the risks of instability and

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<sup>30</sup> Appendix A, n. 316; Appendix B, n. 192 and Appendix C, n. 308

<sup>31</sup> Appendix A, ¶ 130; Appendix B, ¶ 78 and Appendix C, ¶ 126

<sup>32</sup> All of the Appendices create an incorrect impression when they cite only to AdHoc's earlier support for capacity-based assessments on special access connections without even acknowledging AdHoc's changed position. *See, e.g.*, Appendix B, n. 194.

<sup>33</sup> *Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Universal Service Obligations of Broadband Providers; Review of Regulatory Requirements for Incumbent LEC Broadband Telecommunications Services; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review -- Review of Computer III and ONA Safeguards and Requirements; Conditional Petition of the Verizon Telephone Companies for Forbearance Under 47 U.S.C. § 160(c) with Regard to Broadband Services Provided Via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with Regard to Broadband Services Provided Via Fiber to the Premises; Consumer Protection in the Broadband Era*, 20 FCC Rcd. 14853 (2005); *aff'd*, *Time Warner Telecom, Inc. v. FCC*, 507 F.3d 205 (3d Cir. 2007) (*BWIAOrder*).

unjustified discrimination outweigh the extremely modest benefits derived from assessing USF contributions on special access circuits.<sup>34</sup>

In the *BWIA Order* the Commission essentially found that wireline broadband services, when used for the purpose of providing Internet access, are not “telecommunications services” and as such, will not be subject to the USF collection mechanism.<sup>35</sup> Obviously, the Commission perceives great value and utility in the wide availability of broadband Internet access service. If that were not the case, why would public policy makers, including the Commission, place such great importance in deploying broadband service to all parts of the country?

Examining the relative utility of residential and business broadband service, however, requires more than general assertions. Verizon’s FiOS service is a good starting point. FiOS service offers a fiber-based broadband Internet access capability at speeds up to 50 MBPS. Verizon’s website claims FiOS is “poised to handle the cutting edge broadband applications of the future.”<sup>36</sup> Verizon offers FiOS at a monthly rate of \$42.99 to \$47.99 for a 2 MBPS up / 10 MBPS down service, \$52.99 to \$57.99 for a 5 MBPS up / 20 MBPS down service and \$139.95 to \$144.95 for a 20 MPBS up / 50 MBPS down service.<sup>37</sup> FiOS has greater capacity than many special access connections (DS1 business broadband connections have a stated capacity of approximately 1.5 Mbps), and certainly will be used for many applications. The

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<sup>34</sup> AdHoc, *Ex parte* Contact in *Federal-State Joint Board on Universal Service*; CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116 and 98-170 ( May 18, 2006).

<sup>35</sup> *BWIA Order*, ¶¶ 112 and 113.

<sup>36</sup> Verizon Website, “About FiOS”; available at [http://www22.verizon.com/FiOSforhome/channels/FiOS/root/about\\_FiOS.asp](http://www22.verizon.com/FiOSforhome/channels/FiOS/root/about_FiOS.asp), (accessed November 17, 2005).

<sup>37</sup> Verizon Website, “FiOS Prices and Packages”; available at <http://www22.verizon.com/FiOSforhome/channels/FiOS/root/package.aspx>, (accessed November 25, 2008).

applications that broadband Internet access, including FiOS, makes available include voice communications, e-mail, electronic banking and brokerage services, electronic shopping, health care monitoring, entertainment services, educational services, public services and other possibilities. High speed internet access has high inherent utility. While commercial customers may use broadband business connections for commercial applications, there is no reasonable basis to find that commercial use of broadband connections has high utility to business customers and to ignore, as all the Appendices do, the high utility that residential customers realize from high speed connections. Nor would it be reasonable for the Commission to conclude that commercial customers realize higher utility than residential customers from broadband connections. A determination of relative utility, without a sound economic basis for such judgment, would not be a rational basis for selecting one USF contribution assessment methodology over another.

As telecommunications networks become IP networks, applications used by residential and business customers will converge on single integrated networks with bundled pricing. Internet access will be only one of many applications using these converged networks. Network capacity, rather than usage, will be sold. Networks will not routinely distinguish between voice packets, video packets, data packets and Internet usage packets, except when quality of service markers are attached to real time applications, such as voice.<sup>38</sup> (Not all users, however, will utilize QoS markers.)

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<sup>38</sup> Nor would the Commission want carriers to attempt to identify the applications embedded in packets (assuming that such identification would be feasible) because (1) peering into the content of customer usage would jeopardize personal privacy and business security interests and (2) would likely impose added costs on service providers that they then would pass onto residential and business subscribers, resulting in the Commission being responsible for more dead weight loss imposed on the economy.

Moreover, in any period of time, Internet access service will consume more or less of the bandwidth on IP networks, and it will be impossible to determine reasonably how much capacity is consumed by Internet access. Such determinations, however, would be necessary because Internet access service is not subject to USF contributions as a result of the regulatory classification of that service under the *BWIA Order*. Imposing USF contributions on special access circuits but not on residential broadband connections when both will be used for many applications, including Internet access, would be anything but visionary, and has not been justified by the any of the Appendices.

*Ex parte* materials filed by members of the Intercarrier Compensation Forum on July 29, 2005 demonstrate that at that time, removing special access services from the new USF assessment mechanism would result in an increase of only \$0.03 per month in the required level of a “per number” charge.<sup>39</sup> The additional complexity, instability and possible dead weight that would be embedded in a USF contribution assessment methodology by including of an assessment upon special access services is simply not justified by a \$0.03 per month differential in the overall unit charge.

AdHoc suspects that even in light of the forgoing some may believe that the Commission should not adopt a pure numbers-based USF contribution assessment methodology because some business users would “get off easy” under a pure numbers-based assessment regime. Actual data in Attachment A hereto document, however,

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<sup>39</sup> *Ex Parte* submission of members of the Intercarrier Compensation Forum in CC Docket No. 96-45 (filed on July 29, 2005).

that nothing could be further from the truth.<sup>40</sup> First, review of switched access line count data in conjunction with “assigned number” reports reveal that while the average residential wireline access line likely has only one telephone number associated with it, business lines, on average, have four telephone numbers (see Table 3 of Attachment A). Assuming a \$1.00 per number USF assessment (for ease of illustration), the typical residential customer subscribing to a traditional switched access line would pay \$1.00 per month in USF charges, on average, while business customers would pay, on average, \$4.00 per month. Rather than “getting off easy,” business users will be paying, on average, four times as much as residential customers for each connection into the network that support services for which there are associated telephone numbers.

Taking the analysis a bit further, AdHoc has explained to the Commission that even though residential users account for 70% of all non-broadband connections to the public switched network (wireline and wireless combined), *business users* would pay fully 50% of the USF assessments under a pure numbers-based plan. Table 4 of Attachment A hereto contains the details of AdHoc’s calculations.

In light of the forgoing facts, a proposal to add a “connections-based” charge for business broadband connections (special access) because of “equity” concerns while *exempting* residential broadband connections (DSL and FiOS-like services) does not wash. Indeed, in light of the forgoing facts, such a proposal would appear to be an anti-business decision. The inescapable bottom-line conclusion that comes from reviewing the data provided separately by AdHoc, AT&T and Verizon is that there is no need to

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<sup>40</sup> AdHoc first presented this data in an *ex parte* filed on May 18, 2006. AT&T and Verizon used fundamentally the same analysis in a joint *ex parte* filed on September 23, 2008.

assess broadband connections of any kind – residential or business – to meet the USF’s requirements or to assure that both residential and business subscribers are treated fairly.

If the Commission concludes, however, that section 254(d) of the Communications Act, as amended, (the Act) requires that telecommunications carriers who do not provide services that use assessable numbers must contribute to the USF, the approach outlined in section B below would be compatible with the requirements of sections 201, 202 and 254 of the Act.<sup>41</sup>

**B. If the Commission Concludes That It Must Include A Connections-Based Component In The USF Contribution Assessment Methodology, It Should Modify The Appendix B Proposal.**

Although section 254(d) of the Act requires that every telecommunications carrier contribute to the USF on an equitable and nondiscriminatory manner, that section does not require that (1) carriers who provide telecommunications services with which there are associated assessable numbers must contribute to USF under the same methodology as (2) carriers who do not provide telecommunications services with which there are no associated assessable numbers. These two classes of carriers present distinctly different conditions for USF contribution purposes. The first class of carriers would make substantial, non-discriminatory contributions to the USF under a pure numbers-based contribution assessment methodology. The carriers in the second class would entirely avoid USF contributions under a pure numbers-based assessment

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<sup>41</sup> Section 254(d) of the Act states that, “Every telecommunications carrier that provides interstate telecommunications service shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.” This section also allows *de minimus* exemptions to the contribution requirement.

scheme. That, however, is not a good reason to impose both numbers-based and capacity-based contributions on the first class of carriers. AT&T and Verizon have shown that a per number charge of \$1.01 would cover current USF obligations.<sup>42</sup> If reasonable capacity – based contribution obligations were imposed on the second class of carriers, the \$1.01 charge could be reduced to a level probably below \$1.00. If the charge does not drop below \$1.00 surely, the *de minimus* exemption in section 254(d) should apply. Imposing different contribution methodologies to these two classes of carrier would not violate section 254(d) simply because application of the same USF contribution assessment methodology to both classes of carriers would not be possible, and given that retention of a revenue-based assessment scheme would be inconsistent with the requirement that the USF be sustainable. Nor is it reasonable to require the first class of carriers to maintain a second USF billing algorithm given the already low per-number USF assessment and the relatively small reduction that would come from requiring these carriers to also make capacity-based contributions. Indeed, requiring a second billing algorithm on the first class of carriers would be wasteful. Instead, the Commission could require that only the second class of carriers contribute to the USF based on the capacity of the special access connections that they sell to retail customers.

If the Commission were to conclude that a capacity - based component must be included in its USF contribution assessment methodology, the Commission should treat business customers utilizing broadband connections for access to switched services the same as residential customers. Both classes of customers, not just business

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<sup>42</sup> AT&T and Verizon, *Ex Parte* contact in WC Docket No. 06-122 and CC Docket No. 96-45 (September 23, 2008).

subscribers, derive great utility from broadband connections. As noted above, the telephone numbers associated with the switched services accessed *via* such broadband connections should be the only USF assessment on those facilities. The business broadband connections used for such switched services should not also be subjected capacity connections while residential broadband connections are subject only to a numbers-based assessment. If the Commission were wrongly to assess such broadband connections on the basis of capacity *and* telephone numbers, the Commission would be compelled to assess residential and business broadband connections alike because the Commission has presented no rational justification for the discriminatory USF contribution assessment methodology proposed in the Appendices. Requiring capacity-based assessments only on business high capacity broadband connections, but not on residential high speed connections, given that such connections are used by business and residential customers for access to Internet services as well as switched services, would violate the just, reasonable and affordable requirements of Section 254(b)(1), prohibitions on unjust and unreasonable rates and unreasonable discrimination found, respectively, in sections 201(b) and 202(a)<sup>43</sup> of the Communications Act, the reasoned decision making requirement of the Administrative Procedures Act<sup>44</sup> and the Equal Protection clause of the Constitution.<sup>45</sup>

Regardless of whether the Commission opts to apply a capacity-based USF assessment on only the second class of carriers or on both classes of carriers, it should adjust the capacity tiers suggested in Appendix B. Appendix B would impose monthly

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<sup>43</sup> *Texas Office of Public Utility Counsel v. FCC*, 265 F.3d 313, 425 (5<sup>th</sup> Cir. 2001).

<sup>44</sup> 5 U.S.C. § 551 *et seq.*

<sup>45</sup> In *Bolling v. Sharpe*, 347 U.S. 497 (1954), the Supreme Court used the Fifth Amendment's due process guarantees to apply equal protection principle to actions by the federal government.

capacity-based USF contribution assessments on special access connections of \$5.00 per connection for special access connections up to but not including 1.5 Mbps and \$35 per connection for special access connections of 1.5 Mbps or faster. Many business, small and large, government offices and non-profits utilize large quantities of DS1 (1.5 Mbps) special access connections. Application of a \$35 USF surcharge would increase the cost of using DS1 special access connections compared to the cost under the existing USF contribution assessment rules. To avoid this uneconomic effect, the Commission should modify the lower tier to include DS1 special access connections, and increase the USF surcharge applicable to this new tier to \$10. The second tier surcharge of \$35 would include all special access connections above DS1 connections.

Although, the changes suggested above would cause the per number USF assessment estimated in Appendix B to increase to about \$0.94, residential subscribers would still shoulder less of the USF burden than they carry today. AT&T and Verizon have demonstrated that under the current revenue-based USF contribution assessment scheme, residential subscribers funded 48% of the USF. Business users, on the other hand funded 52% of the USF.<sup>46</sup> Under a pure-numbers-based assessment methodology, the residential USF burden would drop to 45%, and the business share would increase to 55%. As explained above, in an *ex parte* letter filed with Commission on May 18, 2006, AdHoc provided evidence entirely consistent with the AT&T / Verizon showing. AdHoc's filing shows that even though residential users account for 70% of all non-broadband connections to the public switched network (wireline and wireless

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<sup>46</sup> AT&T, *Ex Parte* contact in *Universal Service Contribution Methodology*, WC Docket No. 06-122; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 (September 23, 2008).

combined), business users will pay more than 50% of the USF assessments under a pure numbers-based plan (with no special access connections-based charges).<sup>47</sup>

Assessing special access connections in addition to “assessable numbers” increases even further the share of USF funding borne by business subscribers.<sup>48</sup> Thus, even with the modest adjustment, suggested by AdHoc, residential subscribers would bear a smaller share of the USF burden than they carry today, or than they would carry under a pure numbers-based assessment methodology. Moreover, the economics of private networks and many applications used by businesses, governmental entities and non-profits would not be as severely affected as they would be under the Appendix B proposal. Equitable balancing of several relevant considerations supports the adjustment suggested herein.

**C. The Commission Should Not Include A Revenue-Based Component To Its USF Contribution Assessment Methodology – Even As An Interim Measure.**

Suggestions in Appendices A and C to assess USF contributions on business customers based on interstate revenues are indefensible. All of the Appendices explain persuasively why retention of a revenue-based methodology would be incompatible with making USF funding stable, predictable and sustainable.<sup>49</sup> Over half of the USF

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<sup>47</sup> In that same filing AdHoc analyzed and documented that if the Commission were to flash cut to a numbers-based assessment mechanism today, applying a unitary charge to all numbers, and only numbers, with no “special” exemptions (other than for lifeline subscribers), the “per number” assessment that would be required to meet the existing universal service fund requirement would be \$1.00. Table 1 of Attachment A hereto documents the data used for this calculation. The quantity of numbers “assigned” appears to be growing steadily with no signs of growth abating (see Table 2) – meaning that a numbers-based system should also be able to sustain additional growth in the fund itself until such time as the Commission has fashioned a solution to that side of the problem. (Tables 1 and 2 are attached hereto for reference purposes).

<sup>48</sup> AdHoc does not have access to the data needed to quantify the increased burden that would be borne by business customers because it does not know the quantities of the various special access connections.

<sup>49</sup> See e.g., Appendix B, ¶¶ 53-56.

funding would continue to be shouldered by business customers. Exposing this large part of USF funding to the instability inherent in a revenue-based assessment approach would be inexplicable. AdHoc estimates that a revenue-based USF surcharge applicable only to business customers would likely increase from the current level by about 2.5%. The revenue-based surcharge would approach 14%. Thus, imposition of revenue-based USF surcharges on business users only will accelerate their efforts to avoid these charges, and further destabilize the USF. The Commission would better serve the public by stabilizing USF funding as soon as practicable by moving to a pure numbers-based assessment methodology, or a hybrid assessment scheme that assesses residential and business numbers and special access connections.

**D. The USF Contribution Assessment Methodology Should Not Include A Residual Component.**

Appendices A and C seem to treat non-residential subscribers as a residual source of USF funding. Paragraphs 107 and 103 of Appendices A and C, respectively, state,

Our adoption of a numbers-based contribution methodology will benefit both residential consumers and contributors by simplifying the basis for assessments and stabilizing assessments at a *set* amount of \$1.00 per month per residential telephone number. ... To the extent a contributor elects to recover its contribution costs through end-user fees, its residential customers will pay the \$1.00 fee per number each month, making the assessment simple and predictable. (Emphasis added.)

Footnotes 330 and 332 of Appendices A and C state that, "The Commission may revise the specific per-number residential assessment amount in the future, if market

conditions warrant.” In other words, unless the Commission takes affirmative action, the *set* residential per number USF assessment is frozen. The revenue-based assessment would, however, increase if the growth in assessable numbers is not sufficient to cover USF growth.

On the other hand, Paragraph 59 of Appendix B states that, “[T]he *initial* per-number assessment of \$0.85 per number per month will represent a reduction in pass-through charges for many residential customers.” (Emphasis added.) Although all three appendices are less than crystal clear on this point, AdHoc understands that Appendix B would not treat business subscribers as a residual source of USF funding, but that Appendices A and C would collect USF monies from business subscribers on a residual basis. Put differently if USF requirements increased beyond that supported by *fixed* per number USF assessments on residential numbers, Appendices A and C would increase USF assessments levied on business subscribers absent affirmative action by the Commission to increase the residential per number assessment. The revenue-based assessment would increase, almost surely exceeding 14%. Business users could end up funding much of the USF growth utilized to subsidize broadband capabilities used primarily by residential subscribers. Under the same circumstances, Appendix B would seem to increase the per number and connections-based assessments by the same percentage.

The residual funding approach suggested by Appendices A and C would certainly be inequitable. As explained above, (1) even though residential users account for 70% of all non-broadband connections to the public switched network (wireline and wireless combined), *business users will pay more than 50% of the USF assessments*

*under a pure numbers-based plan* (with no special access connections-based charges);<sup>50</sup> (2) under a pure numbers-based assessment methodology, business customers would pay about 55% of the contributions to the USF.<sup>51</sup> Given these facts, to impose residual funding obligations on business users would be beyond the pale. It would constitute a form of anti-business, value of service pricing that the Commission has not previously embraced, and should not now embrace.

All of the Appendices would shift existing USF funding burdens to business customers. Appendices A and C, however, seemingly would go further. They would impose much of the burden of USF growth on business subscribers at a time when businesses face extraordinarily difficult economic conditions. Telecommunications would become a source of heavy taxation, rather than being a tool to enhance efficiency and competitiveness. The apparent residual funding approach embodied in Appendices A and C would also create the appearance of a “free good” for residential subscribers, carriers and policy makers. Efforts to restrain growth of the USF would quickly fade. Imposing residual USF funding requirements on business customers would be antithetical to sound public financing and would be the worst policy choice that the Commission could make.

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<sup>50</sup> In that same filing AdHoc analyzed and documented that if the Commission were to flash cut to a numbers-based assessment mechanism today, applying a unitary charge to all numbers, and only numbers, with no “special” exemptions (other than for lifeline subscribers), the “per number” assessment that would be required to meet the existing universal service fund requirement would be \$1.00. Table 1 attached hereto documents the data used for this calculation. The quantity of numbers “assigned” appears to be growing steadily with no signs of growth abating (see Table 2) – meaning that a numbers-based system should also be able to sustain additional growth in the fund itself until such time as the Commission has fashioned a solution to that side of the problem. (Tables 1 and 2 are attached hereto for reference purposes).

<sup>51</sup> AT&T and Verizon, *Ex Parte* filing in WC Docket No. 06-122 and CC Docket No. 96-45 (September 23, 2008).

Moreover, none of the Appendices have provided any justification for imposing a residual USF funding obligation on business customers. Oblique references to predictability certainly do not suffice because all consumers of telecommunications services, business and residential, desire predictability. Nor has the Commission established that the utility of telecommunications to business is greater than to residential subscribers. Reasoned decision making calls for rejection of residual funding of the USF.

#### **IV. AdHoc Supports Use of Reverse Auctions**

AdHoc supports the Appendix B proposals to (1) cap the total amount of high-cost USF support at 2007 levels;<sup>52</sup> (2) eliminate the identical support rule for competitive eligible telecommunications carriers;<sup>53</sup> and to use reverse auctions to distribute high cost support to high cost support.<sup>54</sup> Appendix B is correct in concluding that the high cost mechanism must be capped in light of the excessive growth in high cost support,<sup>55</sup> and that reverse auctions would most effectively identify the amount of support needed to achieve the Commission's universal service goals.<sup>56</sup> Reverse auctions would counteract the perverse incentives created by the current cost or cost approach and could terminate use of high cost support to subsidize multiple providers in the same service area. Appendix B is a fair and straight-forward way to size and direct "high cost" subsidies.

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<sup>52</sup> Appendix B, ¶ 14.

<sup>53</sup> *Id.* ¶ 16

<sup>54</sup> *Id.* ¶ 17

<sup>55</sup> *Id.* ¶ 15

<sup>56</sup> *Id.* ¶ 18

## V. Conclusion

In view of the foregoing, AdHoc urges the Commission to reject the proposals set forth in Appendices A and C. The intercarrier compensation and universal service reform proposals suggested in those Appendices are inconsistent with rational decision-making. Appendix B, however, presents a better basis for universal service reform. AdHoc recommends modification of the capacity tiers proposed in Appendix B, and suggests that capacity tiers be used to assess the USF contributions of carriers who provide only telecommunications services with which there are no associated telephone numbers. Under no circumstances should the Commission include revenue-based assessments or a residual funding component in a reformed USF contribution assessment regime. Finally, Appendix B's proposal to utilize reverse auctions to size and distribute USF high cost subsidies is long overdue.

Respectfully submitted,

ADHOC TELECOMMUNICATIONS USERS  
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November 26, 2008

# **Attachment A**

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<input type="radio"/>	1400	First Two Lines - Unlimited IN Calling <b>AND</b> Night & Weekend Home Airtime Minutes on All Lines Additional Lines	\$89.99	\$0.40
<input type="radio"/>	2100	First Two Lines - Unlimited IN Calling <b>AND</b> Night & Weekend Home Airtime Minutes on All Lines Additional Lines	\$109.99	\$0.35
<input type="radio"/>	3000	First Two Lines - Unlimited IN Calling <b>AND</b> Night & Weekend Home Airtime Minutes on All Lines Additional Lines	\$149.99	\$0.25
<input type="radio"/>	4000	First Two Lines - Unlimited IN Calling <b>AND</b> Night & Weekend Home Airtime Minutes on All Lines Additional Lines	\$199.99	\$0.20
<input type="radio"/>	6000	First Two Lines - Unlimited IN Calling <b>AND</b> Night & Weekend Home Airtime Minutes on All Lines Additional Lines	\$299.99	\$0.20

- Domestic Long Distance (airtime applies)(Unlimited)
- Domestic Roaming (No roaming charges) (Coverage not available in all areas)
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**Duration of your plan**

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CDMA tri-mode or All-Digital phone with Verizon Wireless software.

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- Customer Agreement — \$35 activation fee per line, except FamilyShare additional lines, \$25 for 2-year agreements.
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- Tolls, taxes, surcharges and other fees, such as E911 and gross receipt charges, vary by market and as of July 1, 2005, add between [6% and 36%] to your monthly bill and are in addition to your monthly access fees and airtime charges.
- Monthly Federal Universal Service Charge (varies quarterly based on FCC rate) is 2.41%.
- Monthly Regulatory Charge (subject to change) is 5¢ per line.
- Monthly Administrative Charge (subject to change) is 40¢ per line.
- The Federal Universal Service, Regulatory and Administrative Charges are Verizon Wireless charges, not taxes. For more details on these charges, call 1-888-684-1888.

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**For more information, refer to the Customer Agreement.**

**Service is subject to the Customer Agreement, which you should read before activating service.** Credit approval required. Billing, shipping and end-user address must be within the Verizon Wireless licensed and service areas where the wireless phone number is issued.

In some rare instances, dialing \*228 may alter your Calling Plan's Home Airtime Rate and Coverage Area. The accuracy of the roaming indicator on your phone cannot be guaranteed. Charges for calls will be based on the cell sites used and time of day at the telephone switching office that carries your call, which may be different than the time of day shown on your phone. Rates do not apply to credit card or operator-assisted calls, which may be required in certain areas. Usage rounded up to next full minute. Unused allowance minutes lost. Charges start when you first press **SEND** or the call connects to a network on outgoing calls, and when the call connects to a network (which may be before it rings) on incoming calls. Time may end several seconds after you press **END** or the call otherwise disconnects. For calls made on our network, we only bill for calls that connect (which includes calls answered by machines). Calls to 'toll-free' numbers are toll-free; you will be billed airtime. Billing for airtime and related charges may sometimes be delayed. [Delayed airtime may be applied in the month it appears on your bill against airtime included in your Calling Plan for that month, rather than against the included airtime for the month when you actually made or received the call. This may result in charges higher than you'd expect in the later month.]

#### Family SharePlan

Minimum of two lines required. Maximum of five lines. Only one line is the primary line. All lines must be activated on the same billing account and in the same market.

#### National IN Calling

If Caller ID is not present or Caller ID Block is initiated, National IN Calling does not apply to incoming calls and will apply to outgoing calls only. National IN Calling is not available to customers whose wireless exchange restricts the delivery of Caller ID or with fixed wireless devices with usage substantially from a single cell site. National IN Calling does not apply if Call Forwarding or No Answer/Busy Transfer features are activated or to data usage, including Push to Talk calls, Picture Messaging or Video Messaging, calls to check your Voice Mail and calls to Verizon Wireless customers using Airfone® Service or any of the **VZ**Global services. National IN Calling does not apply in those areas of Louisiana and Mississippi where your phone's roaming indicator flashes.

**Internet Access**

Mobile Office Kits, PC Cards, PDAs or other wireless modem devices may not be used for Internet access without a subscription to select VZAccess plans.

Verizon Wireless Calling Plans, Rate and Coverage Areas, rates, agreement provisions, business practices, procedures and policies are subject to change as specified in the Customer Agreement.

**Connecticut Customers:** If you have any questions about your bill or concerns about your service, please call Customer Care at: 1-800-922-0204 or dial \*611 from your wireless phone. If you are a Connecticut customer and we cannot resolve your issue, you have the option of contacting the Department of Public Utility Control (DPUC): Online: [www.state.ct.us/dpuc](http://www.state.ct.us/dpuc) Phone: 866-381-2355; Mail: Connecticut DPUC, 10 Franklin Square, New Britain, CT 06051.

Last Update 04/11/06

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# **TABLES 1-4**

Table 1

Monthly Per Number Assessment Required to Fund Current Universal Service Program Demand  
(Assuming Exemption for Lifeline Customers)

Number Category		Units	As of:	Source:
(1)	ILEC numbers	302,725,000	30-Jun-2005	FCC <i>Numbering Resource Utilization in the US</i> , 5/2/06
(2)	CLEC numbers	56,932,000	30-Jun-2005	FCC <i>Numbering Resource Utilization in the US</i> , 5/2/06
(3)	Toll Free numbers	22,159,000	30-Dec-2004	FCC <i>Trends in Telephone Service</i> , Table 18.3, 06/05
(4)	Paging numbers	7,999,000	30-Jun-2005	FCC <i>Numbering Resource Utilization in the US</i> , 5/2/06
(5)	Wireless numbers	213,839,000	16-May-2006	<a href="http://www.ctia.org/index.cfm">http://www.ctia.org/index.cfm</a> accessed 5/16/06
(6)	TOTAL NUMBERS	603,654,000		Sum of lines (1) - (5)
(7)	Lifeline Connections	7,119,506	30-Dec-2005	USAC Appendix LI08 for 3 Q 2006 at <a href="http://www.universalservice.org/about/governance/fcc-filings">http://www.universalservice.org/about/governance/fcc-filings</a>
(8)	TOTAL NUMBERS-BASED UNITS (ASSUMING LIFELINE EXEMPTION)	596,534,494		Line (6) - Line (7)
USF Program Demand		Dollars	Estimate as of:	Source:
USF Program Forecast Demand 1 Q 2006				
(9)	1st Quarter 2006	\$ 1,773,800,000	16-Mar-2006	<i>Public Notice, Proposed 2nd Quarter 2006 Universal Service Contribution Factor</i> FCC DA 06-571
(10)	Annualized 2006 Demand	\$ 7,095,200,000		Line (9) * 4
Calculation of Required Per Number Assessment				
(11)	Total Monthly Numbers-based Units	596,534,494		Line (8)
(12)	Annualized Numbers-based Units	7,158,413,928		Line (11) * 12
(13)	<b>Required Monthly Per Number Assessment</b>	<b>\$ 0.99</b>		<b>Line (10) / Line (12)</b>

Table 2

## The Quantity of "Assigned" Numbers Continues to Grow

	Wireline			Other		TOTAL
	ILEC	CLEC	ILEC + CLEC	Wireless	Pagers	
	(Numbers are all shown in thousands)					
December, 2000	303,336	24,799	328,135	99,019	24,000 Est**	451,154
June, 2001	305,938	27,942	333,880	111,734	23,621	469,235
December, 2001	305,430	30,941	336,371	128,493	18,001	482,865
June, 2002	Data missing	Data missing	Data missing	Data missing	Data missing	Data missing
December, 2002	297,433	29,892	327,325	141,766	14,111	483,202
June, 2003	304,966	30,169	335,135	151,861	12,641	499,637
December, 2003	299,903	31,699	331,602	160,623	11,208	503,433
June, 2004	308,155	43,779	351,934	169,987	9,260	531,181
December, 2004	305,132	51,112	356,244	183,998	8,469	548,711
June, 2005	302,725	56,932	359,657	197,308	7,999	564,964
Average Annual Growth Rate -- December 2000 to December 2004						5%
Growth Rate - December 2004 to June 2005 - Annualized						6%

Source: FCC *Number Resource Utilization in the United States*, Reports for the periods listed above. Quantity of pager numbers listed in the December 2000 report is inconsistent with other industry data, and estimate is used for that data point instead.

Table 3

Businesses Use (on average) Four Numbers for Each Switched Access Connection

Line Category		Units	As of:	Source:
(1)	ILEC Residential Switched Access Lines	100,499,167	30-Jun-2005	FCC <i>Local Telephone Competition</i> , 04/06, Table 2
(2)	CLEC Residential Switched Access Lines	16,688,282	30-Jun-2005	FCC <i>Local Telephone Competition</i> , 04/06, Table 2
(3)	ILEC Business Switched Access Lines	43,565,989	30-Jun-2005	FCC <i>Local Telephone Competition</i> , 04/06, Table 2
(4)	CLEC Business Switched Access Lines	17,426,114	30-Jun-2005	FCC <i>Local Telephone Competition</i> , 04/06, Table 2
(5)	Total Res. Switched Access Lines	117,187,449	30-Jun-2005	Line (1) + Line (2)
(6)	Total Bus. Switched Access Lines	60,992,103	30-Jun-2005	Line (3) + Line (4)
Number Category		Units	As of:	Source:
(7)	ILEC numbers	302,725,000	30-Jun-2005	FCC <i>Numbering Resource Utilization in the US</i> , 5/2/06
(8)	CLEC numbers	56,932,000	30-Jun-2005	FCC <i>Numbering Resource Utilization in the US</i> , 5/2/06
(9)	Toll Free numbers	22,159,000	30-Dec-2004	FCC <i>Trends in Telephone Service</i> , Table 18.3, 06/05
(10)	Total Landline Numbers	381,816,000		

Calculation of Average Quantity of Numbers Used Per Business Switched Access Line

(11)	Assumed Quantity of Numbers Per Residential Switched Access Line	1.1		Generous assumption based upon study of residential number utilization
(12)	Assumed Total Numbers Used by Residential Switched Access Lines	128,906,194		Line (5) * Line (11)
(13)	Assumed Total Numbers Used by Business Switched Access Lines	252,909,806		Line (10) - Line (12)
(14)	Estimated Quantity of Numbers Used Per Business Switched Access Line	4.15		Line (13) / Line (6)

Table 4

Business Users Will Pay Half of All USF Assessments Under a Numbers-Based Plan

Number Category	Units	Source:
(1) Assumed Total Wireline Numbers Used by Business Switched Access Lines	252,909,806	Table 3, Line (13)
(2) Total Wireless Numbers	213,839,000	<a href="http://www.ctia.org/index.cfm">http://www.ctia.org/index.cfm</a> accessed 5/16/06
(3) Estimated Business % of Wireless numbers	25%	<i>FCC Tenth CMRS Report, at Footnote 487.</i>
(4) Estimated Business Wireless numbers	53,459,750	Line (2) * Line (3)
(5) Total Paging Numbers	7,999,000	<i>FCC Numbering Resource Utilization in the US, 5/2/06</i>
(6) Estimated Business % of Wireless numbers	100%	Assumption
(7) Estimated Business Wireless numbers	7,999,000	Line (5) * Line (6)
(8) Total Estimated Numbers Utilized by Business Users	314,368,556	Line (1) + Line (4) + Line (7)
<b>Calculation of Portion of Total Universal Service Funding that Would Be Collected From Business Users Under a Pure Numbers Based Plan</b>		
(9) Total Numbers-Based Units (Assuming Lifeline Exemption)	596,534,494	Table 1, Line (8)
(10) Percentage of Total Universal Service Program Demand Funded by Business Subscribers	53%	Line (8) / Line (9)

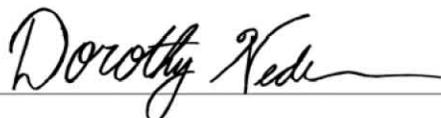
## Certificate of Service

I, Dorothy Nederman, hereby certify that true and correct copies of the preceding Comments of AdHoc Telecommunications Users Committee were filed this 26<sup>th</sup> day of November, 2008 via the FCC's ECFS system and by email to:

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