

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

In the Matter of)
)
Inquiry Into Disbursement Process for the) WC Docket Nos. 11-42, 03-109
Universal Service Fund Low Income Program)

**COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION**

These comments are in response to the Federal Communications Commission’s (“Commission”) Public Notice¹ in which the Wireline Competition Bureau (Bureau) requests comments to be submitted on USAC’s (Universal Service Administrative Company) proposal for disbursing Universal Service Fund low income support to eligible telecommunications carriers (ETCs) based upon claims for reimbursement of actual support payments made, instead of projected claims for support. The Public Notice states that payment based on actual support payments could replace the current administrative process, under which USAC reimburses ETCs for low income support each month based on USAC’s projection of payments and on a “true-up” calculated using an ETC’s actual support payments.²

USTelecom³ supports the simplification and administrative streamlining of the low income program disbursement process by changing the basis of the reimbursement calculation methodology from projected to actual, but USAC’s proposal should be modified to minimize cash flow impacts and to ensure equitable treatment of ETCs when

¹See FCC Public Notice DA 11-1593 “*Inquiry into Disbursement Process for the Universal Service Fund Low Income Program*” WC Docket Nos. 11-42, 03-109 (released September 23, 2011).

² *Id*

³ USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

either underpayments or overpayments are identified.

USTelecom supports the goal of greater accuracy in low income program payment processing as determined by the Commission's Office of the Managing Director (OMD) and proposed to be implemented by USAC. However, this worthwhile goal can be accomplished without undue impact to the cash flow of ETCs and should be accompanied by Commission actions which enhance the fairness and equity of the process governing revisions and audits.

I. Deadlines for Filing Revisions Must be Symmetrical between the Commission and ETCs

USAC's proposal to shorten the administrative window of fifteen months for filing original or revised support claims to six months should be accompanied by a change in Commission policy to ensure the symmetrical application of deadlines to amended Form 497 revisions as well as any related audit process.⁴ It is our understanding that USAC is applying the unfair and wrongheaded policy adopted in the Bureau's Form 499-A Modification Order⁵ to revisions made in relation to low income fund payments made based on Form 497.

USTelecom protested the asymmetrical "heads I win, tails you lose" nature of the *Form 499-A Modification Order* more than a year ago, but the Commission has taken no action.⁶ USAC now proposes to shorten the period for ETC revisions to 6 months while

⁴ The FCC should consider an exception to its revision deadline (whatever that deadline may be) to accommodate any Form 497 revisions made necessary by virtue of audits and other reviews of carriers that pre-date the revision window.

⁵ *Federal State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, Order, CC Docket Nos. 96-45, 98-171, 97-21, DA 04-3669 (rel. Dec. 9, 2004) (*Form 499-A Modification Order*).

⁶ See Comments of the United States Telecom Association in "*Comment Sought on AT&T Inc. Application for Review of a Decision of the Wireline Competition Bureau*," WC Docket No. 06-122, CC Docket No. 96-45 (rel. September 24, 2010).

retaining the infinite period accorded the Commission. This results in creating ETC liability for underpayments but lack of credit for overpayments. Given that the deadline that the Bureau enforced in the *Form 499 Revision Denial Order*⁷ was improperly adopted as it was never subject to notice and comment, and it is a substantive change to the Commission's contribution rules which the Bureau lacked the authority to promulgate, enforcement of this unfair and unwise policy should immediately end.

II. The Transition from Payments Based on Projected Claims to Actual Support Payments Should Begin the First Month Following the End of a Quarter

In order to accommodate those continuing to file on a quarterly basis, the transition should happen the first month after the end of a quarter (January, April, July or October).

III. Disbursements Should be Made as Soon as Possible Following the Form 497 Filing Date

Changing from reimbursements based on projected payments to actual payments creates a cash flow issue for carriers. USTelecom members are willing to tolerate that change because of the benefits of the simplified administration it entails but the lag between submission by ETCs of their FCC Form 497 and the receipt of payments should be as short as possible so as to minimize the cash flow impact. In Paragraph 7 of the Public Notice⁸ USAC proposes to establish a monthly due date by which ETCs must submit their FCC Form 497 in order to receive a payment at the end of the following month. USTelecom recommends that the due date for FCC Form 497 be the 20th of the

⁷ *Universal Service Contribution Methodology, Federal-State Joint Board on Universal Service, Requests for Review of Decisions of Universal Service Administrator by Airband Communications, Inc. et al.*, WC Docket No. 06-122, CC Docket No. 96-45, DA 10-1514 (rel. Aug. 13, 2010).

⁸ Paragraph 7 states "USAC proposes to establish a monthly due date by which ETCs must submit their FCC Form 497 in order to receive a payment at the end of the following month."

month (or the first business day following that date) and that USAC have an equal amount of time to process reimbursements. Under this schedule, USAC would have three weeks to process reimbursements resulting in disbursements in the middle of the following month. There is no reason that with electronic submission of the FCC Form 497 and electronic funds transfers that ETCs should have to wait five weeks or more for reimbursement of the costs of participation in the Lifeline, Link Up and TLS (Toll Limitation Service) programs. Reimbursements should be made by the mid-point of the following month in which the FCC Form 497 data is submitted as long as the form is submitted on or before the due date.

IV. ETCs Continuing to Participate in the Low Income Program Should be Permitted to Net Negative Balances Against Future Payments

USAC's proposal to invoice the carrier for the full amount of a negative balance resulting from the true-up process during the transition month should be rejected. Instead, the negative balance should be netted against future payments. The conversion from payments based on projected claims for support to actual support payments made, and the necessary transition, already negatively impact the cash flow of ETCs. This impact should not be exacerbated by having USAC invoice carriers for the full amount of negative balances during the transition month. For carriers continuing to participate in the Low Income program such negative balances can be netted out against future payments until the full amount of the negative balance is zeroed out.

V. Conclusion

USTelecom⁹ supports the simplification and administrative streamlining of the

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low income program disbursement process by changing the basis of the reimbursement calculation methodology from projected to actual, but USAC's proposal should be modified to minimize cash flow impacts and to ensure equitable treatment of ETCs when either underpayments or overpayments are identified. The Bureau should adopt USTelecom's suggestions which enhance the efficiency and equity of the new process proposed by USAC.

Respectfully submitted,

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