



July 28, 2009

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., TW-A325  
Washington, D.C. 20554

***Ex Parte Notice***

**In the Matter of AT&T Petition for Immediate Commission Action to Reform its Universal Service Contribution Methodology, WC Docket No. 06-122**

Dear Ms. Dortch:

The National Telecommunications Cooperative Association (NTCA)<sup>1</sup> urges the Commission to deny AT&T's Petition requesting the FCC to reform the universal service contribution methodology by implementing immediately a telephone numbers-based universal service fund (USF) contribution methodology.<sup>2</sup> AT&T is attempting to create a false emergency in an effort to apparently spur premature FCC action so that AT&T may reduce or eliminate its USF contribution obligations prospectively through future regulatory arbitrage.

AT&T argues that because the USF contribution factor has reached 12.9 percent the FCC must adopt immediately a new telephone numbers-based USF contribution methodology. What AT&T fails to disclose is that the 12.9 percent USF contribution factor translates into approximately \$.80 per residential monthly landline telephone bill and \$2.13 per monthly residential wireless telephone bill.<sup>3</sup> This is less than \$3.00 *per month* for a residential customer who purchases both landline and wireless telephone service. Considering that the price of one gallon of gasoline is between \$2.00 - \$3.00 and gasoline costs consumers \$30 - \$60 *per week* to

<sup>1</sup> NTCA is a premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 585 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service rural local exchange carriers (LECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

<sup>2</sup> AT&T Petition for Immediate Commission Action to Reform its Universal Service Contribution Methodology, WC Docket No. 06-122 (filed July 10, 2009) (AT&T Petition). The Commission has not yet released its Public Notice seeking comment on the AT&T Petition, NTCA therefore reserves its right to file additional comments should the Public Notice be released.

<sup>3</sup> These USF contributions are based on a 2009 residential Verizon landline customer's monthly bill with a federal universal service charge of \$.80 and a 2009 residential Verizon Wireless customer's monthly bill with a federal universal service charge of \$2.13.

fill an automobile gas tank, the current USF contribution factor is a tiny fraction of a consumer's monthly budget and hardly cause for such heightened concern, especially to pay for ubiquitous, high-quality, and affordable voice communications throughout the United States.

AT&T also obscures the fact that telephone numbers have nothing to do with broadband Internet access service, which will be the basis for all communications (voice, data, video, and security services) in the future. AT&T's proposed telephone numbers-based USF contribution methodology does not make any sense in a broadband world. The AT&T proposal is backwards-looking, technology-biased, and will dramatically shift the burden of paying for universal service onto incumbent and competitive local exchange carriers and wireless carriers – and consequently, their subscribers, while relieving interexchange, broadband and other types of providers of the obligation of paying for universal service. As AT&T states, “[a]nyone in their 20’s will tell you that text-messaging, Tweeting and other applications are increasingly important avenues of communication, which are not subject to universal service contributions.”<sup>4</sup> Yet under AT&T's telephone-numbers approach, any provider who offers these services without a telephone number would never have an obligation to pay into the fund.

A telephone numbers-based USF contribution methodology will also lead to future USF contribution avoidance when AT&T and others move all their voice customers away from North American Numbering Plan (NANP) telephone numbers to IP-based Internet protocols and soft numbers. Adopting a legacy telephone numbers-based USF contribution methodology that leads to regulatory arbitrage will threaten the sufficiency of future broadband USF support and prevent the United States from reaching ubiquitous and affordable broadband for all Americans within the next 5-10 years.

There is every reason to believe that providers will offer broadband services and applications to their customers without telephone numbers to avoid universal service payments. This kind of arbitrage would destroy the existing universal service programs and future broadband USF programs. AT&T's approach would be particularly harsh on elderly residential telephone consumers, who would be forced to shoulder the financial burden of the new technology, even though they are historically the late adopters, and low-volume users of new technology.

The universal service contribution methodology (WC Docket No. 06-122) is part of a complicated system of compensation that should not be reformed in a vacuum. The Commission is appropriately considering USF contribution reform in connection with its proceedings concerning intercarrier compensation (IC) reform (CC Docket Nos. 01-92, 99-68, 96-98, and WC Docket 04-36), USF distribution reform (CC Docket No. 96-45 and WC Docket No. 05-337) and the National Broadband Plan (GN Docket No. 09-31). There is no question that universal service reform is necessary to address changes in technology and patterns of consumer use. However, broader goals must be considered. To address USF contribution reform, without concurrently addressing IC reform, USF distribution reform, and the Commission's broadband deployment goals, purely for simplicity's sake or to create “breathing room,” for AT&T would

---

<sup>4</sup> AT&T Petition, p. 8.

be a serious mistake and will have far-reaching and unintended negative consequences on consumer broadband subscription and affordability.

Contrary to AT&T's assertions, the current revenues based methodology would sustain a broadband-focused universal service fund, if the Commission adjusts the current methodology to account for technology changes and reverses previous policy decisions that have proved harmful to the fund and the consumers it seeks to serve.<sup>5</sup> If the Commission expands the base of contributors and addresses some of its policy mistakes, such as not including broadband Internet access service in the definition of universal service and not requiring broadband providers and special access transport providers to contribute to the USF mechanisms, ubiquitous, affordable universal broadband Internet access service to all consumers will be achievable in the next 5-10 years.

When the Commission determines that universal support is appropriate for broadband Internet access service, broadband providers should be required to contribute to the USF mechanisms. USF contributors should include all cable, wireline, wireless, electric, and satellite broadband Internet access providers, all voice substitute providers, and all special access service providers. As is the case for traditional voice telephony, the service that benefits from the support, would contribute to the support, creating a sizable and sustainable base of contributors.<sup>6</sup> Requiring all broadband service providers, special access transport providers and all voice substitute providers to contribute will provide sufficient universal service collections and create long-term stability and predictability in the USF contribution methodology.

The revenues based contribution methodology is proven and has a successful record. Every provider of service has revenues and it is measurable. Revenues are technology neutral, reflecting the value consumers place on competing services without regard to the technology used to deliver the service. The Commission should not abandon a proven, sustainable, technologically neutral contribution methodology because telephone numbers would allegedly be easier for parties to manage and easier to audit.<sup>7</sup> The Commission's obligation is to ensure sustainable, sufficient and predictable USF support mechanisms that help achieve the goal of comparable service at comparable and affordable prices. The Commission is not obliged to make contributions simpler for AT&T so that it may attempt to avoid these contributions in the future through regulatory arbitrage.

The goals of universal service cannot be met without the broad support for the underlying networks that carry voice, VoIP, and data traffic. Without competitive neutrality, the disparate regulatory treatment of non-wireline broadband Internet access providers, voice over Internet protocol (VoIP) providers, and wireless providers, satellite providers, electric providers, and

---

<sup>5</sup> AT&T Petition, p. 11.

<sup>6</sup> Section 254(d) specifically provides the Commission with permissive authority to require any provider of interstate "telecommunications" to contribute to universal service. The underlying transmission component of all broadband Internet access services is "telecommunications" as defined by the Act and recognized by the Commission.

<sup>7</sup> AT&T Petition, p. 17.

Ms. Marlene H. Dortch  
July 28, 2009  
Page Four

municipal providers will invite arbitrage and create false economic incentives that will undermine the Public Communications Network, which consists of the existing and future public switched telecommunications network (PSTN) and the existing and future public Internet network.

NTCA therefore urges the Commission to deny AT&T's Petition, retain the current revenues-based contribution methodology for USF assessments, and apply the current contribution methodology to broadband Internet access service revenues as part of the Commission's comprehensive IC and USF reform and National Broadband Plan. The revenues-based USF contribution methodology has proven to be the most equitable, non-discriminatory, and administratively feasible mechanism for providing specific and predictable universal service support in accordance with the Act. The Commission should thus require all broadband Internet access service providers, VoIP providers, and special access transport providers to contribute to the future federal USF broadband funding mechanisms based on their revenues.

Sincerely,  
/s/ Daniel Mitchell  
Daniel Mitchell  
Vice President, Legal and Industry

/s/ Jill Canfield  
Jill Canfield  
Senior Regulatory Counsel, Legal and  
Industry

DM:rhb

cc: Edward Lazarus, Chairman Genachowski's Chief of Staff  
Colin Crowell, Chairman Genachowski's Senior Counselor  
Bruce Gottlieb, Chairman Genachowski's Chief Counsel and Senior Legal Advisor  
Priya Aiyar, Chairman Genachowski's Legal Advisor for Wireline Competition and International Issues  
Jennifer Schneider, Commissioner Copp's Legal Advisor on Broadband, Wireline and Universal Service Issues  
Nicholas G. Alexander, Commissioner McDowell's Legal Advisor on Wireline Issues  
Julie A. Veach, Acting Chief, Wireline Competition Bureau  
Donald Stockdale, Deputy Chief, Wireline Competition Bureau  
Kirk S. Burgee, Chief of Staff, Wireline Competition Bureau  
Marcus Maher, Associate Bureau Chief, Wireline Competition Bureau  
Jeremy Marcus, Acting Associate Bureau Chief, Wireline Competition Bureau