

**NASUCA'S AUGUST 5, 2008 EX PARTE ON THE
NUMBERS-BASED CONTRIBUTION MECHANISM**



VIA ELECTRONIC DELIVERY

August 5, 2008

Chairman Kevin Martin
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Deborah Tate
Commissioner Robert McDowell
Federal Communications Commission (via e-mail)

**Re: Ex Parte Communication, WC Dockets Nos. 06-122 and 05-337 and CC
Docket No. 96-45**

Dear Chairman Martin and Commissioners:

In a recent series of filings, BT Americas (“BT”)¹ has attacked the current revenue-based Universal Service Fund (“USF”) contribution mechanism used by the Federal Communications Commission (“FCC” or “Commission”), and touted the benefits of a change to a numbers-based contribution mechanism.² Given the consistent opposition of the National Association of State Utility Consumer Advocates (“NASUCA”) to such proposals,³ on behalf of telephone consumers nationwide, we respond here to some of the arguments made by BT.

¹ BT describes itself as “one of the leading providers of global corporate information technology services....” BT filing (June 26, 2008) at 1, n.1. Unless otherwise indicated, all references herein are to filings in WC Docket Nos. 06-122 and 05-337 and CC Docket No. 96-45.

² See generally *id.*; see also BT ex partes (July 10 and July 23, 2008). The June 26, 2008 BT filing is intended to be a response to the Commission’s May 2, 2008 invitation to parties to refresh the record on this and related proceedings. BT describes the May 2, 2008 invitation as a Public Notice; it was actually a press release.

³ See, e.g., NASUCA Comments to Refresh the Record (July 7, 2008) at 21-24; NASUCA ex parte (January 11, 2008) (attaching NASUCA resolution opposing numbers-based mechanism); NASUCA ex parte (September 25, 2007).

BT asserts that the current revenues-based mechanism “has become increasingly unwieldy, unfair and economically inefficient”⁴ and that “the revenues-based assessment system harms the very consumers that the USF system is supposed to benefit, because it inefficiently represses both supply and demand for telecommunications services.”⁵ With regard to the latter statement, NASUCA’s ex parte filed on January 11, 2008 comprehensively addressed the errors in the claims that the current mechanism represses telecommunications usage.⁶

More importantly, with regard to both statements, whatever the problems with the current assessment mechanism, BT utterly fails to show that a numbers-based mechanism would be any less unwieldy, less unfair or less economically inefficient. We will examine each of BT’s subsequent allegations in that light.⁷

- “The existing revenue-based assessment mechanism is unwieldy and ultimately unsustainable.”⁸

BT proclaims at length the difficulties of separating “assessable” from “non-assessable” revenues and services.⁹ The Commission has already effectively dealt with many of these issues through the adoption of “safe harbor” percentages, which allow carriers – even those with higher levels of interstate and international revenues (or assessable versus non-assessable revenues) to pay based on a predetermined percentage. Further, as demonstrated by NASUCA and never challenged by any party, the revenue-based mechanism is as robust, if not more so, than a numbers- or connections-based mechanism under conditions of substantial increases to funding levels. And the level of revenues being assessed under the mechanism has been remarkably stable over the last few years, as shown on the attached charts. Further, the Commission took a major step to stabilizing the fund when, in May of this year, it capped payments to competitive eligible telecommunications carriers.¹⁰

⁴ BT filing (June 26, 2008) at 1.

⁵ Id. at 1-2.

⁶ NASUCA ex parte (January 11, 2008) at 3-4.

⁷ The order of the presentation of these issues here differs slightly from that in BT’s filing.

⁸ BT filing (June 26, 2008) at 2.

⁹ Id.

¹⁰ FCC 08-122 (rel. May 1, 2008).

- “The existing revenue-based assessment system causes inequities among competing service providers and creates opportunities and incentives for arbitrage and abuse.”¹¹

The notion that a numbers-based system would be entirely competitively neutral and create no opportunities for arbitrage is a pipe dream. This would be true even if all numbers were assessed absolutely equally; but that appears highly unlikely. As NASUCA outlined earlier,¹² the requests for special treatment under a numbers-based mechanism are legion. There are:

CTIA’s efforts to win special treatment for certain wireless numbers in a numbers-based mechanism;¹³ likewise, TracFone’s similar requests on behalf of its wireless customers;¹⁴ Virgin Mobile’s similar requests for its customers;¹⁵ Sage Telecom’s on behalf of “personalized ring and 8YY toll-free”;¹⁶ United Online Inc.’s on behalf of its services;¹⁷ Community Voice Mail and GrandCentral Ventures, Inc. for their free services;¹⁸ USA Mobility’s on behalf of paging companies;¹⁹ OnStar Corporation’s and Mercedes-Benz USA, LLC’s on behalf of the “core telematics” service used in automobiles;²⁰ ACUTA and Educause on behalf of colleges and universities generally;²¹ State University of New York at Albany on behalf of university PBXs;²² and Hughes’ efforts to subdivide broadband capacity in a connections-based mechanism.²³ Likewise, the Intercarrier Compensation Forum’s proposal contains wide latitude for arbitrage.²⁴

¹¹ BT filing (June 26, 2008) at 2.

¹² NASUCA ex parte (June 29, 2006) at 4.

¹³ CTIA ex parte (April 26, 2006).

¹⁴ TracFone ex parte (May 2, 2006) at 1-2.

¹⁵ Virgin Mobile ex parte (June 9, 2006).

¹⁶ Sage Telecom ex parte (June 27, 2006).

¹⁷ United Online Inc. ex parte (April 26, 2006).

¹⁸ Community Voice Mail ex parte (May 30, 2006); GrandCentral Ventures, Inc. ex parte (April 11, 2006).

¹⁹ USA Mobility, Inc. ex parte (June 8, 2006).

²⁰ OnStar Corporation ex parte (June 14, 2006) at 1-2; Mercedes-Benz USA, LLC ex parte (April 12, 2006).

²¹ ACUTA/Educause ex parte (May 31, 2006) and attached white paper; see also Central Florida Community College ex parte (June 26, 2006).

²² State University of New York at Albany ex parte (May 24, 2006).

²³ Hughes ex parte (May 17, 2006).

²⁴ Intercarrier Compensation Forum ex parte (November 22, 2005) at 3-4.

Further examples of requests for special treatment were provided in NASUCA's September 25, 2007 ex parte (at 6-8).

Even BT itself apparently believes that the numbers of "business" customers (however that is defined) could be charged differently from (at twice the rate charged) residential customers (however that is defined).²⁵ Some of these requests for special treatment may well be meritorious, but that merely emphasizes the uneven treatment that would be given to numbers, and the opportunities for arbitrage that would be created.

- "The lack of clarity in the rules causes unnecessary disputes between service providers and customers."²⁶

BT complains that "[t]he USF assessment rules are unclear and subject to constant revision...."²⁷ It is unfortunately true that rules change and are subject to dispute. And the process for making those changes may involve "no notice or opportunity for comment," as BT alleges.²⁸ But there is no reason to believe that rules implementing a numbers- or connections-based mechanism would be any more fixed or would be subject to fewer disputes.

- "The revenue-based assessment system also imposes extraordinarily burdensome record-keeping and compliance obligations on telecommunications providers."²⁹

BT asserts that "[a]t least six of BT's staff are dedicated full-time or part-time to US universal service and 499 matters."³⁰ If six employees were dedicated full-time, that would mean that BT spent 12,480 person-hours each year,³¹ or more than 200 times the FCC's estimates for the USF form and the Telephone Relay Service form. But, as BT states, some of those employees are dedicated part-time; the employees work both on the forms and other universal service matters; and BT refers to both USF and TRS. Thus it is impossible to use BT's data to reach the conclusion that "[t]he cost of compliance with just **this one item** of US telecommunications regulation is massive."³²

²⁵ BT ex parte (July 10, 2008) (assuming a \$0.75 assessment on residential customers and a \$1.50 assessment on business customers).

²⁶ BT filing (June 26, 2008) at 2.

²⁷ Id.

²⁸ Id. at 2-3.

²⁹ Id. at 2.

³⁰ Id.

³¹ I.e., 6 * 2080 = 12,480.

³² Id. (emphasis added).

- “[T]he revenues-based mechanism is profoundly inefficient and harms the United States’ economic competitiveness in the global marketplace.”³³

It appears that BT’s real complaint here is with the level of the United States’ USF, not with the collection mechanism. The simplistic fact that other countries have USF assessments of 1% or 5%³⁴ does not recognize the depth and breadth of our Nation’s universal service commitment. That said, NASUCA has been a long-time supporter of efforts to limit the amounts collected through the USF -- especially the “high-cost” portion of the fund -- in order to ensure that those dollars are used only for the purposes set out in statute.

- Finally, “[r]evenue-based assessments have an inordinate impact on providers and consumers of high-end corporate data communications data services and VPNs.”³⁵

Here we have the real meat of BT’s complaint. Apparently, BT believes that it and its “global”³⁶ customers would pay less under a numbers-based regime than they do under the revenue-based mechanism. Yet BT’s real issue is not the mechanism, but with the Commission’s determination in 1997 that international revenues should be included in the revenue base.³⁷ Likewise, it may be that a “substantially higher proportion of high-capacity data telecommunications is jurisdictionally interstate” compared to other telecommunications offerings.³⁸ There, however, BT’s complaint is against Congress, which required all carriers that provide interstate services to contribute. 47 U.S.C. § 254(d). In fact, *TOPUC* found that the statute did not give the FCC the ability to assess intrastate revenues to support the USF.³⁹ To the extent that international carriers use fewer numbers in the US, or high-capacity data carriers also use fewer numbers, they would contribute less under a numbers-based mechanism.

In its July 10, 2008 ex parte, BT asserts “that a telephone numbers-based proposal would not unfairly advantage corporate customers.”⁴⁰ BT attempts to demonstrate this by showing that, based on the currently-assigned telephone numbers, a \$0.75 assessment on residential numbers and a \$1.50 assessment on business numbers “would more than

³³ Id. at 3.

³⁴ Id.

³⁵ Id.

³⁶ Id.

³⁷ See First Report and Order, 12 FCC Rcd 8776 (1997), ¶ 779. That aspect of the FCC’s ruling was reversed and remanded because it would require a carrier whose international revenues far outweighed its interstate revenues to be assessed on the total, see *Texas Office of Public Util. Counsel v. FCC*, 183 F.3d 399, 433-436 (5th Cir. 1999) (“*TOPUC*”), but the FCC’s subsequent determination that carriers with interstate revenues less than 12% of the total would be exempt is still in effect. 47 C.F.R. § 54.706(e).

³⁸ BT filing (June 26, 2008) at 3.

³⁹ See 183 F.3d at 446-449.

⁴⁰ BT ex parte (July 10, 2006) at 1.

support the annual \$6 billion annual [sic] USF funding requirement.”⁴¹ As noted above, this assumes that business numbers would pay more per number than residential numbers, a proposal that has not, as best as can be determined, been made so far in this record.⁴² And it also assumes that all business numbers will be assessed equally (and that all residential numbers will also, albeit separately, be assessed equally). To the extent this does not occur, and some numbers receive no or a lesser assessment, that will of course increase the burden on other customers.

As NASUCA stated in its September 25, 2007 ex parte in response to an earlier ex parte from IDT Telecom (“IDT”), which, like BT, would likely benefit from the imposition of a numbers-based mechanism:

In conclusion, it should be clear that the proponents of switching to a numbers-based mechanism should bear the burden of demonstrating that the change is necessary, and that the change will benefit (or at least not harm) consumers. IDT’s attempts to do so cannot carry the day. It has not been shown that a numbers-based mechanism is more competitively and technology neutral than the current system. NASUCA urges the Commission to require more before making this substantial change to the USF contribution mechanism.⁴³

BT’s filings, like IDT’s, have not really advanced the cause.⁴⁴

Respectfully submitted,

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⁴¹ Id. at 2.

⁴² BT also asserts that, under its proposed assessment structure, “the USF burden on a low-income consumer ... might be lower under a telephone numbers-based proposal.” Id. This would, of course be entirely dependent on the structure and the amount assessed under that structure.

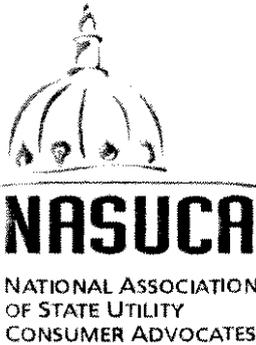
⁴³ NASUCA September 25, 2007 ex parte, at 12.

⁴⁴ Likewise, general statements like those in ex partes from Cox (July 15 and 16, 2008) in 06-122 and other dockets that “a numbers-based contribution methodology ... would help ensure that the universal service funding mechanism is non-discriminatory and sustainable” are simply unconvincing.

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CC: Federal-State Joint Board on Universal Service (and Joint Board Staff).

**NASUCA'S SEPTEMBER 30, 2008 EX PARTE
RESPONDING TO THE AT&T/VERIZON PROPOSAL**



VIA ELECTRONIC DELIVERY

September 30, 2008

Chairman Kevin Martin
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Deborah Tate
Commissioner Robert McDowell
Federal Communications Commission (via e-mail)

Re: Ex Parte Communication, WC Dockets Nos. 08-152, 07-135, 06-122, 05-337, 05-195, 04-36, 03-109, and 02-60; CC Dockets Nos. 02-6, 01-92, 00-256, 99-68, 96-262, 96-45, and 80-286

Dear Chairman Martin and Commissioners:

On July 7, 2008, the National Association of State Utility Consumer Advocates ("NASUCA"), at the Federal Communications Commission's ("FCC" or "Commission") invitation,¹ filed comments to update the Commission in a number of the above-listed dockets.² Since that time, there has been a flood of filings in those and other dockets, to

¹ "Interim Cap Clears Path for Comprehensive Reform, Commission Poised to Move Forward on Difficult Decisions Necessary to Promote and Advance Affordable Telecommunications for All Americans," FCC Press Release (May 2, 2008) ("Press Release").

² *High-Cost Universal Service Support*, WC Docket No. 05-337 ("05-337"); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 ("96-45"); *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135; *Universal Service Contribution Methodology*, WC Docket No. 06-122 ("06-122"); *Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight*, WC Docket No. 05-195; *Lifeline and Link-Up*, WC Docket No. 03-109; *Rural Health Care Support Mechanism*, WC Docket No. 02-60; *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6; *Intercarrier Compensation Reform*, CC Docket No. 01-92 ("01-92"); *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256; *Intercarrier Compensation for IP-Bound Traffic*, CC Docket No. 99-68; *Access Charge Reform*, CC Docket No. 96-262; *Jurisdictional Separations and Referral to the Federal-State Joint Board*, CC Docket No. 80-286, Comments of the National Association of State Utility Consumer Advocates to Refresh the Record (July 7, 2007).

which NASUCA now responds in order that the consumer voice can be heard over the continuing din of industry special pleading.³ The industry filings address the tightly intertwined issues of intercarrier compensation and universal service.

Most of the filings integrate three crucial but seriously incorrect concepts, which are in fact entirely severable and deserve separate, not unified, response. The first concept is that intercarrier compensation (“ICC”) should be unified, for all types of calls, for interstate and intrastate jurisdictions, at \$0.0007 per minute.⁴ The second concept is that incumbent carriers should be able to recoup any revenues lost as a result of lowering current ICC rates to the \$0.0007 level, through a combination of increases to interstate subscriber line charges (“SLCs”) and additional receipts from the federal universal service fund (“USF”).⁵ And the third concept is that these increases in the USF will be made in the context of a USF contribution mechanism that assesses telephone numbers, in place of the current revenue-based mechanism.

Many of the filings refer to the mandamus order issued by the D.C. Circuit Court of Appeals *In re: Core Communications, Inc.*, No 07-1446, 2008 WL 2649636 (DC Cir. July 8, 2008).⁶ That order, of course, dealt with the remand of the Commission’s rules regarding reciprocal compensation for Internet service provider (“ISP”)-bound traffic. That order requires the Commission to justify the rules regarding that traffic, or see them reversed. The D.C. Circuit order does not require the Commission to adopt a global ICC framework by November 2008; the Commission need not do so, and should not attempt to.

A unified rate of \$0.0007 is arbitrary and not cost-based.

None of the recent comments make any pretense that the proposed \$0.0007 rate has any basis in any carrier’s costs of termination or transport, much less the costs of all the carriers who will be subject to the rate. Indeed, the National Exchange Carrier Association (“NECA”) recently argued that this rate does not even cover its members’ cost of billing, let alone network costs.⁷

³ There were 123 filings in 05-337 and 132 filings in 01-92 between July 7, 2008 and September 24, 2008. (Some of those filings may have been made in both dockets.) New filings continue to be made; this response focuses on filings up through September 23, 2008.

⁴ *IP-Enabled Services*, WC Docket No. 04-36 (“04-36”), 01-92, letter from AT&T, CompTIA, CTIA – The Wireless Association, Global Crossing, the Information Technology Industry Council, National Association of Manufacturers, New Global Telecom, PointOne, Sprint Nextel Corp., the Telecommunications Industry Association, T-Mobile, Verizon and the VON Coalition (August 6, 2008) (“Unified Rate 8/6/08 letter”). The letter itself acknowledges the many policy differences among the signatories; subsequent filings (e.g., the T-Mobile filing of August 27, 2008 in 04-36 and 01-92) show how narrow the agreement was.

⁵ See, e.g., 01-92, 96-45, Verizon filing (September 12, 2008) (“Verizon 9/12/08 filing”).

⁶ See, e.g., 99-68, 01-92, Pac-West ex parte (August 18, 2008).

⁷ 96-45, 01-92, 06-122. *In the Matter of Petition of AT&T Inc. for Interim Declaratory Ruling and Limited Waivers Regarding Access Charges and the “ESP Exemption,”* WC Docket No. 08-152, NECA ex parte (September 11, 2008) at [3].

full array of services from which AT&T (and other carriers) receive revenues – traditional wireline service, broadband services, and, indeed video and other services. Intercarrier compensation, SLCs and the USF are but three of the numerous spigots from which dollars flow to fill up the telephone companies' revenue buckets. All of these "buckets" must be included when addressing lost revenues.

A numbers-based contribution mechanism is unnecessary, will create new opportunities for arbitrage, and will not benefit consumers.

On September 10, 2008, AT&T and Verizon met with Wireline Competition Bureau staff to present their joint proposal to implement a telephone numbers-based universal service contribution methodology. That meeting was memorialized in an ex parte filing on September 11, 2008 ("AT&T/Verizon 9/11/08 Contribution Mechanism Filing").

The AT&T/Verizon 9/11/08 Contribution Mechanism Filing includes a four-page "Highlights" section. There it is stated that:

The current contribution methodology is outdated. It was designed for a world where phone companies offered customers separate local and long distance telephone plans and not much else. Today, consumers increasingly choose "all distance" bundled offerings from a variety of providers, which often include video, voice, and data for one price. To report revenues to USAC, providers must distinguish "interstate" revenues from "intrastate" revenues and "telecommunications services" from "information services." New and advanced services like IP and broadband make these distinctions more complex and increase the incentives for companies to "cheat" on their contributions. Thus, companies that compete with each other for the same customers pay into the fund in different ways, skewing the competitive landscape.³³

The key factor this argument misses is that the basis of contributions to the federal USF is the law, as expressed in 47 U.S.C. § 254(d), which states that

[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the ... mechanisms established by the Commission to preserve and advance universal service. ... Any other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.

³³ AT&T/Verizon 9/11/08 Contribution Mechanism Filing, Highlights of a "Direct" Numbers-Based System ("Highlights") at 1.

Hence the emphasis in the current mechanism is on interstate revenues, and revenues from telecommunications services. Indeed, the Commission's early attempts to assess intrastate services for the federal USF were quickly rejected by the courts.³⁴ The use of telephone numbers as the basis for USF assessment unnecessarily blurs the requirements of the law.

As a further justification for the proposal, the allegation is made that

[a]s a consequence of these market changes, the contribution factor (which determines the USF fee customers pay) is failing to keep pace with the growth of the universal service fund. The contribution factor rose from 5.7% in 2000 to 11.4% in the third quarter of 2008, and will likely rise again in the future.³⁵

This rationale is demonstrably false. The growth in the USF contribution factor is almost entirely the result of the growth in the fund requirements, rather than a decline in interstate revenues. Once again, NASUCA presents to the Commission the charts and graphs that show that the interstate revenue base for the USF has been remarkably stable **for the past six years**. And once again, NASUCA notes that, as NASUCA has previously demonstrated, the revenue-based mechanism is actually more robust and equitable than a connection-based mechanism, even when the needs of the fund grow substantially.³⁶

Among other benefits attributed to the numbers-based mechanism³⁷ are that

[a] numbers-based system, by contrast, will result in a more stable customer USF charge that will not vary as much or as frequently. It will stabilize the universal service fund by capturing all providers of voice services regardless of the technology. It will more equitably distribute the cost of universal service among customers and take into account the technologies that people actually use. And finally, it will eliminate the need to distinguish among different types of revenues, which is increasingly difficult as the industry evolves.³⁸

The primary source of the purported stability of the numbers-based mechanism proposed by AT&T and Verizon has little to do with the mechanism itself. Instead, it is the result

³⁴ *Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393, 449 (5th Cir. 1999).

³⁵ Highlights at 1 (emphasis added).

³⁶ CC Docket No. 96-45, et al., NASUCA Reply Comments on Staff Study (May 16, 2003) at 7-11. No party has, to NASUCA's knowledge, attempted to refute these findings.

³⁷ See also 06-122, NASUCA ex parte (September 25, 2007), a detailed rebuttal of the proposals for a numbers-based mechanism.

³⁸ Id. at 1-2.

of calculating the factor only every six months, rather than every quarter.³⁹ As noted above and shown in the attachment, the variability in the current mechanism is driven much more by the needs of the fund, rather than variations in the revenue base. The current mechanism could probably be rendered more stable with a semi-annual recalculation; similarly, a numbers-based mechanism would likely show substantial variation if calculated on a quarterly basis.

As for the numbers-based mechanism “capturing all providers of voice services regardless of the technology,” it is not clear which providers of voice services currently escape being assessed for the USF. And even under a numbers-based mechanism, services such as Skype will continue to avoid assessment.⁴⁰ The same holds true for “tak[ing] into account the technologies that people actually use.”

As far as “more equitably distributing the cost of universal service among customers” is concerned, the proposal shows nothing of the sort. The one thing the proposal **does** do is to eliminate the need to distinguish among different types of revenues. But the need to distinguish among different types of numbers is substituted.

The AT&T/Verizon proposal would exempt Lifeline customers from USF assessments.⁴¹ It would also exclude numbers used by carriers for administrative or operational functions.⁴² It would also exclude prepaid wireless numbers, which would be assessed on a per-minute-of-usage basis.⁴³ It would also assess wireless family share plan numbers at a reduced rate.⁴⁴

But there are plenty of other types of numbers out there that can make a case for special treatment.⁴⁵ As NASUCA previously stated, “Some of these requests for special

³⁹ See AT&T/Verizon 9/11/08 Contribution Mechanism Filing, Direct USF Contribution Methodology at 2.

⁴⁰ See 06-122, 96-45, Ionary Consulting ex parte (September 19, 2008) at [4].

⁴¹ See 9/11/08 Contribution Mechanism Filing, Direct USF Contribution Methodology at 3. As previously discussed by NASUCA, this also is not a feature inherent in the numbers-based mechanism and also could be applied under the current mechanism. Currently, Lifeline customers are exempt from USF assessment on their SLCs, pursuant to 47 C.F.R. § 69.158.

⁴² Id.

⁴³ Id.

⁴⁴ Id. at 4. It is not clear whether these numbers would eventually be subject to a full assessment after a “transition” period. The justification for a reduced assessment is apparently that “the shared allocation of monthly minutes means that family plan subscribers limit each other’s use of the network.” Highlights at 3. But that is driven more by the size of the family bucket of minutes than by anything else. It also is not clear why a shared plan of 800 minutes with four members should pay less than four individual plans of 200 minutes each.

⁴⁵ See 06-122, 05-337, 96-45, NASUCA ex parte (August 5, 2008) at 3-4 (listing some of the requests for special treatment); see also 06-122 NASUCA ex parte (September 25, 2007) at 6-8. See also 06-122, 96-45, Ionary Consulting ex parte (September 19, 2008) at [2, 3-4] (special treatment for Direct Inward Dialing (“DID”) numbers).

treatment may well be meritorious, but that merely emphasizes the uneven treatment that would be given to numbers, and the opportunities for arbitrage that would be created.”⁴⁶ Obviously, to the extent that some numbers are excused from assessment, or receive a reduced assessment, this merely increases the burden on the holders of other numbers.

The AT&T/Verizon proposal estimates that “the per-telephone number charge will be between \$1.00 and \$1.10 per number under this plan, but the exact charge will depend on how the FCC structures the new contribution system and how many numbers are exempted from the assessable base.”⁴⁷ Although the 9/11/08 Contribution Mechanism Filing lacked any detail on the calculations, some of that detail seems to have been provided by a subsequent filing.⁴⁸ Yet the numbers are still changing: In the 9/11/08 Contribution Mechanism Filing, it was estimated that, under a numbers-based mechanism, residential customers’ contributory share of the USF will decrease from what the proposal describes as the current 50% of the fund to 46%.⁴⁹ In the Data Review filing, AT&T and Verizon peg the consumer responsibility at 48%, purportedly declining to 42% with the wireless family plan adjustment.⁵⁰ Yet the consumer share calculation in the Data Review filing excludes the allocation to prepaid wireless service⁵¹; if that exclusion is reversed, the true consumer share is much closer to the share under the current mechanism. We would also note that the 2003 Staff Study showed that under the revenue-based mechanism, in 2007 residential customers would be paying 42% of the USF, which would have been 45% under a numbers-based mechanism.⁵²

But the overall class share masks the impact on individual users. There can be no doubt that a numbers-based mechanism shifts funding responsibility from high interstate users to those who use few interstate services. AT&T and Verizon note that under the current mechanism, a customer who makes no (interstate) long distance calls pays an assessment of \$0.74, based on an 11.4% assessment on a \$6.50 SLC.⁵³ Yet under the numbers-based proposal, that same customer will pay the full \$1.00-\$1.10 (or higher) projected by the proposal. The Data Review filing includes a table purporting to show benefits to a wide variety of customers, but it is clear even from that table that the highest users benefit the most.⁵⁴

⁴⁶ Id. at 4.

⁴⁷ Highlights at 2.

⁴⁸ 06-122, 96-45, AT&T/Verizon ex parte (September 23, 2008) (“Data Review”).

⁴⁹ Highlights at 2.

⁵⁰ Data Review, Tables 1 and 2.

⁵¹ Id., Table 2.

⁵² 96-45, et al., NASUCA Initial Comments on Staff Study on Contribution Mechanisms and Reply Comments on Contribution Mechanisms (April 18, 2003) at 4.

⁵³ Highlights at 3.

⁵⁴ Data Review, Table 4.

Fundamentally, it has not been shown that the switch to a numbers-based contribution mechanism is necessary. And it has not been shown that this change will benefit consumers, particularly if one considers the cost of switching to a new mechanism even with the limited exemptions and adjustments proposed in the AT&T/Verizon filings.⁵⁵

CONCLUSION

As demonstrated here and in many other pleadings, there is no justification for 1) moving to a uniform \$0.007 ICC rate; 2) allowing carriers to recoup lost ICC revenues through increased SLCs and the USF; or 3) moving to a numbers-based USF contribution mechanism. The FCC must reject the various proposals that would allow such unreasonable actions, particularly the proposals of the two largest carriers in the Nation.

Respectfully submitted,

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⁵⁵ NASUCA's September 25, 2007 ex parte in 06-122 provides an extensive review of the reasons against adopting a numbers-based mechanism.

NASUCA'S INITIAL COMMENTS IN RESPONSE TO THE
COMMISSION'S 2008 GLOBAL INTERCARRIER
COMPENSATION AND UNIVERSAL SERVICE FURTHER
NOTICE OF PROPOSED RULEMAKING ("FNPRM")
(FCC NO. 08-262)

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

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

**COMMENTS OF
THE NATIONAL ASSOCIATION OF STATE UTILITY CONSUMER ADVOCATES,
MAINE OFFICE OF PUBLIC ADVOCATE, MARYLAND OFFICE OF PEOPLES'
COUNSEL, THE UTILITY REFORM NETWORK, AND THE UTILITY CONSUMER
ACTION NETWORK
ON FURTHER NOTICE OF PROPOSED RULEMAKING**

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It does appear, however, that the concept embodied in the Comprehensive Reform Recommended Decision of separate broadband and mobility funds, focused on unserved areas, is a better way to address these issues than the approach proposed by the Chairman. That being said, on the identical support rule, NASUCA reiterates its longstanding position that CETC support should be capped at the level of support granted the incumbent. Otherwise, we will be subsidizing competition, which is unnecessary and illogical.

X. THE COMMISSION SHOULD NOT ADOPT A NUMBERS-BASED USF CONTRIBUTION MECHANISM FOR RESIDENTIAL CUSTOMERS.

The Chairman's Draft Proposal states, "The system of contributions to the universal service fund is broken."¹⁶² This claim has been made for years. It is no more true now than when first made. NASUCA has continually presented the data to the Commission to show that the current revenues-based mechanism is not in a "death spiral,"¹⁶³ and that the "patches" to the system adopted by the Commission¹⁶⁴ are actually necessary adjustments to reflect changes in technology and patterns of use. This data includes the recent indications that, *ceteris paribus*, the assessment factor for the first quarter of 2009 will be at its lowest point in years.¹⁶⁵ There is certainly no need for a massive overhaul such as proposed by the Chairman.¹⁶⁶ Notably, the Chairman's Draft Proposal does not even mention the costs of transitioning to the new mechanism, another issue consistently raised by NASUCA that has never been responded to by the industry.

The Alternative Proposal correctly points out that "Section 254(d) of the Act requires 'every carrier' that provides interstate telecommunications services to contribute to the universal service fund."¹⁶⁷ There are interexchange carriers that do not provide numbers. They will be exempt from a numbers-based mechanism.

The Chairman's Draft Proposal does present some new aspects that make the numbers-based mechanism actually more problematic than the proposals made by AT&T and Verizon.¹⁶⁸ First, the Chairman's Draft Proposal limits the numbers-based mechanism to residential customers, leaving non-residential customers with the current revenues-based mechanism (subject to future changes in another NPRM).¹⁶⁹ Even AT&T and Verizon opposed such a hybrid system.¹⁷⁰ This

¹⁶² Chairman's Draft Proposal, ¶ 97.

¹⁶³ Most recently in the NASUCA September 30, 2008 ex parte (at 7 and Attachment).

¹⁶⁴ Chairman's Proposed Decision, ¶ 97.

¹⁶⁵ Universal Service Administrative Company filing (October 31, 2008).

¹⁶⁶ In the Chairman's Proposed Decision, the assertion is made that all IP-to-PSTN traffic and all PSTN-to-IP traffic represents information services and is thus within the Commission's exclusive jurisdiction. One might think that this would mean that all such traffic is therefore assessable for the interstate universal service fund. But that is not exactly consistent with the FCC's argument in the Eight Circuit that Kansas was within its rights to assess VoIP traffic for its intrastate USF.

¹⁶⁷ Appendix B, ¶ 78.

¹⁶⁸ See AT&T/Verizon ex parte filing (September 11, 2008).

¹⁶⁹ Chairman's Draft Proposal, ¶ 92.

¹⁷⁰ 06-122, et al., AT&T/Verizon ex parte (October 20, 2008) at 1.

proposal ignores the fact that most of the issues alleged to be threatening the current mechanism are more, not less, prevalent on the business side than for residential service.

Second, the Chairman's Draft Proposal "set[s] the per-number [residential] assessment at the fixed rate of \$1.00 per month."¹⁷¹ Despite the claims that that number is supported in the record,¹⁷² the \$1 number is arbitrary, as opposed to the current revenue-based assessment figure, which is calculated by dividing the actual needs of the USF by the total assessable revenues, and applies equally to residential and to business customers.¹⁷³ And the value of a "simple and predictable" assessment for residential customers¹⁷⁴ is vastly overstated; it obviously depends more on the level of the assessment rather than on the fact that the assessment will not change quarter-to-quarter.

But the needs of the USF change quarter-to-quarter.¹⁷⁵ This means that a fixed residential assessment -- assuming a steady level of residential numbers -- makes the non-residential contribution a residual, subject to the vagaries of the overall needs of the fund. This would be true for a revenues-based legacy system, and would also be true for a connections-based non-residential system (unless that were also set at a fixed amount, which would leave changes in funding needs to be addressed in some unknown fashion).¹⁷⁶

Finally, we should note that one of the supposed benefits of a numbers-based mechanism -- that it will promote number conservation¹⁷⁷ -- is undercut by the proposed structure of the proposal. In the Chairman's Draft Proposal, the assessment would not be based on assigned numbers¹⁷⁸; it is instead based on a new, much more limited definition of "assessable numbers."¹⁷⁹ Area code exhaust is primarily driven by assigned numbers, not the subset assessed by the Chairman's Draft Proposal. This is particularly true for residential customers. Indeed, there does not appear to be any basis for assuming that residential number usage is a major cause of area code exhaustion.

That being said, we do appreciate that the Chairman's Draft Proposal has strictly limited the exemptions from number-based assessment, to Lifeline service¹⁸⁰ and free Community Voice Mail ("CVM").¹⁸¹ Lifeline customers should be exempt just as they are currently exempt from paying USF assessments on the SLC.¹⁸² NASUCA has supported exempting CVM¹⁸³; the

¹⁷¹ Chairman's Draft Proposal, ¶ 92.

¹⁷² Id., n.271.

¹⁷³ Similarly, the per-connection rates under the Narrow Proposal (Narrow Proposal, ¶ 81) are arbitrary.

¹⁷⁴ Id., ¶ 107.

¹⁷⁵ Even though the Chairman's Draft Proposal seeks to cap the high-cost portion of the USF (id., ¶ 14), the high-cost fund is only one of the four components of the USF.

¹⁷⁶ See Narrow Proposal, ¶ 82.

¹⁷⁷ Id., ¶ 111.

¹⁷⁸ Id.

¹⁷⁹ Id., ¶¶ 116-124.

¹⁸⁰ Id., ¶¶ 141.

¹⁸¹ Id., ¶ 142.

¹⁸² Clearly, under the current mechanism, Lifeline customers could also be made exempt from other USF assessments on their Lifeline-designated lines. Thus the exemption of Lifeline

(continued...)

Chairman's Draft Proposal accurately expresses the reasons for doing so.¹⁸⁴ Other of the claims for exemption may also have merit, but the more exemptions or discounts are granted, the more complicated the calculation for other customers grows.¹⁸⁵

XI. CONCLUSION

Given the many gaps in the Chairman's Draft Proposal, it is almost astounding that it was presented as something the Commission could vote on and might have approved, had it not been for the tremendous public outcry and the correct choices by the other Commissioners. At this point, however, summary rejection of all three of the proposals attached to the FNPRM would be appropriate. The only parts that could be adopted at this point are the proposals on phantom traffic and the identical support rule.

Respectfully submitted,

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customers from the numbers-based assessment cannot be seen as a unique benefit of the Chairman's Draft Proposal on USF assessments.

¹⁸³ See, e.g., 06-122 et al., NASUCA Comments to Refresh the Record (July 7, 2008), n.78.

¹⁸⁴ Chairman's Draft Proposal, ¶ 142.

¹⁸⁵ Apparently under the Chairman's Draft Proposal, the burden of picking up lost collections from exempted services would fall only on business customers.

NASUCA'S REPLY COMMENTS ON THE FNPRM.

**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
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ON FURTHER NOTICE OF PROPOSED RULEMAKING**

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December 22, 2008

CHART 2: USF ISSUES

ISSUE→	Broadband	Cap	Reverse auctions	Numbers-based mechanism	Other
COMMENTER↓					
AAPC				Not for paging carriers	
Ad Hoc			Support for all	“Pure” numbers-based (for all)	
Broadview, et al.				Pure numbers or pure revenues	
CA PUC	Penalty draconian	No		Not oppose; has questions ³¹	Target support
CBT				“Pure” numbers-based (for all)	
CenturyTel	No				Modify per ITTA; target support
COMPTEL				No connections-based?	No end to CETC support
Connected Nation	Make available to all low-income households; start with states with demand-stimulation				
CRUSIR				No	Oppose all three proposals
CTIA	Support for LL			Proposal B	Separate mobility fund; benchmark

³¹ Including whether wireless numbers are residential or business

ISSUE→	Broadband	Cap	Reverse auctions	Numbers-based mechanism	Other
COMMENTER↓					
ITTA		No			
NECA		No			End ID support; funding from broadband
NTCA	Include in US	No	No		End ID support; expand contrib. base
PUCO					Appendix B (w/ modifications)
Qwest		Yes		Hybrid	Address <i>Qwest II</i>
RTG		VZW phase-out will save \$400M; savings from Sprint, too	No		
Sprint		Yes ("right size" first)	No	Modify	
TW Telecom	No			Do not modify for business	
USA/RCA	Unfunded mandate	No	No	Pure connections-based	Respond to 10 th Cir; no CETC phase-out; no CETC cost study
USTelecom				Yes	Disaggregation
Vonage	Must offer stand-alone				

qualified ETC.¹¹⁷ Although NASUCA supports a pilot phase, NASUCA agrees with the MA DTC that the ultimate result should be a Lifeline and Link-Up program which allows each low-income household the maximum flexibility and choice in the purchase of telephone and broadband service with USF support, either as stand-alone services or bundles.

NASUCA urges the Commission to redesign the Lifeline and Link-Up Broadband Pilot and put the matter out for further comment.

V. THE COMMISSION SHOULD NOT ADOPT A NUMBERS-BASED USF CONTRIBUTION MECHANISM

In a November 21, 2008 ex parte, AT&T and Verizon assert that there is “almost complete unanimity within the industry that the Commission should move universal service contributions to a numbers-based methodology.”¹¹⁸ As Chart 2 above shows, the unanimity is far from complete.

The AT&T/Verizon position is based, once again, on a proposition that gains no more credibility through repetition. They say that

[t]he failings of the existing contribution methodology should be so well known as to make their recitation unnecessary. The Commission’s existing revenues-based contribution methodology is simply inadequate to the task of supporting universal service, whether of the 20th or 21st century. For years, providers have warned the Commission about the ever increasing problems with identifying interstate end-user telecommunications service revenues and have cautioned that a revenues-based methodology is unsustainable.¹¹⁹

¹¹⁷ NASUCA Comments at 55-61.

¹¹⁸ 06-122 AT&T/Verizon ex parte (November 21, 2008) at 1.

¹¹⁹ Id.

Never once have the proponents of a numbers-based mechanism backed up these claims with facts.

First there were the claims of a death spiral. But that didn't happen. And then there were wailings and lamentations when the revenue-based mechanism contribution factor increased (because of increased demand on the fund).¹²¹ But that has moderated, because of the "patches" the Commission has applied -- although as previously noted by NASUCA, the "patches" were appropriate adjustments based on changes in the industry.¹²² And there are other things the Commission could do -- such as assessing broadband service to fund broadband deployment.¹²³

There is simply nothing in this record -- other than conclusory statements like AT&T's/Verizon's -- to show that the numbers-based mechanism is not sustainable.¹²⁴ No facts, no data, no demonstration at all. None.¹²⁵ As ATSI asserts,

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. As an initial matter, ATSI points out that the foundational claim in the Attachments, that the current contribution system is "broken," is at best result-oriented rhetoric rather than reasoned analysis. The decline in

¹²¹ See ATSI Comments at 9 (emphasis in original) ("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.")

¹²² NASUCA Comments at 64; see also ATSI Comments at 10 ("ATSI 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 exaggeration.")

¹²³ See 05-337/96-45 NASUCA Comments on Recommended Decision (April 17, 2008) at 19-20.

¹²⁴ ATSI provides a detailed review of the history of the proposals for a numbers-based mechanism. ATSI Comments at 2-4.

¹²⁵ PAETEC asserts that the current mechanism requires each of its three operating entities to expend 20 hours each quarter completing Form 499-A. CityNet, et al. Comments at 24. This says nothing about how much of this time is devoted to resolving jurisdictional issues and how much to providing other necessary information.

assessable revenues from \$79.0 billion in 2000 to \$74.5 billion in 2006, cited and relied upon in the Attachments, 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 needed 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.¹²⁶

Indeed, as RTG notes,

the FCC’s decision to phase out high cost support to Verizon Wireless will eventually save the universal service fund (“USF”) approximately \$400 million per year, easing pressure on USF. Further, the FCC’s determination in the Sprint/Clearwire merger to require Sprint to phase out high cost support, or demonstrate its own costs if it desires high cost support, also reduces the size of USF and eliminates any rationale for an immediate USF “fix.”¹²⁷

If the revenues-based mechanism were to be replaced, what would replace it? As Chart 2 shows, there is no unanimity or consensus on that score.¹²⁸ The Chairman’s Draft Proposal was for a hybrid system (numbers-based for residential customers, revenues moving to connections for business); the Narrow Proposal would immediately use numbers and connections for business.¹²⁹ But each of these has significant opposition (indeed, even AT&T would modify the Narrow Proposal¹³⁰). For example, COMPTTEL asserts that a connections-based system “would have a grossly disproportionate impact on smaller business customers.”¹³¹

¹²⁶ ATSI Comments at 8 (footnote omitted).

¹²⁷ RTG Comments at 3-4; see also Corr Comments at 5-6.

¹²⁸ The NE PSC raises the important question of the impact of any Commission decision changing the contribution mechanism on state USF contribution mechanisms. NE PSC Comments at 17.

¹²⁹ See AdHoc Comments at iii (unfairness of assessing businesses for both numbers and connections, compared to residential customers being assessed only on numbers).

¹³⁰ AT&T Comments at 46-51.

¹³¹ COMPTTEL Comments at 24-28; see also Hughes/Inmarsat Comments at 13-14 (connections-based proposal “would have a punitive effect on satellite broadband providers”); Megapath Comments.

It is important to note that a “hybrid” system -- combining revenues and numbers -- has problems all its own.¹³² As AT&T states, the approach in the Chairman’s Draft Proposal “would be problematic because there is often and increasingly no workable distinction between ‘residential’ and ‘business’ telephone numbers, and the proposal would thus be nearly impossible to implement.”¹³³ Broadview Networks, et al. and CA PUC both note that the concept of “residential” and “business” subscribers is foreign to the wireless paradigm.¹³⁴ A hybrid mechanism would thus be **more** difficult to administer.¹³⁵

Some argue for a “pure” numbers-based mechanism applied to all.¹³⁶ But the record shows the harms that could result from such an approach: to hospitals, universities and government agencies,¹³⁷ to automotive safety communications providers,¹³⁸ to paging carriers and their clients,¹³⁹ to DID users,¹⁴⁰ and to low-use residential customers.¹⁴¹ Most of the explanations of the harms that would result make sense. Indeed, the Chairman’s Draft Proposal would exempt Lifeline customers and free Community Voice Mail from numbers-based assessment.¹⁴² But the

¹³² See Alpheus/Covad Comments at 3-4; Integra Comments at 24-25.

¹³³ AT&T Comments at 7; see also Global Crossing Comments at 12; VON, et al. Comments at 16.

¹³⁴ Broadview Networks, et al. Comments at 56; CA PUC Comments at 13; see also CBT Comments at 20.

¹³⁵ Broadview Networks Comments at 48-49. IDT points out the problems with the Commission classifying prepaid calling cards -- that are mostly used by residential customers -- as business services. See generally, IDT Comments.

¹³⁶ For example, CTIA supports a “pure numbers- and connections-based contribution methodology,” but still wants special provisions for prepaid wireless and wireless family plans. CTIA Comments at ii; see also T-Mobile Comments at 15-16; Centennial Comments at 5. Purity, like beauty, is in the eye of the beholder. And Sprint Nextel wants an exemption for telephone numbers used to provide wireless Internet access service. Sprint Nextel Comments at 40.

¹³⁷ Integra Comments at 25.

¹³⁸ ATX Comments; Toyota Comments.

¹³⁹ AAPC Comments; ATSI Comments; USA Mobility Comments. See also 06-122, USA Mobility ex parte (October 24, 2008) (attaching letters from hospitals and other customers on harms from numbers-based mechanism).

¹⁴⁰ CRUSIR Comments at 12-14.

¹⁴¹ NTCH Comments at 2-4.

¹⁴² Chairman’s Draft Proposal, ¶¶ 141-142.

more exemptions or adjustments made, the more complicated the system becomes.¹⁴³ And Broadview Networks, et al. demonstrate some of the complexity involved in a “simple” numbers-based mechanism.¹⁴⁴

Global Crossing says that “[i]f the Commission believes that it cannot, consistent with Section 254 of the Act, 47 U.S.C. § 254, mandate contributions based solely on telephone numbers, then Global Crossing urges the Commission nevertheless to ... adopt a connections-based system....”¹⁴⁵ If the Commission lacks the authority to adopt a numbers-based mechanism, nothing in the Act would grant authority for a connections-based mechanism. The Narrow Proposal does not cite any authority not cited in the Chairman’s Draft Proposal.¹⁴⁶

NASUCA has definitively shown that the claimed benefits for consumers of a numbers-based mechanism are illusory.¹⁴⁷ Even the Chairman’s Draft Proposal supposedly benefits residential consumers only because it artificially locks in a fixed monthly amount, while leaving business customers as the residual source for funding.¹⁴⁸ As CRUSIR states, the numbers-based mechanisms

shift the burden from a properly neutral percentage-of-revenue basis onto one that divorces fees from both cost and value, which would likely put some competitive service providers out of business while benefiting the very largest incumbents. Neither numbers nor connections should be subject to fixed fees; the percentage-

¹⁴³ CBT proposes a lower USF assessment for prepaid wireless customers. CBT Comments at 22. Leap discusses its prepaid service that would not fit into the model discussed in the Chairman’s Draft Proposal (¶ 137). Leap Comments at 4-7. USA Mobility proposes for paging services either revenue-based assessments or a “carve-out” similar to that proposed for prepaid wireless. USA Mobility Comments at 11-12.

¹⁴⁴ Broadview Networks, et al. Comments at 54-55.

¹⁴⁵ Global Crossing Comments at 13.

¹⁴⁶ Compare Chairman’s Draft Proposal, ¶¶ 98-105 to Narrow Proposal, ¶¶ 45-51.

¹⁴⁷ 06-122, NASUCA ex parte (September 25, 2007) at 8-10 and Attachment 3. See Alpheus/Covad Comments at 2-3 for a brief discussion of the supposed benefits of a numbers-based mechanism.

¹⁴⁸ See, e.g., AdHoc Comments at ii.

based USF fee structure should be left intact.¹⁴⁹

In sum, as NTCA asserts,

The [numbers-based] proposal is backward looking, and by basing USF contributions on legacy telephone numbers while exempting broadband, future USF contributions will be limited. On the other hand a revenues-based assessment methodology is technologically neutral, and will not be overly influenced by the ongoing migration to IP technologies.¹⁵⁰

In the end, it is simply not credible to claim, as AT&T/Verizon do, that the adoption of a numbers-based mechanism

is just as critical to the nation's broadband future as the other reforms under discussion because the universal service fund (USF) cannot be used to promote broadband deployment as envisioned in the draft orders unless it is supported by a stable, sustainable, and technology-neutral contribution methodology.¹⁵¹

Apart from the fact that the promotion of broadband deployment in the "draft order" is inadequate and wrong-headed, it should be clear that a numbers-based, connections-based, or hybrid, methodology is no more stable, sustainable, or technology-neutral than the current revenues-based methodology.

VI. CONCLUSION

Rather than attempt the huge restructuring that is contained in the Chairman's Draft Proposal -- which regardless of intentions does not address nearly all the key issues -- the Commission should take a piecemeal approach, and address those items clearly within FCC jurisdiction. This would include first addressing the related issues of phantom traffic¹⁵² and

¹⁴⁹ CRUSIR Comments on USF at 2. NetworkIP supports a numbers-based mechanism for many express reasons, but does not disclose that its responsibility to fund the USF will be minimized or eliminated under such a system, because it does not use numbers. See NetworkIP Comments at 2.

¹⁵⁰ NTCA Comments at 28.

¹⁵¹ 06-122 AT&T/Verizon ex parte (November 21, 2008) at 1.

¹⁵² Broadview Networks, et al. Comments at 2; WI PSC Comments at 2-3.