BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 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
	)	
Number 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

To: The Federal Communications Commission, *en banc*

COMMENTS OF
AMERICAN ASSOCIATION OF PAGING CARRIERS
ON FURTHER NOTICE OF PROPOSED RULEMAKING

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SUMMARY

Any USF contribution methodology based on a uniform charge per number across all telecommunications industry segments, such as set forth in Attachment "B" and (at least for residential subscribers) in Attachments "A" and "C," would be exceedingly injurious to the paging industry and potentially disastrous. Paging units, which generate network usage of less than a minute per day and have an ARPU of approximately $8.00 per month, would be assessed the same USF fee as wireline and mobile telephone numbers that generate 25-30 minutes of usage per day and, at least for mobile telephone numbers, generate ARPU nearly seven times that of a paging unit.

The result is that a numbers-based contribution methodology would massively offload USF contribution obligations from mobile telephone carriers, while at the same time imposing a ***crippling increase of more than 800%*** on paging carriers. Such a contribution methodology simply cannot be squared with the "equitable and nondiscriminatory" standard of Section 254 of the Act, or with the Commission's freeze of regulatory fees applicable to paging carriers since 2002; and it plainly violates principles of competitive neutrality embedded in the "equitable and nondiscriminatory" statutory standard.

Moreover, and contrary to the analysis contained in the proposals, no persuasive case -- much less a compelling one -- has been made as to the need for substantial modification of the contribution methodology, whether on factual, policy or legal grounds. The facts show that it has been the growth in USF disbursements that has caused the rise in USF contribution factors, not that the contribution methodology is "broken." Bundling issues have already been addressed through the use of "safe harbor" allocations; and the Commission's studied failure to clearly distinguish between "telecommunications" and "information" is not a rational justification for mak-

ing wholesale changes to the contribution methodology. Further, the added administrative convenience of a numbers-based methodology for a handful of large telephone companies does not offset or otherwise justify subjecting untold additional companies to direct contribution obligations and resulting new regulatory burdens, as the Attachments would do.

From a legal standpoint, the Commission's general discretion to design a USF contribution methodology must give way to Congress' specific design in Section 254, which the Commission initially sought to implement when it established the current system of USF contributions based on interstate end-user revenues. It also is plainly inadequate to construe the "equitable and nondiscriminatory" standard of Section 254 to require different industry groups to contribute *something* to USF; instead, the relevant issue, which the Attachments do not attempt to address, is how much different industry groups should be required to contribute compared to others. The current system recognizes the distinction by using revenues as a proxy for relative usage; the proposals in the Attachments would throw this principle overboard without any explanation as to why it is no longer valid.

Accordingly, the Commission should *not* consider significant modifications to USF contribution methodology at this time, and should defer any such consideration until modifications to USF disbursements and to intercarrier compensation principles have been implemented and evaluated. If at that time the Commission properly determines that significant modifications to the USF contribution methodology are still required in the public interest, it should propose a specific methodology based on contributions to the network in a second further notice of proposed rulemaking, so that interested parties will have a meaningful opportunity to comment on a concrete connections-based proposal prior to its adoption by the Commission.

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THE AMERICAN ASSOCIATION OF PAGING CARRIERS (AAPC), by its attorney, respectfully submits its comments to the Federal Communications Commission in response to the Order on Remand and Report and Order and Further Notice of Proposed Rulemaking (the "FNPR") in the captioned proceedings, FCC 08-262, adopted and released November 5, 2008, and published at 73 Fed. Reg. 66821 (November 12, 2008). As explained more fully below,

AAPC requests that the Commission *not* address modification of the Universal Service Fund (USF) contribution methodology at this time. AAPC urges the Commission instead to defer any such modifications until distribution-side reforms have been implemented and a reasonable demonstration can be made that modification of the USF contribution methodology is nevertheless necessary in the public interest. Further, if the Commission decides at a future time to consider significantly modifying USF contribution methodology, it should issue a second further notice of proposed rulemaking setting forth a specific contribution methodology based on connections to the interstate network, so that interested parties will have a meaningful opportunity to comment on the proposed changes prior to their adoption by the Commission.

As its comments on the FNPR, AAPC respectfully states:

Introduction and Background

Proposals to modify the USF contribution methodology have been offered and debated for a number of years. In a 2001 Notice of Proposed Rulemaking issued in CC Docket No. 96-45, *et al.*, the Commission suggested that the USF contribution methodology adopted in the aftermath of the Telecommunications Act of 1996 may need to be simplified and streamlined, citing the entry of the RBOCs into the long distance market and resultant declining revenues of the existing interexchange carriers, the growth of mobile telephony, the advent of Internet Protocol telephony and the increased "bundling" of telecommunications services.[1]

In a subsequent Further Notice of Proposed Rulemaking, issued in early 2002 without taking any remedial action in response to comments on the 2001 NPRM,[2] the Commission expressed similar concerns, citing such factors as declining revenues of interexchange carriers, the

[1] *In the Matter of Federal-State Joint Board on Universal Service, et al.* (Notice of Proposed Rulemaking), CC Docket No. 96-45, *et al.*, FCC 01-145, 16 FCC Rcd 9892 (FCC 2001), at ¶¶3-4.

[2] *In the Matter of Federal-State Joint Board on Universal Service, et al.* (Further Notice of Proposed Rulemaking and Report and Order), CC Docket No. 96-45, *et al.*, FCC 02-329, 17 FCC Rcd 3752 (FCC 2002),

increasing use of mobile telephony for interstate calls, the blurring of distinctions between telecommunications and non-telecommunications services, and increased bundling of telecommunications services.[3] The Commission sought public comment to ensure the sufficiency and stability of the USF, to provide certainty to market participants and to minimize the costs of regulatory compliance.[4] At that time the Commission suggested that a connections-based assessment methodology appeared to be the most promising way to achieve its objectives.[5]

In December 2002, the Commission issued an order adopting limited modifications to the USF contribution rules and requesting comment on additional issues, including three different variations of a connections-based USF contribution methodology.[6] The modifications adopted in the December 2002 order included increasing the mobile telephony "safe harbor" interstate revenue allocation from 15% to 28.5%, adopting an "all-or-nothing" rule requiring affiliated CMRS carriers to use the same method for allocating interstate revenues, and changing the quarterly revenues reported for USF contribution computation purposes from historical to forecast quarterly revenues.[7] The latter change was necessary in the Commission's view in order to "promote competitive neutrality".[8]

The Commission's next action was to issue an "interim" order in June 2006 increasing the interstate "safe harbor" allocation for mobile telephony carriers from 28.5% to 37.1%, adopting new requirements for mobile telephony carriers relying on traffic studies to determine inter-

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[3] *Id.* at ¶¶7-14.
[4] *Id.* at ¶¶15-17.
[5] *Id.*
[6] *In the Matter of Federal-State Joint Board on Universal Service, et al.* (Report and Order and Second Further Notice of Proposed Rulemaking), CC Docket No. 96-45, *et al.*, FCC 02-329, adopted December 12, 2002 and released December 13, 2002. Later, the Commission also released a staff study purporting to show the revenue effect on different industry segments arising from converting to a connection-based methodology; and it requested comments on the staff study as part of response of interested parties to the Second Further Notice of Proposed Rulemaking.
[7] *Id.* at ¶¶20-39.
[8] *Id.* at ¶29.

state revenues, requiring interconnected VoIP service providers to contribute to the Universal Service Fund and establishing a 64.9% "safe harbor" interstate allocation for VoIP service providers.[9] The Commission declined to adopt more fundamental modifications to the contribution methodology, despite claims at that time by the large telephone companies that the current system is "broken," acknowledging that "a consensus approach to reform has not developed."[10]

The Commission's June 2006 order is its last word on the subject of USF contribution methodology until issuance of the current FNPR. The FNPR does not claim that a "consensus approach to reform" has developed in the intervening months since the June 2006 order, and does not itself propose specific changes to the USF contribution methodology. Rather, the FNPR attaches three alternative "draft" orders (Attachments "A," "B" and "C") that were circulated to the commissioners for a vote in connection with a meeting scheduled for November 4, 2008.

Insofar as USF contribution methodology is concerned, there is little difference between the proposals in Attachments "A" and "C". Both would immediately impose a fixed $1.00 per number per month USF contribution obligation on "residential" service subscribers with "Assessable [Telephone] Numbers." AAPC understands the proposals to require all telecommunications carriers, including paging carriers, to apply the "residential" and "business" distinction to their subscriber base and to assess a $1.00 per month charge to all "residential" subscribers, without regard to a *de minimis* exemption such as exists currently. The only exceptions would be for prepaid wireless and lifeline subscribers, which are not relevant to paging carriers, and, under the "A" proposal, subscribers to stand-alone voicemail services, also not relevant to paging carriers.

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[9] *In the Matter of Universal Service Contribution Methodology, et al.* (Report and Order and Notice of Proposed Rulemaking), WC Docket No. 06-122, *et al.*, FCC 06-94, 21 FCC Rcd 7518 (FCC 2006) (subsequent history omitted).

[10] *Id.* at ¶21.

"Business" service subscribers would continue to pay under the current system under both the "A" and "C" proposals while a rulemaking is conducted to determine a suitable contribution methodology for them based on connections to the network. No proposed rules are attached to either proposal to inform interested parties as to the specific nature of the connection-based contribution methodology under consideration.

The proposal in Attachment "B" would impose an immediate USF contribution obligation of $0.85 per number per month on all subscribers – including paging service subscribers -- with an "Assessable Number," both residential and business, again evidently without regard to any *de minimis* exemption. "Business" service subscribers with "Assessable Connections" also would be assessed a $5.00 per month USF contribution obligation for each dedicated connection with a speed of 64 kbps or less, and $35.00 per month for each dedicated connection with a speed greater than 64 kbps. The "B" proposal essentially parrots a proposal advanced jointly by AT&T and Verizon on October 20, 2008, after they concluded that the "A" proposal circulated by the Chairman on October 15, 2008 "would perpetuate all of the problems with the current mechanism" and would, at the same time, "also inject additional complexity by requiring providers to distinguish between residential and business telephone numbers and revenues."[11]

AAPC is the national trade association representing the interests of paging carriers throughout the United States. AAPC's members include a majority of the paging operators with nationwide licenses under Parts 22, 24 and 90 of the Commission's rules; a representative cross-section of operators of regional and local paging systems licensed by the Commission; as well as equipment suppliers and other vendors to the carrier industry. Paging carriers are telecommunications carriers and, unless within the current *de minimis* exemption, are direct contributors to

[11] *Ex Parte Letter dated October 20, 2008, from Mary L. Henze (AT&T) and Kathleen Grillo (Verizon),* WC Docket No. 06-122 & CC Docket No. 96-45, at p. 1.

USF. AAPC thus has a direct and substantial interest in USF contribution methodology proceedings and has actively participated in such proceedings since AAPC's inception in 2002.

Summary of Position

Any USF contribution methodology based on a uniform charge per number across all telecommunications industry segments, such as set forth in Attachment "B" and (at least for residential subscribers) in Attachments "A" and "C," would be exceedingly injurious to the paging industry and potentially disastrous. Such a contribution methodology simply cannot be squared with the "equitable and nondiscriminatory" standard of Section 254 of the Act, or with the Commission's freeze of regulatory fees applicable to paging carriers since 2002; and it plainly violates principles of competitive neutrality embedded in the "equitable and nondiscriminatory" standard. Moreover, and contrary to the analysis contained in the proposals, no persuasive -- much less compelling -- case has been made as to the need for substantial modification of the contribution methodology, whether on factual, policy or legal grounds.

Accordingly, the Commission should *not* consider significant modifications to USF contribution methodology at this time, and should defer any such consideration until modifications to USF disbursements and to intercarrier compensation principles have been implemented and evaluated. If at that time the Commission properly determines that significant modifications to the USF contribution methodology are still required in the public interest, it should propose a specific methodology based on contributions to the network in a second further notice of proposed rulemaking, so that interested parties will have a meaningful opportunity to comment on a concrete connections-based proposal prior to its adoption by the Commission.

Comments on FNPR

AAPC respectfully submits that no modifications to the USF contribution methodology should be considered at this time because the "analysis" and "justification" set forth in the Attachments to the FNPR fall far short of adequately supporting the wholesale changes that those Attachments would bring about.[12] As an initial matter, AAPC points out that the foundational claim in the Attachments, that that the current contribution system is "broken,"[13] reflect hyperbolic, result-oriented rhetoric rather than reasoned analysis. The decline in assessable revenues from $79.0 billion in 2000 to $74.5 billion in 2006, cited and relied upon in the Attachments,[14] is only a 5.7% decline over a six-year period. On its face that hardly constitutes a "breakdown" of the current contribution system. Quite to the contrary, to generate the same contribution of $4.5 billion in 2006 that was generated in 2000, the contribution factor would have increased only from the 5.9% factor used in the first quarter of 2000 to a 6.0% contribution factor in 2006. Again, that hardly constitutes a "breakdown" of the current contribution system.

Moreover, ending the comparison with 2006, as the Attachments do, does not fairly account for the modifications adopted in June 2006 increasing the mobile telephony "safe harbor" interstate allocation to 37.1% from 28.5%, and requiring interconnected VoIP providers to contribute to USF for the first time, using a 69.4% "safe harbor" interstate allocation. Those modifications were expressly designed to increase USF contributions and were not implemented at all until the fourth quarter of 2006. As a result, the financial impact of the 2006 modifications is not

[12] The basic analysis and argument in the Attachments in favor of change are largely identical among all three of the proposals. *Compare* Attachment A, ¶¶97-114, pp. A-42-A-50, *with* Attachment B, ¶¶44-61, pp. B-17-B-25, *and* Attachment C, ¶¶93-110, pp. C-41-C-49. For simplicity, AAPC will refer hereinafter only to the discussion in Attachment A and not to the parallel discussions in Attachments B and C.

[13] Attachment A, ¶97, p. A-42.

[14] *Id.* at ¶94, p. A-41.

fairly reflected in the 2006 revenues cited in the proposals, further undercutting any reasonable claim that the current USF contribution system is "broken".

Instead, the part of USF that truly may be "broken" is the USF *disbursements*. As the analysis in the proposals concede, USF disbursements grew from $4.5 billion in 2000 to over $6.6 billion in 2006, almost *150%* of 2000 disbursements. If the increased USF disbursements were warranted and in the public interest, they do *not* suggest that the contribution system is "broken". Rather, in such case they would simply mean that the USF program is relatively broader and more expensive in 2006 than in 2000, and therefore that it was necessary to increase the contribution factor in order to generate the increased revenues needed to pay for the more expensive 2006 USF program.

What almost everyone understands, however, is that the increased USF disbursements from 2000 to 2006 were *not* altogether warranted and in the public interest, although there are sharp disagreements as to which portions were warranted and in the public interest and which portions were not. The point here is that what the relevant facts show is *not* that the USF contribution methodology is "broken," as claimed in the Attachments, but rather that the USF disbursements need to be scrutinized and fixed as necessary. Under these circumstances, it is absolutely irrational to use the set of problems on the distribution side as justification for wholesale changes to the *contribution* methodology.

In this regard, AAPC notes that the Attachments include sometimes widely varying proposals for significantly modifying USF disbursement rules, including caps on ILEC high cost disbursements, phase-out of ETC high cost support over five years, elimination of the "identical support" rule, and use of negative auctions, as well as for substantial changes to principles of intercarrier compensation. The changes to USF disbursements obviously are intended to substan-

tially *reduce* them over time, some of which could be offset by the proposed changes in intercarrier compensation.

All of these changes are highly controversial; and the extent to which they ultimately are adopted or abandoned will have a substantial impact on USF revenue requirements in the future. Again, under these circumstances, the rational approach to USF reform is to first address, implement and evaluate modifications to USF disbursements, before attempting to determine whether any changes are necessary to the USF contribution methodology.

The second foundational predicate in the Attachments purporting to justify modifying the USF contribution methodology is the claim that "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."[15] The statement may be true as far as it goes, but it does *not*, upon analysis, justify the sweeping changes the proposals seek to implement.

The bundling of intrastate and interstate service packages has already been addressed by the Commission through the adoption of "safe harbor" interstate revenue allocations. If a "safe harbor" allocation is still needed for wireline unlimited calling plans (which is not at all clear in light of the call records routinely maintained by telephone companies), the Commission readily can establish one. AAPC knows of no reason to believe that "safe harbor" allocations are not simple and effective solutions to the intrastate/interstate revenue issue; and the proposals do not claim otherwise. Thus, the proposals' complaint that distinguishing interstate from other revenues now is "difficult if not impossible" is, at best, a gross and unreasonable exaggeration.[16]

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[15] *Id.* at ¶95, p. A-41.
[16] *Id.* at ¶97, p. A-42.

The real problem here, which the Attachments do not choose to highlight, is the extant ambiguity between "telecommunications services" (which clearly are subject to USF contribution assessments under Section 254) and "information services" (which clearly are *not* subject to USF contribution assessments under Section 254). Again, however, the underlying problem is *not* the USF contribution mechanism itself, but rather is the Commission's studied refusal – for unrelated regulatory policy purposes -- to classify particular services as "telecommunications" or as "information". The Commission may have very good reasons for failing to make this distinction clear, but it is plainly irrational to import that policy predilection into the USF debate and to bootstrap it into a justification for wholesale modification of the USF contribution methodology.

The legal analysis advanced by the Attachments is little better than their factual discussion. The Attachments entirely forget the fundamental principle reaffirmed in the Supreme Court's *Chevron* decision[17] that the first inquiry in every case of agency implementation of its organic statute is to determine "whether Congress has directly spoken to the precise question at issue" and, if so, "that is the end of the matter" and the agency "must give effect to the unambiguously expressed intent of Congress."[18] To satisfy this requirement the agency must "giv[e] some substance" to the statutory provisions it is interpreting and failure to do so is error.[19]

That is exactly what the Commission did in the aftermath of the 1996 amendments adding Section 254 to the Communications Act, when it determined that USF contributions should be assessed on telecommunications providers based on their interstate and international end-user

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[17] *Chevron U.S.A., Inc. v. NRDC,* 467 U.S. 837, 104 S. Ct. 2778, 81 L. Ed 2d 694 (1984).

[18] *Id.,* 467 U.S. at 842-843, 104 S. Ct. 2781. *Accord, e.g., American Mining Congress v. EPA,* 824 F.2d 1177, 1182 (DC Cir. 1987).

[19] *AT&T v. Iowa Utilities Board,* 525 U.S. 366, 392, 119 S. Ct. 721, 736, 142 L. Ed. 2d 834 (1999) (FCC reversed for failing to "giv[e] some substance" to the "necessary" and "impair" statutory requirements for unbundling telephone network elements). Accordingly, whether or not the Commission separately has "plenary" authority over telephone numbers is besides the point.

telecommunications revenues.[20] Nonetheless, the Attachments would essentially ignore that history and argue, in substance, that times have changed and hence an entirely new system of the Commission's design and choosing should be implemented, without regard to implementing the Congressional directives in Section 254.

That is *not*, however, the Commission's lawful role. If it believes that the Congressional design as expressed in Section 254 has become anachronistic, the proper remedy is not to ignore and rewrite the Congressional design but instead is to obtain appropriate revisions to Section 254 by Congress.

To the extent the Attachments do bow in the direction of Section 254, they do not even acknowledge, much less appropriately address, the proper scope of the principles contained in that section. The core requirement in Section 254(d) is that carriers providing interstate telecommunications services shall contribute to the USF "on an equitable and nondiscriminatory basis". From the outset, the Commission has held that this standard includes the requirement of "competitive neutrality".[21] Nonetheless, the discussion in the Attachments, to the extent it addresses the statutory standard at all, is confined to whether or not it is equitable for different entities to contribute some amount to USF or not, and does *not* address in any meaningful way whether relative contributions from different industry groups would be equitable and competitively neutral.[22]

It has long been accepted that relative usage of the interstate network is a reasonable proxy for equitable contributions to USF; and it likewise has long been acknowledged that it is part of the "equitable and nondiscriminatory" standard that those who use the network more

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[20] *In the Matter of Federal-State Joint Board on Universal Service* (Report and Order), CC Docket No. 96-45, 12 FCC Rcd 8776 (FCC 1997).
[21] *Id.* at ¶¶843-848, 854.
[22] Attachment A, ¶¶108, 113, 143-145.

should make greater contributions to USF. Relative usage is roughly reflected in the end-user revenues paid; thus there is a correlation under the current system between relative network usage by subscribers and the magnitude of their USF contribution obligations. As a result, paging service subscribers, which generate on average less than a minute of network usage per day, pay far less in USF contributions than do conventional wireline and mobile telephony subscribers, who are commonly understood to generate usage on the order of 25-30 minutes per day.[23] The Attachments would throw this principle overboard without acknowledging it or explaining why it is no longer true.

Stating the point somewhat differently, facially equal treatment is both inequitable and discriminatory when the parties to whom such (facially equal) treatment is extended are not similarly situated. That is exactly the major flaw of a "Numbers" approach to USF contributions, *viz.*, it affords superficially "equal" treatment to different groups that are not in fact similarly situated. The result is a contribution system that is neither "equitable" nor "nondiscriminatory" as required by Section 254.

This principle applies with particular force when a "Numbers" USF contribution methodology is applied to the paging industry, as AAPC has explained in previous *ex parte* submissions.[24] As the Commission well knows, paging and mobile telephony are competing mobile service technologies; and the erosion of the paging service subscriber base over the past decade has been primarily due to the availability of mobile telephony alternatives. One of the important factors in the ability of paging carriers to retain customers is the low price of paging service relative to mobile telephone service, *viz.*, approximately $8.00 per month ARPU for paging service

[23] *See, e.g.*, *id.* at ¶138 (citing CTIA data showing that the average wireless postpaid customer used 826 minutes per month for the period ending December 2007).

[24] *See, e.g.*, AAPC *Ex Parte Memorandum*, WC Docket No. 06-122, October 9, 2008; AAPC *Ex Parte Memorandum*, WC Docket No. 06-122, October 23, 2008, hereby incorporated herein by reference.

compared to approximately *seven times* that amount for mobile telephone service.[25] Accordingly, as explained in AAPC's October 9, 2008, *ex parte* memorandum, imposing a facially "equal" USF contribution obligation on telephone numbers actually results in a massive *offloading* of USF contribution obligations for mobile telephony carriers while saddling paging carriers at the same time with a ***crippling increase of more than 800%*** in their USF contribution obligations.

It does not take a financial genius to understand that imposing anything like a $1.00 surtax on a $8.00 total monthly service charge potentially would be devastating for paging carriers, particularly since that same charge actually would represent a cost *reduction* for competing mobile telephony services. The proposals in the Attachments do not acknowledge this blatant violation of the "equitable and nondiscriminatory" standard of Section 254, and most obviously the "competitive neutrality" component of that standard.

Furthermore, even apart from the "equitable and nondiscriminatory" standard of Section 254, imposing such a surtax on paging service rationally cannot be reconciled with the Commission's freeze on paging service regulatory fees since 2002.[26] The "unique circumstances" in the paging industry that have persuaded the Commission to freeze regulatory fees equally counsel that a drastic rate shock such as would happen under a "Numbers" USF contribution methodology outlined in the Attachments likewise should be avoided.

Finally, the Attachments trumpet the alleged benefits of their new contribution methodology without acknowledging, much less analyzing in any meaningful way, the increased regulatory *burdens* that the new methodology would entail or any disadvantages of such a methodology. The Attachments concede, albeit rather euphemistically, that implementation of contribu-

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[25] *See, e.g.*, AAPC Comments on Further Notice of Proposed Rulemaking, *In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2008*, MD Docket No. 08-65, September 25, 2008, at pp. 4-5.
[26] *See, e.g., id.* at pp. 2-3.

tions based on "Assessable Numbers" means that certain "non-carrier entities that use telephone numbers in a manner that meets our definition of Assessable Numbers do not report NRUF data yet must [directly] contribute" to USF.[27]

With contributor status also comes burdensome new regulatory reporting and payment obligations for those non-carrier entities.[28] While it may be the case that a handful of large and sophisticated telephone companies will have modestly simpler regulatory requirements under the new USF contribution methodology set forth in the Attachments, the Commission does not trouble to explain why it is in the public interest to lighten those requirements by inflicting onerous new regulatory burdens on non-carrier and heretofore non-direct contributor entities.

Nor do the attachments attempt to justify why it is in the public interest to newly burden direct contributors with distinguishing between "residential" and "business" subscribers, such as would be required under the proposals in Attachments "A" and "C". Even AT&T and Verizon, the principal industry proponents of a "Numbers" USF contribution methodology, found it necessary to protest the "additional complexity" of "requiring providers to distinguish between residential and business telephone numbers and revenues".[29]

Conclusion

Under all of these circumstances, AAPC respectfully submits that the Attachments utterly fail to justify adoption of any of the wholesale modifications to the existing USF contribution methodology set forth therein, and that consideration of any such modifications should not take place, if at all, until issues relating to the appropriate level of USF disbursements have been resolved and implemented, and the impact of intercarrier compensation reform on subscriber rates

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[27] Attachment A at ¶128, p. A-55.
[28] *Id.* at ¶¶148-153, pp. A-65-A-67.
[29] *Ex Parte Letter dated October 20, 2008, from Mary L. Henze (AT&T) and Kathleen Grillo (Verizon),* WC Docket No. 06-122 & CC Docket No. 96-45, at p. 1.

has been determined. Only then will the Commission be in a position to rationally determine whether and, if so, how the USF contribution methodology should be modified consistent with the requirements of Section 254. Moreover, at such time as the Commission appropriately determines that significant modification of the USF contribution methodology is in the public interest, the Commission should issue a specific proposal based on connections to the network for public review and comment, prior to deciding whether or not to convert to a new contribution methodology.

Respectfully submitted,

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