

“interstate . . . communication by wire or radio.”¹³⁰ And similar to our explanation in the *2006 Interim Contribution Methodology Order*, requiring contributions from providers who take advantage of PSTN connectivity whether directly or indirectly makes sense because their end users benefit from the ubiquity of that network and from being somehow interconnected with it.¹³¹ Finally, our plenary authority over numbering supports our actions here with regard to a numbers-based methodology. The purpose of a uniform system of numbering is to facilitate communication on interconnected networks based on a standardized system of identifiers—telephone numbers. Those customers who are assigned telephone numbers, whether for plain old telephone service (POTS) or for any other service, are using the number to take advantage of some feature of the PSTN, whether it is the capability to be called, to have their locations automatically relayed to emergency call handlers, to be faxed from anywhere, or for some other reason. Because customers are receiving this benefit, it is appropriate that their service providers (and ultimately, likely, the customers themselves) contribute to the ubiquity and support of the network from which they are benefiting.

51. We reject suggestions that we do not have authority to require contributions based on numbers or connections because we lack authority over intrastate services.¹³² The same number typically is used for both interstate and intrastate services. The Commission and courts have rejected the assertion that simply because a single facility has the capacity to provide both interstate and intrastate services, the Commission lacks authority to regulate any aspect of the facility.¹³³ In fact, the subscriber line charge (SLC) that the Commission established is intended to capture the interstate cost of the local loop.¹³⁴ The contribution methodologies we adopt are thus limited to assessments on services that can provide interstate service. We will only require providers to contribute to universal service based on the number of Assessable Numbers that are capable of originating or terminating interstate or international communications.¹³⁵

2. The New Numbers-Based Assessment Methodology

52. As discussed above, we adopt a new contribution methodology based on assessing telephone numbers, rather than interstate and international services revenue. We find that this change will benefit contributors and end users by simplifying the contribution process and providing predictability as to the amount of universal service contributions and pass-through charges for end users. We set the contribution amount per telephone number initially at \$0.85 per number per month.

a. Benefits of a Numbers-Based Contribution Methodology

53. We find that adoption of a telephone number-based methodology, in conjunction with the

¹³⁰ 47 U.S.C. § 152(a); *see also VoIP 911 Order*, 20 FCC Rcd 10261–62, para. 28 (providing detailed explanation of why interconnected VoIP falls within the Commission’s subject matter jurisdiction).

¹³¹ *Compare 2006 Interim Contribution Methodology Order*, 21 FCC Rcd at 7540, para. 43.

¹³² *See, e.g., American Association of Paging Carriers (AAPC) Contribution First FNPRM Comments at 7; Alaska Communication Systems (ACS) Contribution First FNPRM Reply at 6–7; Allied Personal Communications Industry Association of California (Allied) Contribution First FNPRM Comments at 6–7; National ALEC Association/Prepaid Communications Association (NALA/PCA) Contribution First FNPRM Reply at 3.*

¹³³ *See, e.g., NARUC v. FCC*, 737 F.2d 1095, 1113 (D.C. Cir. 1984) (“The same loop that connects a telephone subscriber to the local exchange necessarily connects that subscriber into the interstate network as well.”).

¹³⁴ *NARUC v. FCC*, 737 F.2d at 1113–14.

¹³⁵ Services that provide only intrastate communications and do not traverse a public interstate network will not be required to contribute under the new assessment methodology. *See supra* para. 63.

business access connections contributions explained below, will help preserve and advance universal service by ensuring a specific, predictable, and sufficient funding source, consistent with the universal service principles of section 254(b) of the Act.¹³⁶ Changes in technology and services have made the revenue-based contribution mechanism difficult to administer. As commenters have noted, the distinction between intrastate and interstate revenues is blurring as providers move from their traditional roles as pure LECs or interexchange carriers (IXCs) to businesses that offer consumers the choice of purchasing their telecommunications needs from a single source.¹³⁷ Additionally, these providers are offering consumers greater flexibility, such as bundling of local and long distance service at a flat rate.¹³⁸ Moreover, technologies such as wireless and interconnected VoIP have emerged that provide voice and data services that know no jurisdictional boundaries.¹³⁹ Consumers benefit from the opportunity to obtain bundled services, and the universal service contribution mechanism should reflect and complement those marketplace and technological developments as much as possible. Our decision to use numbers as a basis for assessing contributions will enhance the specificity and predictability of entities' contributions.

54. Our adoption of a numbers-based contribution methodology will benefit both consumers and contributors by simplifying the basis for assessments at an amount per month per telephone number.¹⁴⁰ Contributors are allowed, and in most cases do, recover their universal service contribution costs from fees assessed on their end-user customers.¹⁴¹ Under the revenue-based contribution mechanism, providers' revenues fluctuated from quarter to quarter, causing consumers' universal service fees to fluctuate not only to meet fund demands, but also based on the fluctuation of a provider's revenues as well. A simple per-number contribution assessment is simple and predictable for both contributors and for consumers. To the extent a contributor elects to recover its contribution costs through end-user fees, its customers will pay one assessment on each telephone number each month, making the assessment simple and predictable.¹⁴²

55. A numbers-based contribution methodology also benefits end users because it is technologically and competitively neutral. A consumer will pay the same universal service charge regardless of whether the consumer receives residential service from a cable provider, an interconnected

¹³⁶ 47 U.S.C. § 254(b)(5).

¹³⁷ See AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 2 at 1.

¹³⁸ See AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 2 at 1; see also Letter from James S. Blaszak, Counsel for Ad Hoc Telecommunications Users Committee, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-122, at 5 (filed Nov. 19, 2007) (Ad Hoc Nov. 19, 2007 *Ex Parte* Letter) (discussing the convergence of different applications for business and residential customers onto a single integrated network with bundled pricing).

¹³⁹ See *Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission*, 19 FCC Rcd 22404, 22412-14, paras. 16-18 (2004) (*Vonage Order*), *aff'd sub nom. Minnesota Pub. Utils. Comm'n v. FCC*, 483 F.3d 570 (8th Cir. 2007).

¹⁴⁰ See, e.g., AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 2 at 2.

¹⁴¹ Contributors are prohibited from passing through to subscribers more than their contribution cost. 47 C.F.R. § 54.712.

¹⁴² See AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 2 at 2; see also Information Technology Industry Council (ITI) 2006 *Contribution FNPRM* Comments at 6; NCTA 2006 *Contribution FNPRM* Comments at 5; Small Business Administration Office of Advocacy (SBA) 2006 *Contribution FNPRM* Comments at 8; *Vonage 2006 Contribution FNPRM* Comments at 7-8; Letter from Gregory V. Haledjian, Regulatory and Governmental Relations, Counsel to IDT Corporation and USF By the Numbers Coalition, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-122, Attach. at 3-4 (filed Jan. 30, 2007).

VoIP provider, a wireless provider, or a wireline provider. This will enable residential consumers to choose the providers and provider types they want without regard to any artificial distortions that would otherwise be caused by differing contribution charges.¹⁴³ In a marketplace characterized by increased competition within and between different technology platforms, residential consumers will receive the same universal service charge regardless of the type of service the customer chooses.

56. Similarly, by subjecting contributors to the same regulatory framework for assessments regardless of technology, the numbers-based methodology will eliminate incentives under the current revenue-based system for providers to migrate to services and technologies that are either exempt from contribution obligations or are subject to safe harbors.¹⁴⁴ The elimination of such incentives will result in a more competitively and technologically neutral marketplace and a more predictable source of funding for the universal service mechanisms.

57. The adoption of a per number per month contribution assessment is specific and predictable and will simplify the administration of universal service contributions. Interstate end-user telecommunications revenues have become increasingly difficult to identify, particularly for residential services, due to increased bundling of local and long distance service and the growth of consumer interconnected VoIP offerings.¹⁴⁵ In contrast, telephone numbers provide an easily identifiable basis for contribution.¹⁴⁶ The amount of NANP telephone numbers in use has shown steady, stable growth, providing a fairly constant basis for estimating universal service support amounts.¹⁴⁷ The new methodology will be easier to administer, facilitating greater regulatory compliance. A numbers-based contribution methodology will also be readily applicable to emerging service offerings. The new methodology minimizes the potential for providers to avoid contributions by bundling intrastate revenues with interstate revenues or engaging in other bypass activities.¹⁴⁸

58. Further, assessing universal service contributions based on telephone numbers will promote number conservation.¹⁴⁹ Telephone numbers are a finite, public resource. If contributors are assessed based on the telephone numbers they have assigned to end users, they will have an incentive to efficiently manage their numbering resources in a manner that minimizes their costs. We expect that this

¹⁴³ See, e.g., NCTA 2006 Contribution FNPRM Comments at 5; Vonage 2006 Contribution FNPRM Comments at 6; Letter from Grace E. Koh, Policy Counsel, Cox Enterprises, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 06-122, 05-337, 01-92, CC Docket Nos. 96-45, 99-68, 96-262 at 2 (filed July 15, 2008).

¹⁴⁴ See AT&T 2006 Contribution FNPRM Comments at 4.

¹⁴⁵ See 2007 UNIVERSAL SERVICE MONITORING REPORT at tbl. 1.1.

¹⁴⁶ See AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 2 at 1; see also ALEXANDER BELINFANTE, FCC, TELEPHONE SUBSCRIBERSHIP IN THE UNITED STATES, tbl. 1 (2008), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-284923A1.pdf.

¹⁴⁷ See CRAIG STROUP AND JOHN VU, FCC, NUMBERING RESOURCE UTILIZATION IN THE UNITED STATES, tbl. 12 (2008) (showing number utilization from December 2000 to December 2007), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-284926A1.pdf.

¹⁴⁸ See Ad Hoc Contribution First FNPRM Comments at 6-7; Coalition for Sustainable Universal Service (CoSUS) Contribution First FNPRM Comments at 38; Sprint Contribution First FNPRM Comments at 8-9. Because numbers-based contribution assessments will no longer be assessed based on revenues, contributors may not mark-up or otherwise adjust the Assessable Number per month residential contribution assessment in response to uncollectible revenues.

¹⁴⁹ See, e.g., ITI 2006 Contribution FNPRM Comments at 6; Vonage 2006 Contribution FNPRM Comments at 7.

will result in the need for fewer area code splits or overlays due to number exhaust.¹⁵⁰

59. Our adoption of a numbers-based contribution methodology is consistent with the goal of ensuring just, reasonable, and affordable rates.¹⁵¹ The initial per-number assessment of \$0.85 per number per month will represent a reduction in pass-through charges for many residential customers.¹⁵² Although an \$0.85 per number per month assessment may represent an increase in universal service charges for residential customers that make few or no long distance calls, this increase should be slight. Under the current revenue-based contribution mechanism, providers may assess a federal universal service fee on the basis of the customer's SLC. The residential SLC may be as high as \$6.50 per month.¹⁵³ Based on the most recent contribution factor of 11.4 percent, even a customer who made no long distance calls could thus be assessed \$0.74 per month in universal service charges under the existing revenue-based methodology.¹⁵⁴ Thus, the potential increase for a customer who makes no long distance calls could be as little as \$0.11 per month. In addition, we have separate protections to ensure that telephone service remains affordable for low-income subscribers.¹⁵⁵

60. Some commenters assert that assessing a per-number universal service charge is inherently unfair because it does not take into account the fact that some people make many interstate and international calls, while others make few if any such calls in a given month.¹⁵⁶ We disagree. We find that imposition of a flat charge per number is warranted because all contributors and their subscribers receive a benefit from being connected to the public network, enabling them to make and receive interstate calls.¹⁵⁷ The ability to make or receive interstate calls over a public network is a significant benefit and it is reasonable to assess universal service contributions for customers based on access to the

¹⁵⁰ See *Numbering Resource Optimization*, CC Docket No. 99-200, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7625, para. 122 (2000) (*NRO I Order*) (determining that implementation of thousands-block number pooling is essential to extending the life of the NANP by making the assignment and use of NXX codes more efficient); see also *Numbering Resource Optimization*, CC Docket Nos. 99-200, 96-98, 95-116, Fourth Report and Order, 18 FCC Rcd 12472, 12474, para. 5 (2003) (*NRO IV Order*) (explaining further that thousands-block number pooling is a numbering resource optimization measure in which 10,000 numbers in an NXX are divided into ten sequential blocks of 1,000 numbers and allocated to different service providers (or different switches) within a rate center).

¹⁵¹ 47 U.S.C. § 254(b)(1).

¹⁵² See Letter from Jean L. Kiddoo and Tamar E. Finn, Counsel to IDT Telecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-122, at 5 (filed Aug. 2, 2007) (IDT Aug. 2, 2007 *Ex Parte* Letter) (showing that the average residential household paid about \$1.37 in universal service fees in 2006). IDT claims the data show that the lowest-income consumers paid an average of \$1.09 in universal service fees for wireline telephone bills. *Id.* at 6.

¹⁵³ 47 C.F.R. §§ 69.104(n)(1), 69.152(d)(1). The SLC is referred to as the End User Common Line Charge in the Commission's rules.

¹⁵⁴ The revenue from the \$6.50 SLC would be multiplied by the 11.4% contribution factor, resulting in a contribution amount and corresponding assessment of \$0.74. See *Fourth Quarter 2008 Contribution Factor Public Notice* at 1; AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 2 at 3.

¹⁵⁵ See 47 C.F.R. § 54.400 *et seq.*; *infra* para. 90 (describing contribution exemptions for services to low-income consumers).

¹⁵⁶ See, e.g., Letter from Maureen A. Thompson, Executive Director, Keep USF Fair Coalition, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, Attach. at 5-7 (filed Mar. 27, 2006) (Keep USF Fair Mar. 27, 2006 *Ex Parte* Letter); see also NASUCA Sept. 30, 2008 *Ex Parte* Letter at 9.

¹⁵⁷ *Universal Service First Report and Order*, 12 FCC Rcd at 8783, para. 8.

network. Customers who do not make any interstate calls still receive the benefit of accessing the network to receive interstate calls. The per month per number assessment reflects our finding that it is equitable for providers to contribute a fixed amount based on the ability to access and utilize a ubiquitous public network.

61. Some commenters allege that changing from the current revenue-based methodology to a new mechanism based on telephone numbers would not be equitable because it could reduce contributions from certain industry segments and increase them for others.¹⁵⁸ Although the change to a numbers-based contribution methodology will result in changes in the relative contribution obligations of industry segments, the new contribution methodology is not inequitable or discriminatory. The evolving nature of the telecommunications marketplace and of its participants requires the Commission periodically to review and revise the contribution methodology to ensure that providers continue to be assessed on an equitable and non-discriminatory basis. We find that, given the difficulties in continuing to assess contributions entirely on a revenue-based methodology and the benefit to consumers of access to the public network, it is equitable to adopt a numbers-based contribution methodology that assesses \$0.85 per month per number.

b. Assessable Numbers

62. Below, we describe the telephone numbers for which service providers are obligated to contribute to the universal service fund. We call these Assessable Numbers. The Commission has addressed certain reporting based on telephone numbers in other contexts. In the number utilization context, the Commission requires that each telecommunications carrier that receives numbering resources from the North American Numbering Plan Administrator (NANPA), the Pooling Administrator, or another telecommunications carrier report its numbering resources in each of six defined categories of numbers set forth in section 52.15(f) of our rules.¹⁵⁹ In the

¹⁵⁸ See, e.g., *FW&A Contribution First FNPRM* Comments at 13–15; *NRTA and OPASTCO Contribution First FNPRM* Comments at 7–11; *SBC Contribution First FNPRM* Comments at 18; *Verizon Contribution First FNPRM Reply* at 6; *Verizon Wireless Contribution First FNPRM* Comments at 5–6.

¹⁵⁹ These six categories of numbers are defined as follows:

- (i) Administrative numbers are numbers used by telecommunications carriers to perform internal administrative or operational functions necessary to maintain reasonable quality of service standards.
- (ii) Aging numbers are disconnected numbers that are not available for assignment to another end user or customer for a specified period of time. Numbers previously assigned to residential customers may be aged for no more than 90 days. Numbers previously assigned to business customers may be aged for no more than 365 days.
- (iii) Assigned numbers are numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working but having a customer service order pending. Numbers that are not yet working and have a service order pending for more than five days shall not be classified as assigned numbers.
- (iv) Available numbers are numbers that are available for assignment to subscriber access lines, or their equivalents, within a switching entity or point of interconnection and are not classified as assigned, intermediate, administrative, aging, or reserved.
- (v) Intermediate numbers are numbers that are made available for use by another telecommunications carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer. Numbers ported for the purpose of transferring an established customer's service to another service provider shall not be classified as intermediate numbers.

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regulatory fee context, the Commission used the category of “assigned numbers” as the starting point for determining how to assess fees on certain providers, but found it necessary to modify that definition to account for the different regulatory contexts. Specifically, in assessing regulatory fees for commercial mobile radio service (CMRS) providers that report number utilization to NANPA based on the reported assigned number count in their Numbering Resource Utilization and Forecast (NRUF) data, the Commission requires these providers to adjust their assigned number count to account for number porting. The Commission found that adjusting the NRUF data to account for porting was necessary for the data to be sufficiently accurate and reliable for purposes of regulatory fee assessment.¹⁶⁰

63. We adopt a new term based on the category of assigned numbers to represent the numbers being assessed for universal service contribution purposes—“Assessable Numbers.” The definition of Assessable Numbers that we adopt focuses on those numbers that are actually in use by end users for services that traverse a public interstate network. Specifically, we define an Assessable Number as a NANP telephone number or functional equivalent identifier¹⁶¹ in a public or private network that is in use by an end user and that enables the end user to receive communications from or terminate communications to (1) an interstate public telecommunications network or (2) a network that traverses (in any manner) an interstate public telecommunications network.¹⁶² Assessable Numbers include geographic as well as non-geographic telephone numbers (such as toll-free numbers and 500-NXX numbers) so long as they meet the other criteria described in this part for Assessable Numbers.

64. The provider with the retail relationship to the end user is the entity responsible for contributing.¹⁶³ We impose the contribution obligation on the provider with the retail relationship to the end user for several reasons. First, this provider will have the most accurate and up-to-date information about how many Assessable Numbers it currently has assigned to end users. Also, this provider, and its users, are benefiting from a supported PSTN, and thus it is sound policy to require them to contribute to

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(vi) Reserved numbers are numbers that are held by service providers at the request of specific end users or customers for their future use. Numbers held for specific end users or customers for more than 180 days shall not be classified as reserved numbers.

47 C.F.R. § 52.15(f)

¹⁶⁰ See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005, Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, MD Dockets No. 05-59, 04-73, Report and Order and Order on Reconsideration, 20 FCC Rcd 12259, 12271, paras. 39–40 (2005).

¹⁶¹ “Functional equivalent identifier” means an identifier used in place of and with the same PSTN access capability as a NANP number; it is not intended to capture identifiers used in conjunction with NANP numbers, such as internal extensions that cannot be directly dialed from the PSTN. Nor is “functional equivalent identifier” intended to capture routing identifiers used for routing of Internet traffic, unless such identifiers are used in place of a NANP number to provide the ability to make or receive calls on the PSTN.

¹⁶² For purposes of the definition of Assessable Numbers, we include only the NANP telephone numbers used in the United States and its Territories and possessions.

¹⁶³ See *Universal Service First Report and Order*, 12 FCC Rcd at 9206, para. 844; see also, e.g., Letter from Melissa E. Newman, Vice President-Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-122, at 7 (filed Sept. 24, 2008) (Qwest Sept. 24, 2008 *Ex Parte* Letter); AT&T and Verizon Sept. 11, 2008, *Ex Parte* Letter, Attach. 1 at 1–2; Letter from Brad E. Mutschelknaus, Counsel for XO Communications, to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 96-45, 01-92, WC Docket No. 04-36, Attach. at 9 (filed Oct. 3, 2008); Letter from Donna N. Lampert, Counsel for Google, to Marlene H. Dortch, Secretary, FCC (filed Oct. 3, 2008) (Google Oct. 3, 2008 *Ex Parte* Letter); see also 47 C.F.R. § 54.5 (defining “contributor” as “an entity required to contribute to the universal service support mechanism pursuant to § 54.706 [of the Commission’s rules]”).

its support.¹⁶⁴ We note that today, providers are permitted to pass through their contribution assessments to end users, and we understand that they typically do so.¹⁶⁵ Under the new methodologies, they may continue to do so, subject to the same requirement that they will not pass through more than their contribution amount.¹⁶⁶

65. We also continue to define an “end user” for universal service contribution purposes as any purchaser of interstate services that is not itself a direct contributor to universal service.¹⁶⁷ For example, under this definition, a reseller that offers local exchange service to an end user would be assessed for that telephone number, not the incumbent LEC whose service is being resold.¹⁶⁸ We recognize that, in some situations, the entity with the direct relationship with the ultimate end user may not be an entity over which the Commission has exercised its mandatory or permissive authority under section 254(d). In such situations, we will treat that entity as the end user and its underlying carrier or telecommunications provider as the contributor. This approach ensures that each Assessable Number will be assessed its appropriate universal service contribution, while also ensuring that the Commission does not exceed its authority under section 254(d).¹⁶⁹

66. Next, we specify whether certain types of numbers are included in the definition of Assessable Numbers. First, numbers used for intermittent or cyclical purposes are included in the definition of Assessable Numbers. Numbers used for cyclical purposes are numbers designated for use that are typically “working” or in use by the end user for regular intervals of time. These numbers include, for example, an end user’s summer home telephone number that is in service for six months out of the year.¹⁷⁰ In the *NRO III Order*, the Commission clarified that these types of numbers should generally be categorized as “assigned” numbers if they meet certain thresholds and that, if they do not meet these thresholds, they “must be made available for use by other customers” (i.e., they are “available” numbers).¹⁷¹ Because these numbers are assigned to end users, we find they should be included in the

¹⁶⁴ See *supra* para. 50 (discussing the public interest in requiring these entities to support the network).

¹⁶⁵ See e.g., AT&T and Verizon Sept. 23, 2008 *Ex Parte* Letter, Attach. 2 at 2; see also *Second Wireless Safe Harbor Order*, 17 FCC Rcd at 24978, para. 50.

¹⁶⁶ 47 C.F.R. § 54.712.

¹⁶⁷ See *Universal Service First Report and Order*, 12 FCC Rcd at 9206-07, para. 843-44; 9179-80, para. 788; see also Google Oct. 3, 2008 *Ex Parte* Letter at 1.

¹⁶⁸ *Universal Service First Report and Order*, 12 FCC Rcd at 9206-07, paras. 843-45. For universal service contribution purposes, a “reseller” is a telecommunications carrier or telecommunications provider that incorporates purchased telecommunications services into its own telecommunications offerings. See FCC, INSTRUCTIONS TO THE TELECOMMUNICATIONS REPORTING WORKSHEET, FCC Form 499-A, at 11, 15 (Feb. 2008) (FCC Form 499-A Instructions), available at <http://www.fcc.gov/Forms/Form499-A/499a-2008.pdf>.

¹⁶⁹ See 47 U.S.C. § 254(d).

¹⁷⁰ See *Numbering Resource Optimization*, CC Docket Nos. 99-200, 96-98, 95-116, Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200, 17 FCC Rcd 252, 303, para. 119 (2001) (*NRO III Order*).

¹⁷¹ *NRO III Order*, 17 FCC Rcd at 304, para. 122 (“With this requirement, we seek to limit the amount of numbers that are set aside for use by a particular customer, but are not being used to provide service on a regular basis. Thus, in order to categorize such blocks of numbers as assigned numbers, carriers may have to decrease the amount [of] numbers set aside for a particular customer. We also clarify that numbers ‘working’ periodically for regular intervals of time, such as numbers assigned to summer homes or student residences, may be categorized as assigned numbers, to the extent that they are ‘working’ for a minimum of 90 days during each calendar year in which they are

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definition of Assessable Numbers we adopt today.

67. We exclude from our definition of Assessable Numbers those telephone numbers that satisfy the section 52.15 definition of “assigned numbers” solely because the “numbers [are] not yet working but hav[e] a customer service order pending” for five days or less.¹⁷² Providers generally do not bill for services that have yet to be provisioned and therefore are not compensated for services during the pendency of the service order. Moreover, such numbers are not yet operational to send or receive calls. Thus, under the existing contribution methodology, providers would not contribute for services they are about to provide (but have not yet provided) under a pending service order. We continue to find it appropriate for contributors not to be required to contribute to the universal service fund for pending service orders.

68. We exclude from the definition of Assessable Numbers those telephone numbers that telecommunications providers have transferred or ported to a carrier using resale or the unbundled network element platform. Under prior numbering orders, such telephone numbers would still be included in the NRUF assigned number count of the transferring-out carrier.¹⁷³ Consistent with our definition of Assessable Numbers, because the underlying provider no longer maintains the retail relationship with the end user, the provider should not include these numbers in its Assessable Number count. Conversely, the receiving provider of such transferred customers would include the associated telephone numbers in its count of Assessable Numbers.

69. We exclude from the definition of Assessable Numbers those numbers that meet the definition of an Available Number, an Administrative Number, an Aging Number, or an Intermediate Number as those terms are defined in section 52.15(f) of the Commission’s rules.¹⁷⁴ For a particular carrier, the carrier will not have an end user associated with a number in any of these categories of numbers. For example, an intermediate number is a number that is “made available for use by another telecommunications carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer.”¹⁷⁵ The receiving provider will be responsible for including the number as an Assessable Number once it provides the number to an end user.¹⁷⁶

70. We exclude non-working telephone numbers from the definition of Assessable Number.

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assigned to a particular customer. Any numbers used for intermittent or cyclical purposes that do not meet these requirements may not be categorized as assigned numbers, and must be made available for use by other customers.”).

¹⁷² See 47 C.F.R. § 52.15(f)(iii).

¹⁷³ *NRO I Order*, 15 FCC Rcd at 7586–87, para. 18. Ported-out numbers, a subcategory of assigned numbers, are not reported to NANPA although NRUF reporting carriers are required to maintain internal records associated with these numbers for five years. *Id.* at 7592, 7601, paras. 36, 62.

¹⁷⁴ See 47 C.F.R. § 52.15(f); see also Qwest Sept. 24, 2008 *Ex Parte* Letter at 7 (arguing, among other things, that numbers used for administrative purposes and numbers that are not “actively” working, such as aging, unassigned, reserved numbers, and numbers donated back to the industry pool should be excluded from the contributor’s base).

¹⁷⁵ See 47 C.F.R. § 52.15(f)(v).

¹⁷⁶ See *NRO I Order*, 15 FCC Rcd at 7587, para. 21 (2000) (“We agree with commenters who opine that [intermediate] numbers should not be categorized as *assigned* numbers because they have not been assigned to an end user. . . . We therefore conclude that numbers that are made available for use by another carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer should be categorized as *intermediate* [numbers].”).

Carriers report as assigned numbers for NRUF purposes entire codes or blocks of numbers dedicated to specific end-user customers if at least fifty percent of the numbers in the code or block are working in the PSTN.¹⁷⁷ Consistent with our definition of Assessable Numbers, carriers should not include the non-working numbers in these blocks in their Assessable Number counts, because the non-working numbers portion of these blocks are not providing service to the end user.

71. We exclude from the definition of Assessable Number those numbers that are used merely for routing purposes in a network, so long as such numbers are always—without exception—provided without charge to the end user, are used for routing only to Assessable Numbers for which a universal service contribution has been paid, and the ratio of such routing numbers to Assessable Numbers is no greater than 1:1. For example, a NANP number used solely to route or forward calls to a residential number, office number, and/or mobile number would be excluded from our definition of Assessable Number if such routing number were provided for free, and such number routes calls only to Assessable Numbers. If, however, such routing or forwarding is provided for a fee, such as with remote call forward service or foreign exchange service, both the routing number and the end user number to which calls are routed or forwarded would be considered Assessable Numbers.

72. In addition, incumbent LECs need not include numbers assigned to wireless providers that interconnect at the end office of an incumbent LEC and have obtained numbers directly from the incumbent LEC.¹⁷⁸ Because the incumbent LEC does not have the retail relationship with the end user, it should not include these numbers in its Assessable Number count. The wireless carriers that have the retail relationship with the end users must include these telephone numbers in their Assessable Number count.

73. Finally, we exclude from the definition of Assessable Numbers those numbers associated with Lifeline services for the reasons described below.¹⁷⁹

74. We do not restrict our definition to numbers that exclusively use the PSTN.¹⁸⁰ Evolution in communications technology away from the PSTN to alternative networks that may only partially (if at all) traverse the PSTN is one of the causes in the erosion of the contribution base under the current revenue-based methodology. As more service providers migrate to alternative networks that partially access the PSTN, continuing to assess universal service contributions based only on traffic that exclusively traverses the PSTN will not account for this migration; nor will it allow us to meet our principle of competitive neutrality.¹⁸¹ Moreover, if a service provider connects a private network to a

¹⁷⁷ *NRO III Order*, 17 FCC Rcd at 304, para. 122.

¹⁷⁸ When a wireless carrier interconnects at an incumbent LEC end office it is known as a Type 1 interconnection. See *Federal Communications Commission Seeks Comment on Initial Regulatory Flexibility Analysis in Telephone Number Portability Proceeding*, CC Docket No. 95-116, Public Notice, 20 FCC Rcd 8616, 8632, App. B at para. 19 n.53 (2005) (“Type 1 numbers reside in an end office of a LEC and are assigned to a Type 1 interconnection group, which connects the wireless carrier's switch and the LEC's end office switch.”).

¹⁷⁹ See *infra* para. 90.

¹⁸⁰ The record is split over whether the definition of an assessable number should be restricted to the PSTN. AT&T and Verizon, for example, do not include such a requirement in their proposed definitions. See AT&T and Verizon Sept. 23, 2008 *Ex Parte* Letter, Attach. 1. Other commenters, however, argue for such a requirement. See Google Oct. 3, 2008 *Ex Parte* Letter at 1 (the definition of an assessable number should be “premised on a telephone number acting as a proxy for an underlying two-way PSTN connection”). As we explain herein, such a restriction is not warranted.

¹⁸¹ *Universal Service First Report and Order*, 12 FCC Rcd at 9207, paras. 845–46.

public network, the service provider and its customers benefit from the connection to the PSTN. Because universal service supports the PSTN and these parties connect to the PSTN, they benefit from universal service.¹⁸² Thus, it is increasingly important that we conform our regulatory definitions to recognize this reality. Indeed, the Commission has already begun to recognize the need to create a level regulatory playing field. For example, calls to end users that utilize interconnected VoIP service are not wholly within the PSTN. Indeed, calls between two interconnected VoIP users may not touch the PSTN at all. Yet we found in 2006 that interconnected VoIP providers must contribute to the universal service fund.¹⁸³ For these reasons, we conclude that our definition must account for public or private interstate networks, regardless of the technology of the network (e.g., circuit-switched, packet-switched) or the transmission medium of the network (e.g., wireline, wireless).

75. Finally, we recognize that, by declining to adopt for contribution purposes verbatim the definition of “assigned numbers” in section 52.15(f) of our rules, which is used by carriers to file NRUF reports,¹⁸⁴ we may nominally increase some of the administrative burden associated with universal service contribution filings. We find, however, that any minor administrative cost increases arising from not using the pre-existing definition are outweighed by the benefits of modifying the definition to achieve sound universal service policy. For example, as stated above, the existing definition of assigned numbers would not enable us to meet our universal service contribution goal of ensuring that the provider with the retail relationship to the end user be the one responsible for contributing.¹⁸⁵

76. Under our numbers-based approach, certain providers will be required to contribute to the universal service fund based on Assessable Numbers even though they are not today required to submit NRUF data. Section 52.15(f) of the Commission’s rules requires only “reporting carriers” to submit NRUF data to the NANPA.¹⁸⁶ A “reporting carrier” is defined as a telecommunications carrier that receives numbering resources from the NANPA, the Pooling Administrator, or another telecommunications carrier.¹⁸⁷ In the case of numbers provided by a telecommunications carrier to a non-carrier entity, the carrier providing the numbers to such entities must report NRUF data to the NANPA for those numbers. Thus, non-carrier entities that use telephone numbers in a manner that meets our definition of Assessable Numbers do not report NRUF data yet must contribute.¹⁸⁸ For example, interconnected VoIP providers may use telephone numbers that meet our definition of Assessable Numbers even though these providers do not report NRUF data.¹⁸⁹ These non-carrier entities that use numbers in a manner that meets our definition of Assessable Number will be required to determine their Assessable Number count based on their internal records (e.g., billing system records) and will be

¹⁸² *Universal Service First Report and Order*, 12 FCC Rcd at 9184, para. 796.

¹⁸³ *See 2006 Interim Contribution Methodology Order*, 21 FCC Rcd at 7536–37, paras. 33-34.

¹⁸⁴ *See* 47 C.F.R. § 52.15(f)(iii).

¹⁸⁵ *See Universal Service First Report and Order*, 12 FCC Rcd at 9206, para. 844.

¹⁸⁶ 47 C.F.R. § 52.15(f).

¹⁸⁷ 47 C.F.R. § 52.15(f)(2).

¹⁸⁸ *NRO I Order*, 15 FCC Rcd at 7587, para. 21.

¹⁸⁹ *See Administration of the North American Numbering Plan*, CC Docket No. 99-200, Order, 20 FCC Rcd 2957, 2961–62, para. 9 (2005) (*SBCIS Waiver Order*) (noting that most VoIP providers’ numbering utilization data are embedded in the NRUF data of the LEC). In the *SBCIS Waiver Order*, the Commission granted SBCIS, an Internet service provider, permission to obtain numbering resources directly from the NANPA and/or Pooling Administrator, conditioned on, among other things, SBCIS reporting NRUF data. *Id.* at 2959, para. 4.

required to report such numbers to USAC.¹⁹⁰

77. We are mindful that our move to a numbers-based contribution methodology may encourage entities to try to avoid their contribution obligations by developing ways to bypass the use of NANPA-issued numbers.¹⁹¹ To the extent, however, these alternative methods are the functional equivalent of numbers and otherwise meet our definition of Assessable Numbers, such entities must report these functional equivalents as Assessable Numbers to the universal service fund administrator.

3. Additional Contribution Assessment Methodology for Business Services

78. Although we find that a numbers-based contribution mechanism is superior to the existing revenue-based mechanism for residential services, applying a pure numbers-based approach to business services would result in inequitable contribution obligations. Specifically, certain business services that do not utilize numbers, or that utilize them to a lesser extent, would not be contributing to the universal service fund on an equitable basis.¹⁹² Section 254(d) of the Act requires “every carrier” that provides interstate telecommunications services to contribute to the universal service fund.¹⁹³ Thus, providers of business services, including non-numbers based services, must continue to contribute. We conclude that these services should be assessed based on their connection to the public network.

79. A number of commenters supported moving to a methodology that would assess telephone numbers for those services that are associated with a telephone number and assess based on capacity of the connection to the public switched network those services not associated with a telephone number.¹⁹⁴ Other commenters supported retaining a revenue-based methodology for these services.¹⁹⁵ As

¹⁹⁰ See *infra* paras. 95-101.

¹⁹¹ See Letter from Jeanine Poltronieri, Vice President, Federal Regulatory, BellSouth D.C., Inc, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, Attach. at 2 (filed July 6, 2005) (“If voice service is provided without using telephone numbers, but with IP address or other identifier, FCC will need to establish a ‘functional equivalency’ test.”).

¹⁹² Business services such as private line and special access services do not typically utilize telephone numbers in the same manner as residential services, and would not contribute equitably to the universal service fund under a numbers-based approach. See, e.g., Letter from James S. Blaszak, Counsel to Ad Hoc Telecommunications Users Committee, to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72, at 3 (filed Oct. 9, 2002); Letter from Robert Quinn, Vice President Federal Government Affairs, AT&T, to Marlene Dortch, Secretary, FCC, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, NSD File No. L-00-72, at 2 (filed Oct. 22, 2002). Moreover, unlike residential services, which usually have one telephone number assigned per access line, business services do not usually have a number of telephone numbers assigned that aligns with the number of access lines utilized.

¹⁹³ 47 U.S.C. § 254(d). Therefore, we disagree with those parties that continue to support a numbers-only based approach because we find such an approach would be inconsistent with the statutory requirement that every telecommunications carrier must contribute to the universal service fund. See, e.g., Letter from James S. Blaszak, Counsel for Ad Hoc, to Marlene H. Dortch, Secretary, FCC, CC Docket Nos. 01-92, 96-45, 99-68, WC Docket Nos. 05-337, 07-135, Attach. at 5 (filed Oct. 14, 2008).

¹⁹⁴ See *Contribution Staff Study*; see also Ad Hoc Telecommunications Users Committee 2003 Staff Study Reply; Letter from John Nakahata, Counsel for the Coalition for Sustainable Universal Service, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, at 1 (filed Oct. 31, 2002).

¹⁹⁵ See Letter from Melissa E. Newman, Vice President–Federal Regulatory, Qwest, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, Attach. at 6 (filed Mar. 21, 2006) (Qwest Mar. 21, 2006 *Ex Parte* Letter); see also Qwest Sept. 24, 2008 *Ex Parte* Letter at 2.

discussed above, a revenue-based contribution methodology is no longer sustainable in today's telecommunications marketplace.¹⁹⁶ Additionally, a connections-based contribution methodology will provide a basis for assessing services not associated with telephone numbers, and will recognize the greater utility derived by business end users from these high capacity business service offerings.¹⁹⁷ Further, in contrast to the revenues on which contributions are currently based, the number and capacity of connections continues to grow over time, providing a contribution base that is more stable than the current revenue-based methodology. Moreover, a connections-based mechanism can be easily applied to all business services. We, therefore, conclude that a connections-based contribution mechanism is the better option for business services.

80. We find that it is equitable and nondiscriminatory, consistent with the requirements of section 254(d) of the Act, to establish different contribution methodologies based on numbers and connections.¹⁹⁸ Although the statute states that “[a]ll providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service,” it does not require that all contributors or all services be assessed in the same manner.¹⁹⁹ Under the current revenue-based mechanism, the Commission has established different contribution methodologies through the use of proxies for wireless and interconnected VoIP services.²⁰⁰ As noted above, continuing to use a revenues-based contribution methodology has become increasingly complex, and a numbers-based system would avoid many of those complexities.²⁰¹ At the same time, however, if we relied exclusively on a numbers-based contribution methodology, there are some business services—such as private line and special access—that would escape contribution requirements entirely. That result would be inconsistent with the obligation that all providers of interstate telecommunications services contribute to universal service, and would impose an unfair burden on providers that contribute on the basis of numbers.²⁰² We therefore conclude that adopting different contribution assessment methodologies for residential and business services will result in equitable and nondiscriminatory contribution obligations.

81. We hereby find that business access connections should be assessed based on “Assessable Connections.” An Assessable Connection is defined as an interstate telecommunications service or an interstate service with a telecommunications component that connects a business end-user’s physical location (e.g., premises) on a dedicated basis to the contributor’s network or the PSTN. Assessable Connections up to 64 kbps will be assessed a fixed amount, set at \$5.00 per dedicated connection, and Assessable Connections over 64 kbps will be assessed a flat amount, set at \$35.00 per dedicated connection. This approach will ensure a specific, predictable, and sufficient funding source for

¹⁹⁶ See *supra* para. 44.

¹⁹⁷ Time Warner 2006 Contribution FNPRM Comments at 2.

¹⁹⁸ 47 U.S.C. § 254(d).

¹⁹⁹ 47 U.S.C. § 254(b)(4).

²⁰⁰ The proxies offer an alternative to contributions assessed on actual interstate revenues; they are intended to approximate the portion of revenues derived from the provision of interstate telecommunications services. *First Wireless Safe Harbor Order*, 13 FCC Rcd at 21258–60, paras. 13–15 (establishing safe harbors for wireless service providers); *Second Wireless Safe Harbor Order*, 17 FCC Rcd at 14954, para. 1 (modifying the wireless safe harbors); *2006 Interim Contribution Methodology Order*, 21 FCC Rcd at 7532, 7545, paras. 23, 53 (revising the wireless safe harbor and establishing a safe harbor for interconnected VoIP providers).

²⁰¹ See *supra* para. 42.

²⁰² 47 U.S.C. §§ 254(b)(4), (d).

the Commission's universal service mechanisms.

82. We set the initial contribution amounts, as explained above, at \$0.85 per Assessable Number, \$5.00 per Assessable Connection up to 64 kbps, and \$35.00 per Assessable Connection over 64 kbps. Any adjustments to these contribution amounts necessary to meet funding requirements of the universal service program shall be applied by USAC fairly to Assessable Numbers and Assessable Connections, in a manner proportional to the percentage of total contribution paid by each at the above-set amounts.

4. Wireless Prepaid Plans

83. We adopt an alternative methodology for telephone numbers assigned to handsets under a wireless prepaid plan. Certain commenters that offer prepaid wireless services argue that the Commission should adopt a discounted numbers-based assessment for these services. For example, prepaid wireless providers argue that their customers are typically low-income or low-volume consumers and, as such, should be subject to a lesser assessment.²⁰³ Verizon and TracFone further assert that prepaid wireless providers may have difficulty administering a per-number assessment.²⁰⁴ They, therefore, recommend that any new contribution methodology accommodate prepaid wireless service providers by adopting a per-number assessment that “reflects the unique characteristics of [the] service.”²⁰⁵ Finally, CTIA argues that the sheer number of prepaid wireless end users—over 44 million—combined with the likelihood that most of these end users would see a rise in their pass-through assessments warrants an exception.²⁰⁶

84. To accommodate the unique situation of prepaid wireless service providers, we find it appropriate to create a limited modification in contribution assessments for providers of prepaid wireless services and their end users. We agree with commenters that it is considerably more difficult for wireless prepaid providers to pass-through their contribution assessments in light of their “pay-as-you-go” service offerings.²⁰⁷ Because of this significant practical issue, we will modify the numbers-based assessment for prepaid wireless providers with regard to their offering of these services. Further, we note that, just as with Lifeline customers, many prepaid wireless end users are low income consumers. For example, TracFone states that about half of its customers have incomes of \$25,000 or less.²⁰⁸

²⁰³ Letter from Mitchell F. Brecher, Counsel for TracFone, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, Attach. at 2 (filed Sept. 17, 2008) (TracFone Sept. 17, 2008 *Ex Parte* Letter); CTIA 2006 Contribution FNPRM Comments at 6; Leap Wireless 2006 Contribution FNPRM Comments at 2–3; T-Mobile Apr. 4, 2006 *Ex Parte* Letter at 3–4; Letter from John M. Beahn and Malcolm Tuesley, Counsel to Virgin Mobile USA, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, Attach. at 4–7 (filed June 12, 2006) (Virgin Mobile June 12, 2006 *Ex Parte* Letter).

²⁰⁴ See, e.g., Verizon Mar. 28, 2006 *Ex Parte* Letter, Attach. at 3; TracFone Sept. 17, 2008 *Ex Parte* Letter, Attach. at 2; Virgin Mobile June 12, 2006 *Ex Parte* Letter, Attach. at 7.

²⁰⁵ See TracFone Sept. 17, 2008 *Ex Parte* Letter, Attach.; Letter from Antoinette Bush, Counsel for Virgin Mobile, to Marlene H. Dortch, Secretary, FCC, Docket No. 96-45, Attach. at 11 (filed Mar. 18, 2005) (Virgin Mobile Mar. 18, 2005 *Ex Parte* Letter); see also AT&T and Verizon Sept. 23, 2008 *Ex Parte* Letter, at 6.

²⁰⁶ See CTIA Oct. 2, 2008 *Ex Parte* Letter at 1 (raising a concern that current proposals could harm the large number of prepaid wireless customers).

²⁰⁷ See Letter from Mitchell F. Brecher, Counsel for TracFone, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, at 3 (filed June 15, 2007) (TracFone June 15 *Ex Parte* Letter).

²⁰⁸ TracFone June 15, 2007 *Ex Parte* Letter at 3. TracFone also asserts that an exception is warranted because it provides service to low volume end users (i.e., end users that do make a small amount of calls, measured in

(continued....)

85. We find that TracFone's "USF by the Minute" proposal best addresses the concerns of prepaid wireless providers within the context of the numbers-based contribution methodology we adopt today.²⁰⁹ TracFone's proposed USF by the Minute Plan would calculate universal service contribution assessments on prepaid wireless services by dividing the per-number assessment by the number of minutes used by the average postpaid wireless customer in a month. This per-minute number would then be multiplied by the number of monthly prepaid minutes generated by the provider. This amount would be the provider's monthly universal service contribution obligation. The per-minute assessment, however, would be capped at an amount equal to the current per month contribution per Assessable Number, established as set forth above.²¹⁰ We illustrate the proposal below.

86. According to CTIA data submitted by TracFone, the average wireless postpaid customer used 826 minutes per month for the period ending December 2007.²¹¹ A per-number assessment of, for example \$0.85 would be divided by 826 minutes to calculate a per-minute assessment of \$0.00102905569. The wireless prepaid provider's contribution obligation would be calculated by multiplying the per-minute assessment by the number of prepaid minutes generated for the month. If the wireless prepaid provider generated a billion prepaid minutes in a month, its contribution for that month would be \$1,029,056.²¹² If the prepaid provider had 10 million prepaid customers that month, the average contribution per customer would be \$0.1029 and its contribution obligation would remain at \$1,029,056. If, on the other hand, it had only 1 million customers, the average contribution per-customer would be \$1.03, which exceeds the current per number contribution at \$0.85. In this case, because the per-customer contribution amount under the calculation would exceed the per-number assessment established by the Commission, the prepaid provider's contribution obligation would be capped at \$850,000, which is the per-number assessment of \$0.85 multiplied by the 1 million monthly prepaid customers. Under this scenario, the average per-customer contribution for the prepaid wireless provider would be equal to a per-number contribution of \$0.85 for non-prepaid wireless residential numbers.

87. We find the TracFone discount approach superior to other forms of a discount proposed by parties. For example, CTIA proposed a fifty percent discount for prepaid wireless providers.²¹³ The TracFone approach is based on actual wireless calling data, whereas the CTIA approach represents a more arbitrary half-off discount. Moreover, the CTIA proposal makes no allowance for the type of end user that is using the prepaid wireless service. This contrasts with the TracFone proposal, which would not provide any discount to those end users that use more than the average monthly post-paid number of minutes. As explained above, for those customers whose usage would result in more than the allowable per Assessable Number pass-through, the assessment on the provider and the pass-through would be (continued from previous page) _____ minutes). *Id.* However, as explained below, we decline to provide a contribution exception for low-volume users. *See infra* para. 91.

²⁰⁹ AT&T and Verizon support the TracFone discount approach for prepaid wireless providers. AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 1 at 3; *see also* Letter from David L. Sieradzki, Counsel to OnStar Corp., to Marlene Dortch, Secretary, FCC, WC Docket No. 06-122, CC Docket No. 96-45, at 2 (dated Oct. 28, 2008) (OnStar "strongly supports" the TracFone per-minute of use proposal for prepaid wireless services) (OnStar Oct. 28, 2008 *Ex Parte* Letter).

²¹⁰ TracFone Sept. 17, 2008 *Ex Parte* Letter, Attach. at 4-5.

²¹¹ *See* TracFone Sept. 17, 2008 *Ex Parte* Letter at 5. We use these data because they are the most recent publicly available data.

²¹² To the extent that the prepaid wireless subscriber is a Lifeline customer for the prepaid service, the prepaid provider should exclude prepaid minutes associated with the qualifying Lifeline customer. *See infra* para. 90.

²¹³ CTIA Oct. 2, 2008 *Ex Parte* Letter at 5.

capped at the contribution amount month per Assessable Number. Thus, high volume users would neither benefit from, nor be penalized by, the discount mechanism. Finally, we make clear that if the prepaid provider is an ETC and is providing service to qualifying Lifeline customers, the provider is exempt from contribution assessments on the qualifying Lifeline customers and we prohibit the provider from assessing any universal service pass-through charges on their Lifeline customers.

88. We find that prepaid calling cards, which will be assessed on Assessable Numbers and Assessable Connections by their underlying access provider, are different from prepaid wireless providers in that these providers do not assign a telephone number to their end users. Thus, prepaid calling card providers shall be considered end users for purposes of determination of Assessable Connections and Assessable Numbers.

5. Exceptions to Contribution Obligations

89. A number of parties have asked for exceptions from the contribution obligation. We find that, in general, providing an exception or exemption to a particular provider or to a particular category of end users would complicate the administration of the numbers-based methodology we adopt today. The result would unfairly favor certain groups by reducing or eliminating their contribution obligations, while increasing the contribution obligations on providers that are not exempted from contributing. Therefore, we conclude that grant of an exemption from the contribution obligations is only warranted for those who are truly unable to bear the burden of contributing to the universal service fund—low-income consumers. As discussed below, we exempt providers from contribution assessments on their qualifying Lifeline program customers and prohibit contributors from assessing any universal service pass-through charges on their Lifeline customers. As explained below, an exception for low-income consumers is consistent with the Commission's policies underlying the low-income universal service program and targets universal service benefits to those consumers most in need of those benefits.²¹⁴

90. We conclude that telephone numbers assigned to Lifeline customers should be excluded from the universal service contribution base and providers of Lifeline service may not pass-through contribution assessments to Lifeline customers.²¹⁵ The Lifeline program provides an opportunity for the Commission to ensure that low-income families are not denied access to telephone service. We find that an exception for Lifeline customers satisfies the high threshold necessary to justify an exception to the new numbers-based contribution methodology we adopt today. Lifeline customers are, by definition, among the poorest individuals in the country. As such, they are in the greatest need of relief from regulatory assessments. Prohibiting recovery of universal service contributions from Lifeline customers helps to increase subscribership by reducing qualifying low-income consumers' monthly basic local service charges.²¹⁶ The record, moreover, overwhelmingly supports the creation of an exception for Lifeline customers. Consumer groups, large telecommunications customers, LECs, and wireless providers all support creating an exemption for Lifeline customers, and no commenter opposes an exemption for Lifeline customers.²¹⁷ We therefore adopt an exemption to our numbers-based contribution methodology for Lifeline customers.

²¹⁴ *Alenco*, 201 F.3d at 621.

²¹⁵ See, e.g., AT&T and Verizon Oct. 20, 2008 *Ex Parte* Letter at 4 (proposing that numbers assigned to Lifeline customers be excluded from the monthly number count for contribution purposes).

²¹⁶ See *Second Wireless Safe Harbor Order*, 17 FCC Rcd at 24982, para. 62.

²¹⁷ See, e.g., CTIA 2006 *Contribution FNPRM* Comments at 5; Consumers Union *et al. High-Cost Reform NPRMs* Reply at 58; Ad Hoc Nov. 19, 2007 *Ex Parte* Letter at 4; AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 1 at 5.

91. Although commenters have sought contribution exceptions for other groups of consumers or service providers, we decline to adopt any further exceptions. Some parties argue that consumers who make few or no calls, i.e., low-volume users, should be exempt from the numbers-based contribution assessment mechanism.²¹⁸ As discussed above, all users of the network, even those who make few or no calls, receive a benefit by being able to receive calls, and therefore it is appropriate for these consumers to contribute to universal service.²¹⁹ Also as discussed above, to the extent low-volume consumers may see an increase in the amount of their universal service contribution pass-through fee,²²⁰ any such increase should be slight.²²¹

92. We also decline to exempt telematics providers,²²² stand-alone voice mail providers,²²³ one-way service providers,²²⁴ and two-way paging services²²⁵ from contributing based on numbers. We disagree with commenters arguing for special treatment for these services.²²⁶ Granting exceptions for

²¹⁸ See, e.g., Consumers Union *et al.* *Contribution First FNPRM* Comments at 12; NASUCA *Contribution First FNPRM* Comments at 14; Keep USF Fair Mar. 27, 2006 *Ex Parte* Letter, Attach. at 1.

²¹⁹ See *supra* para. 60; see also Sprint *Contribution First FNPRM* Comments at 7.

²²⁰ But see IDT Aug. 2, 2007 *Ex Parte* Letter at 6–7 (arguing that low-volume consumers who make no long distance calls pay about \$1.40 in universal service contribution assessments).

²²¹ See *supra* para. 59.

²²² Telematics is a service that is provided through a transceiver, which is usually built into a vehicle but can also be a handheld device, that provides public safety information to public safety answering points (PSAPs) using global positioning satellite data to provide location information regarding accidents, airbag deployments, and other emergencies in real time. See, e.g., Letter from David L Sieradzki, Counsel for OnStar, to Marlene H. Dortch, FCC, CC Docket No. 96-45, Attach. at 1 (filed Mar. 2, 2006); *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Systems*, CC Docket No. 94-102, Order, 18 FCC Rcd 21531, 21531–33, paras. 2, 8 (2003).

²²³ See Letter from Jennifer D. Brandon, Executive Director, Community Voice Mail National, to Tom Navin, Wireline Competition Bureau, FCC, CC Docket No. 96-45 at 1 (filed May 30, 2006) (Community Voice Mail May 30, 2006 *Ex Parte* Letter) (arguing for an exemption for these services).

²²⁴ One-way services include, but are not limited to, one-way paging, electronic facsimile (e-fax), and voice mail services. See j2 Global 2003 Comments at 9 (describing its offering as a free unified messaging service that uses telephone numbers to allow subscribers to receive faxes and voice mail into their personal e-mail accounts).

²²⁵ See, e.g., Letter from Matthew Brill, Counsel for USA Mobility, Inc., to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-122, CC Docket No. 96-45, at 2 (filed Oct. 24, 2008) (opposing the assessment of a numbers-based fee on paging carriers and their customers); Letter from Kenneth Hardman, representing the American Association of Paging Carriers, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-122, CC Docket No. 96-45, at Attach. (filed Oct. 22, 2008).

²²⁶ See Letter from Ari Q. Fitzgerald, Counsel, Mercedes-Benz USA, LLC, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, at 1 (filed Apr. 12, 2006) (Mercedes-Benz Apr. 12, 2006 *Ex Parte* Letter); see also Letter from John E. Logan, ATX Group, Inc., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, at 2 (filed Mar. 16, 2006) (ATX Mar. 16, 2006 *Ex Parte* Letter); Letter from David M. Don, Counsel for j2 Global Communications, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, at 1 (filed Nov. 18, 2005) (j2 Global Nov. 18, 2005 *Ex Parte* Letter); Letter from William B. Wilhelm, Jr., Counsel for Bonfire Holdings, to Tom Navin, Chief, Wireline Competition Bureau, CC Docket No. 96-45 (filed Feb. 13, 2006) (Bonfire Feb. 13, 2006 *Ex Parte* Letter); j2 Global *Contribution Second FNPRM* Comments at 2; Letter from Kenneth E. Hardman, Counsel for American Association of Paging Carriers, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, Attach. at 1 (filed Oct. 6, 2005) (AAPC Oct. 6, 2005 *Ex Parte* Letter); Letter from Frederick M. Joyce, Counsel for USA

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these services would provide them with an advantage over other services that are required to contribute based on telephone numbers. These services are receiving the benefit of accessing the public network and therefore assessing universal service contributions on these entities is appropriate.²²⁷ These service providers have not shown that grant of a contribution exception is warranted.²²⁸ Accordingly, providers of these services will be assessed the full per-number charge.

93. We also decline to adopt an exception from the numbers-based contribution mechanism for additional handsets provided through a wireless family plan. We do not agree with commenters who argue that telephone numbers assigned to the additional handsets in family wireless plans should be assessed at a reduced rate, either permanently or for a transitional period.²²⁹ These commenters assert that assessing contributions at the full per-number rate would cause family plan customers to experience “rate shock.”²³⁰ Although family plan customers may see an increase in universal service contribution pass-through charges on their monthly bills, we are not persuaded that the fear of “rate shock” justifies special treatment. We find that each number associated with a family plan obtains the full benefits of accessing the public network, and thus it is fair to assess each number with a separate contribution obligation. We also note that wireless service is one of the fastest-growing sectors of the industry and the record does not include persuasive data showing that a move to a numbers-based contribution methodology would have a significant, detrimental impact on wireless subscribership.²³¹ We agree with Qwest that an exception for

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Mobility, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, Attach. at 1-3 (filed Mar. 22, 2006) (USA Mobility Mar. 22, 2006 *Ex Parte* Letter).

²²⁷ We similarly decline to adopt an exemption from the numbers-based contribution assessment method for services provided by alarm companies. See Letter from Donald J. Evans, Counsel for Corr Wireless Communications, LLC, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92, WC Docket No. 06-122, WT Docket No. 05-194, at 2 (filed Oct. 23, 2008). These services are receiving the benefit of having access to the PSTN and should therefore contribute to universal service.

²²⁸ Telematics providers argue against imposition of a \$1.00 per number per month contribution assessment on telematics numbers due to the service’s critical role in advancing public safety, and because the \$1.00 assessment would be prohibitively expensive. See, e.g., Letter from Gary Wallace, Vice President Corporate Relations, ATX Group, Inc., to Kevin Martin, Chairman, FCC, CC Docket No. 96-45, WC Docket No. 06-122 at 1-2 (filed Oct. 28, 2008); OnStar Oct. 28, 2008 *Ex Parte* Letter at 3-4; Letter from Matthew Brill, Counsel for Toyota Motor Sales USA, Inc., to Marlene Dortch, Secretary, FCC, WC Docket No. 06-122, CC Docket No. 96-45 at 1-2 (filed Oct. 24, 2008). We find, however, that treating these services differently than other residential services would not be equitable, given their use of the PSTN and the ability of telematics providers to recover the assessment from their end users. Given the public safety benefit to consumers, we find unpersuasive the telematics’ providers assertions that consumers will discontinue use of the service based on an assessment of only \$1.00 per number. Furthermore, we disagree with commenters who argue that telematics service should be treated as a business service, and conclude that telematics service is a residential service that should be assessed under the \$1.00 per number per month residential contribution methodology. See OnStar Oct. 28, 2008 *Ex Parte* Letter at 2; Letter from Tamara Preiss, Legal and External Affairs, Verizon Wireless, to Marlene Dortch, Secretary, FCC, WC Docket No. 06-122, CC Docket No. 96-45 at 1 (filed Oct. 29, 2008).

²²⁹ See e.g., AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter at 4; CTIA 2006 Contribution FNPRM Comments at 5-6; Leap Wireless 2006 Contribution FNPRM Comments at 2-3; T-Mobile Apr. 4, 2006 *Ex Parte* Letter at 2.

²³⁰ E.g., AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 2 at 4; CTIA 2006 Contribution FNPRM Comments at 5-6; Leap Wireless 2006 Contribution FNPRM Comments at 2-3; T-Mobile Apr. 4, 2006 *Ex Parte* Letter at 2-3. But see AAPC Oct. 9, 2008 *Ex Parte* Letter at 2.

²³¹ There are, as of December 2007, 249,235,715 mobile wireless subscribers, a more than 9% increase from the previous year. See FCC, LOCAL TELEPHONE COMPETITION: STATUS AS OF DECEMBER 31, 2007, tbl. 14 at 18 (2008), available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-285509A1.pdf. Moreover, where a wireless

(continued....)

additional family plan handsets would not be competitively neutral and would advantage approximately 70 million wireless family plan consumers over other service consumers.²³² Multiple wireline lines in a household are not given a discounted contribution assessment rate. We therefore decline to adopt a reduced assessment for wireless family plan numbers.

94. Some parties seek an exception to the contribution methodology we adopt today to exclude Internet-based telecommunications relay services (TRS), including video relay services (VRS) and IP Relay services.²³³ We decline to adopt an exception for such providers at this time. The Commission has an open proceeding on a number of issues related to these providers, including whether certain costs to these providers related to the acquisition of ten-digit numbers by their customers should be reimbursed by the TRS fund.²³⁴ We defer to that proceeding consideration of whether to adopt an exception to the contribution methodology we adopt today for numbers assigned to Internet-based TRS users.²³⁵

6. Reporting Requirements and Recordkeeping

95. Under the existing revenue-based contribution methodology, contributors report their historical gross-billed, projected gross-billed, and projected collected end-user interstate and international revenues quarterly on the FCC Form 499-Q and their gross-billed and actual collected end-user interstate and international revenues annually on the FCC Form 499-A.²³⁶ Contributors are billed for their universal service contribution obligations on a monthly basis based on their quarterly projected collected revenue.²³⁷ Actual revenues reported on the FCC Form 499-A are used to perform true-ups to the

(continued from previous page) _____

provider is eligible to receive universal service support, it receives the same level of support for each handset. See WTA/OPASTCO/ITTA Oct. 10, 2008 *Ex Parte* Letter at 2.

²³² Qwest Sept. 24, 2008 *Ex Parte* Letter, Attach. at 7; Qwest May 4, 2006 *Ex Parte* Letter, Attach. at 9; see also CTIA Oct. 2, 2008 *Ex Parte* Letter at 1.

²³³ See Letter from Deb MacLean, Communication Access Center for the Deaf and Hard of Hearing, *et al.* to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-122, CC Docket No. 96-45, at 1–2 (filed Sept. 29, 2008) (CSDVRS Sept. 29, 2008 *Ex Parte* Letter).

²³⁴ See *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket No. 03-123, WC Docket No. 05-196, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591, 11646, para. 149 (2008) (“We . . . seek comment on whether, and to what extent, the costs of acquiring numbers, including porting fees, should be passed on to the Internet-based TRS users, and not paid for by the [TRS] Fund. . . . We also seek comment on whether there are other specific costs that result from the requirements adopted in the *Order* that, mirroring voice telephone consumers, should be passed on to consumers, including, for example, E911 charges.”).

²³⁵ To the extent that Internet-based TRS users utilize a proxy number or identifier other than an assigned ten-digit number during/pending the transition to ten-digit numbering for Internet-based TRS services, we make clear that those numbers or identifiers are NOT subject to universal service contribution at this time. This treatment is necessary to ensure the smooth transition to ten-digit numbering for these services, and to prevent duplicative charges for end users of these services.

²³⁶ See, e.g., *Second Wireless Safe Harbor Order*, 17 FCC Rcd at 24969, para. 29. Filers are required to file revisions to FCC Form 499-Q within 45 calendar days of the original filing date. See FCC, INSTRUCTIONS TO THE TELECOMMUNICATIONS REPORTING WORKSHEET, FCC Form 499-Q, at 10 (Feb. 2008) (FCC Form 499-Q Instructions), available at <http://www.fcc.gov/Forms/Form499-Q/499q.pdf>. Filers are required to file revisions to FCC Form 499-A by March 31 of the year after the original filing date. See FCC Form 499-A Instructions at 11–12.

²³⁷ See *Second Wireless Safe Harbor Order*, 17 FCC Rcd at 24972, para. 35.

quarterly projected revenue data.²³⁸

96. We will develop a new and unified reporting system to accommodate our new contribution methodology.²³⁹ Contributors will report their Assessable Number and Assessable Connections counts on a monthly basis. Contributors must report as an Assessable Number any such number that is in use by an end user during any point in the relevant month. The Commission will develop an additional version of the FCC Form 499 for use in reporting Assessable Numbers and Assessable Connections.

97. Under the new contribution system we adopt today, contributors will report historical Assessable Numbers and Assessable Connections monthly. Contributors will then be invoiced and required to contribute the following month. By reporting actual, historical numbers and connections, our contribution methodology remains simple and straightforward. As explained above, a key reason to move to the modified contribution approach adopted herein is its simplicity. Indeed, several commenters propose monthly reporting of historical number counts.²⁴⁰ We find that reporting Assessable Numbers and Assessable Connections on a projected collected basis would unnecessarily complicate the contribution system. Although we are mindful of the issues inherent in historical reporting,²⁴¹ we find that a one month lag between the reported Assessable Numbers and Assessable Connections and the contribution based on those data is minimal and will not unfairly disadvantage any provider, even those with a declining base.

98. We allow contributors to self-certify which telephone numbers are, consistent with this order, considered Assessable Numbers. Contributors will be subject to audit, however, and their method for distinguishing Assessable Numbers other numbers must be reasonable and supportable.

99. Each contributor must maintain the necessary internal records to justify, in response to an audit or otherwise, its reported Assessable Number and Assessable Connections counts and the data reported on the Commission's contribution forms.²⁴² Contributors are responsible for accurately including all Assessable Numbers in their Assessable Number counts and all Assessable Connections in their Assessable Connections component of the methodology. Failure to file the required form by the applicable deadline, or failure to file accurate information on the form, could subject a contributor to enforcement action.²⁴³ In addition, as with the current FCC Forms 499-A and 499-Q, we will require that an officer of the filer certify to the truthfulness and accuracy of the forms submitted to the administrator.

100. To ensure that filers report correct information, we continue to require all reporting

²³⁸ See *Second Wireless Safe Harbor Order*, 17 FCC Rcd at 24972, para. 36.

²³⁹ We decline to adopt the suggestion by AT&T and Verizon to transition the Telecommunications Relay Services Fund, local number portability cost recovery, and numbering administration to a numbers/connections-based assessment methodology. See AT&T and Verizon Oct. 20, 2008 *Ex Parte* Letter at 6. Although these programs rely on the revenue information reported in the current FCC Form 499-A, they do not rely on many of the revenue distinctions, such as interstate and intrastate, that necessitate the change from a revenue-based assessment for the universal service fund.

²⁴⁰ See AT&T and Verizon Sept. 11, 2008 *Ex Parte* Letter, Attach. 1 at 2-3; CTIA Oct. 2, 2008 *Ex Parte* Letter, Attach. at 5; USF by the Numbers Oct. 3, 2008 *Ex Parte* Letter.

²⁴¹ See *Second Wireless Safe Harbor Order*, 17 FCC Rcd at 24969-70, paras. 29-32.

²⁴² *Comprehensive Review Report and Order*, 22 FCC Rcd at 16387, para. 27.

²⁴³ Pursuant to section 1.80 of the Commission's rules, failure to file required forms or information carries a base forfeiture amount of \$3,000 per instance and is subject to adjustment criteria. See 47 C.F.R. § 1.80.

entities to maintain records and documentation to justify the information reported in these forms, and to provide such records and documentation to the Commission and to USAC upon request.²⁴⁴ All universal service fund contributors are required to retain their records for five years.²⁴⁵ Specifically, contributors to the universal service fund must retain all documents and records that they may require to demonstrate to auditors that their contributions were made in compliance with the program rules, assuming that the audits are conducted within five years of such contribution. Contributors further must make available all documents and records that pertain to them, including those of contractors and consultants working on their behalf, to the Office of Inspector General, to USAC, and to their respective auditors. These documents and records should include without limitation the following: financial statements and supporting documentation; accounting records; historical customer records; general ledgers; and any other relevant documentation.²⁴⁶

101. Finally, we direct the Wireline Competition Bureau (Bureau), and delegate to the Bureau the authority, to develop or modify the necessary forms to ensure proper contribution reporting occurs, consistent with this order.

7. Transition to New Methodology

102. The new reporting procedures discussed above will require reporting entities to adjust their record-keeping and reporting systems in order to provide reports to USAC regarding the number of Assessable Numbers and Assessable Connections. Accordingly, we implement a 12-month transition period for the new contribution mechanisms.²⁴⁷ This transition period will give contributors ample time to adjust their record-keeping and reporting systems so that they may comply with modified reporting procedures. As explained below, a 12-month transition period will also allow reporting entities to submit several reports for informational purposes before being assessed on the basis of projected Assessable Numbers and Assessable Connections.²⁴⁸ We find, therefore, that a 12-month transition period balances administrative burdens on contributors with the need to implement the new contribution methodologies in a balanced and equitable manner.

103. During 2009, filers will continue reporting their interstate telecommunications revenue on a quarterly basis and USAC will continue assessing contributions to the federal universal service mechanisms based on those quarterly reports. This one-year period and, in particular, the first six months of that period, should be used by contributors to adjust their internal and reporting systems to prepare for

²⁴⁴ *Comprehensive Review Report and Order*, 22 FCC Rcd at 16372, para. 27; see also 47 C.F.R. §§ 54.706(e), 54.711(a).

²⁴⁵ See *Comprehensive Review Report and Order*, 22 FCC Rcd at 16372, para. 27; 47 C.F.R. § 54.706(e).

²⁴⁶ See *Comprehensive Review Report and Order*, 22 FCC Rcd at 16387, paras. 27–28. We note that contributors who also report NRUF data to the NANPA are currently required to maintain internal records of their numbering resources for audit purposes. *NRO I Order*, 15 FCC Rcd at 7601, para. 62.

²⁴⁷ See AT&T and Verizon Oct. 20, 2008 *Ex Parte* Letter, Attach. at 3 (proposing a 12-month transition to the new mechanism taking effect).

²⁴⁸ See CTIA 2006 *Contribution FNPRM* Comments at 7; see also Verizon and AT&T Sept. 11, 2008 *Ex Parte* Letter, Attach. at 2 (advocating a 12-month implementation period followed by a 6-month transition period). Some parties advocated for a transition period as short as possible. See, e.g., Letter from Gregory J. Vogt, Counsel for CenturyTel, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 05-337, Attach. at 2 (filed Sept. 19 2008) (CenturyTel Sept. 19, 2008 *Ex Parte* Letter); Sprint Nextel June 14, 2006 *Ex Parte* Letter. Others advocated for a longer transition period. See, e.g., Qwest Mar. 21, 2006 *Ex Parte* Letter, Attach. at 3 (advocating 18 months); XO Communications Oct. 3, 2008 *Ex Parte* Letter, Attach. at 11 (advocating at least 18 months).

the reporting of Assessable Numbers and Assessable Connections.

104. Beginning in July 2009, contributors will continue to report and contribute based on their quarterly reported interstate and international revenues for the last two quarters of the year, but they will also begin filing with USAC monthly reports of their Assessable Numbers and Assessable Connections. USAC will thus collect data under the old revenue-based methodology, while collecting and reviewing data under the new Assessable Number and Assessable Connections methodologies for the last six months of 2009. We find that this six-month period of double-reporting is necessary to help reporting entities, Commission staff, and USAC identify implementation issues that may arise under this new methodology prior to it taking effect.²⁴⁹ Although only the December 2009 Assessable Numbers and Assessable Connections will be used to compute contributors' January 2010 assessments, we find it is reasonable to require contributors to begin filing under the new methodologies prior to these periods to ensure that there is adequate time for all affected parties to address any implementation issues that may arise. Moreover, we conclude that the short overlap of reporting under both the old and new methodologies will not be unduly burdensome for contributors given the limited duration of the dual reporting.

IV. PROCEDURAL MATTERS

A. Final Regulatory Flexibility Analysis

105. Pursuant to the Regulatory Flexibility Act (RFA),²⁵⁰ the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) for the report and order concerning the possible significant economic impact on small entities by the policies and actions considered in the report and order. The text of the FRFA is included in Appendix [] .

B. Paperwork Reduction Act

106. This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198,²⁵¹ we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

C. Accessible Formats

107. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov; phone: 202-418-0530 or TTY: 202-418-0432.

D. Congressional Review Act

²⁴⁹ See AT&T and Verizon Oct. 20, 2008 *Ex Parte* Letter, Attach. at 3 (recommending a six-month transition period for filers and USAC to test and calibrate the new system prior to its taking effect).

²⁵⁰ See 5 U.S.C. § 603. The RFA, see U.S.C. §601 *et seq.*, has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (Small Business Act).

²⁵¹ See 44 U.S.C. § 3506(c)(4).

108. The Commission will include a copy of this report and order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. See 5 U.S.C. § 801(a)(1)(A).

V. ORDERING CLAUSES

109. Accordingly, IT IS ORDERED that, pursuant to sections 1–4, 201–209, 214, 218–220, 224, 251, 252, 254, 303(r), 332, 403, 502, and 503 of the Communications Act of 1934, as amended, and sections 601 and 706 of the Telecommunications Act of 1996, 47 U.S.C. §§ 151–154, 157 nt, 201–209, 214, 218–220, 224, 251, 252, 254, 303(r), 332, 403, 502, 503, 601 and 706, and sections 1.1, 1.411–1.429, and 1.1200–1.1216 of the Commission’s rules, 47 C.F.R. §§ 1.1, 1.411–1.429, 1.1200–1.1216, the REPORT AND ORDER IS ADOPTED.

110. IT IS FURTHER ORDERED that Parts [] of the Commission’s rules, 47 C.F.R. § [] are AMENDED as set forth in Appendix A hereto.

111. IT IS FURTHER ORDERED that this report and order shall become effective 30 days after publication of the text of a summary thereof in the Federal Register, pursuant to 47 C.F.R. §§ 1.4, 1.13, except for the information collections, which require approval by OMB under the PRA and which shall become effective after the Commission publishes a notice in the Federal Register announcing such approval and the relevant effective date(s).

112. IT IS FURTHER ORDERED that the Commission’s Consumer & Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this report and order, including the Final Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX C

Alternative Proposal

| | | |
|--|---|----------------------|
| 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 |
| |) | |
| Implementation of the Local Competition |) | CC Docket No. 96-98 |
| Provisions in the Telecommunications Act of 1996 |) | |
| |) | |
| Developing a Unified Intercarrier Compensation |) | CC Docket No. 01-92 |
| Regime |) | |
| |) | |
| Intercarrier Compensation for ISP-Bound Traffic |) | CC Docket No. 99-68 |
| |) | |
| IP-Enabled Services |) | WC Docket No. 04-36 |
| |) | |
| Numbering Resource Optimization |) | CC Docket No. 99-200 |

**ORDER ON REMAND AND REPORT AND ORDER
AND FURTHER NOTICE OF PROPOSED RULEMAKING**

Adopted: "Insert Adopted Date"

Released: "Insert Release Date"

Comment Date: [XX days after date of publication in the Federal Register]

Reply Comment Date: [XX days after date of publication in the Federal Register]

By the Commission:

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I. INTRODUCTION

1. In enacting the Telecommunications Act of 1996 (1996 Act),¹ Congress sought to introduce competition into local telephone service, which traditionally was provided through regulated monopolies. Recognizing that in introducing such competition, it was threatening the implicit subsidy system that had traditionally supported universal service, it directed the Commission to reform its universal service program to make support explicit and sustainable in the face of developing competition.

2. For the most part, Congress's vision has been realized. Competition in local telephone markets has thrived. At the same time, the communications landscape has undergone many fundamental changes that were scarcely anticipated when the 1996 Act was adopted. The Internet was only briefly mentioned in the 1996 Act,² but now has come into widespread use, with broadband Internet access service increasingly viewed as a necessity. Consistent with this trend, carriers are converting from circuit-switched networks to Internet Protocol (IP)-based networks. These changes have benefited consumers and should be encouraged. Competition has resulted in dramatically lower prices for telephone service, and the introduction of innovative broadband products and services has fundamentally changed the way we communicate, work, and obtain our education, news, and entertainment. At the same time, however, these developments have challenged the outdated regulatory assumptions underlying our universal service and intercarrier compensation regimes, forcing us to reassess our existing approaches. We have seen unprecedented growth in the universal service fund, driven in significant part by increased

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act).

² See 47 U.S.C. § 230; 47 U.S.C. § 157 nt.