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

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

REPLY COMMENTS OF THE UTILITIES TELECOM COUNCIL

Pursuant to sections 1.415 and 1.419 of the Federal Communications Commission's ("FCC" or "Commission") Rules, the Utilities Telecom Council hereby submits these Reply Comments in response to the Commission's *Further Notice* in the above-referenced proceeding.[1] The Commission should not adopt any of the three proposed Appendices, which would arbitrarily impose numbers-based fees and/or connection charges that could as a practical matter result in inequitable and discriminatory USF contributions. UTC is concerned that certain business customers, such as utilities that have a large number of telephone numbers assigned to them and/or use special access or private line services, may see significant increases in the USF contributions they currently pay. These increased USF contributions would be inequitable because, for example, they would be borne by business customers just because they

[1] *In the Matter of High-Cost Universal Service Support*, Order on Remand and Report and Order And Further Notice of Proposed Rulemaking, WC Docket No. 05-337, 17 FCC Rcd. 24952 (2008)("*Further Notice*").

happen to have a large number of direct-inward-dial (DID) telephone numbers. In addition these fees would be discriminatory, if business customers are singled out to be subject to additional connection charges or residual contributions, as proposed by the Commission. Therefore, UTC opposes the three Appendices, which all could violate Sections 254(b)(4) and 254(d) by imposing inequitable and discriminatory contributions against certain business customers.[2]

UTC is the international trade association for the telecommunications and information technology interests of electric, gas and water utilities, as well as other critical infrastructure industries. Practically every utility is a member of UTC, either directly or through its affiliated organizations. Since 1948, UTC has advocated on behalf of its members' interests as both users and providers of communications services. As users of telecommunications services that are subject to USF contributions, UTC's members have a direct and significant interest in the instant proceeding. Therefore, UTC is pleased to provide these comments in response to the issues related to the contribution proposals described in Appendices A, B and C.

Under each of the Appendices in the *Further Notice*, contributions would shift from the current revenue-based method to a numbers-based method. Under Appendices A and C, residential customers would be subject to a fee of $1 per assessable number; and the remainder of the total USF contributions would continue to be recovered from business customers on a percentage of revenue basis during an interim period until the Commission develops a connection-based fee. Under Appendix B, residential customers would be subject to a fee of $.85 per number, and business customers would be subject to an additional connection charge of either $5 or $35, depending on the capacity of the connection. In all of these proposals, the Commission asserts that it is "equitable and nondiscriminatory, consistent with the requirements of section 254(d) of the Act, to establish different contribution methodologies."[3]

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[2] 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." (emphasis added).

[3] *Further* Notice, 17 FCC Rcd 24952 at Appendix A, ¶ 132; Appendix B, ¶ 80; and Appendix C, ¶ 128).

UTC is concerned that shifting to a numbers-based method would significantly increase the USF fees for its members, particularly those with a large number of telephone numbers and a relatively low volume of long distance calls. For example, one utility has estimated that its annual USF contribution would increase from $24,000 to $165,000, just for its landlines. Therefore, UTC is concerned that some business customers, including its member utilities, may overpay if USF contributions are based on telephone numbers. UTC asserts that such fees would not be equitable, as required by Section 254(d).

UTC is also concerned that imposing connection-based fees would discriminate against business customers. Contrary to the Commission's concerns, business users won't "get off easy" under a pure numbers-based regime.[4] Moreover, subjecting business customers to connection-based fees for their high-capacity lines, but not on residential high-speed connections would be arbitrary and discriminatory and would violate Section 254(b)(1), as well as Sections 201(b) and 202(a) of the Communications Act.[5] Therefore, UTC opposes the imposition of connection-based fees on all business customers. The Commission must consider alternative contribution methods, such as those advocated by Ad Hoc.[6]

Finally, as a policy matter the Commission should not be adopting a numbers-based method, which would impose administrative burdens on business and lock into flat fees that may not correlate to the actual costs of providing universal service. Although USF costs have increased over time, it is entirely likely that those costs will decline due to the current economic crisis. Already, there are early signs of this trend. The Commission recently announced that carrier contributions to the USF for the first quarter of 2009 will decline 16.7% due mostly to falling high cost support requirement – which fell $120 million from the fourth quarter of 2008. These declines are also attributable to USF reforms that recently

[4] *See* Comments of the Ad Hoc Telecommunications Users Committee in WC Docket No. 06-122 at 18 and Table 3 of Attachment A. (showing how business customers won't get off easy under a pure numbers-based contribution method).

[5] Comments of the Ad Hoc Telecommunications Users Committee in WC Docket No. 06-122 at 22.

[6] See Comments of the Ad Hoc Telecommunications Users Committee in WC Docket No. 06-122 at 20-24 (suggesting that the Commission adopt different methodologies that would apply to different classes of carriers, instead of one method to all carriers).

went into effect.[7] These declines should continue as more reforms are instituted. As costs seem to be declining, now is not the time to be instituting flat fees that may not bear any relation to the actual costs of providing universal service. Moreover, now is not the time to be imposing reporting requirements and shifting an unfair share of USF costs onto business customers.

In conclusion, UTC opposes the three Appendices which could all result in the imposition of inequitable and discriminatory USF fees upon business customers, such as utilities. While UTC recognizes that the high-cost fund is skyrocketing and that reform is needed, it urges the Commission to proceed cautiously before adopting any particular contribution method.

WHEREFORE, the premises considered, UTC urges the Commission to not adopt the three USF contribution methods, all of which could result in inequitable and discriminatory fees against utilities and other business customers, as more fully described herein.

Respectfully submitted,

Utilities Telecom Council

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[7] *Proposed First Quarter 2009 Universal Service Contribution Factor*, Public Notice, CC Docket No. 96-45, rel. Dec. 15, 2008.