

April 17, 2012

**VIA ECFS**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Room TW-A325  
Washington, DC 20554

**Re: Universal Service Contribution Methodology, WC Docket No. 06-122**

Dear Ms. Dortch:

On behalf of its impacted members, supporters and countless unknown service providers, the Ad Hoc Coalition of International Telecommunications Companies ("Coalition")<sup>1</sup> expresses its support for USTelecom's call for comprehensive changes to the Universal Service Fund ("USF") contribution system.<sup>2</sup> The Coalition joins USTelecom in imploring the Commission to fix the broken system for determining USF contributions, and agrees with USTelecom that the current revenue-based contribution model is outdated, inequitable, wasteful, and inefficient.

Like USTelecom, the Coalition applauds the Commission for recognizing that the fundamental problems with the current system require more than a quick fix. Rather than continue to expand the base of contributors piecemeal and maintain fund size with an ever-increasing contribution factor, the Commission is now planning to develop a record to support intelligent, equitable, comprehensive changes to the current model.<sup>3</sup> The Coalition wishes to participate in that process and bring to light inequities in the current system affecting its members.

Without restating all of the specific points raised in USTelecom's letter, the Coalition notes that USTelecom echoes a number of concerns that have been raised by the Coalition. The Coalition has already filed three petitions with the FCC seeking specific reforms, clarifications and solutions to several troubling aspects of the existing USF contribution regime which have a particularly harmful

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<sup>1</sup> The Coalition is comprised of a wide variety of international long distance service providers, including domestic and non-U.S. corporations, wholesale carriers and retailers, subscribed and pre-paid providers, as well as Internet-based and IP-in-the-Middle providers that facilitate the transmission and routing of international communications over traditional switched networks and advanced, IP-based networks. For more information, visit: <http://www.telecomcoalition.com>.

<sup>2</sup> See Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from David B. Cohen, Vice President-Policy, USTelecom – The Broadband Association (Mar. 28, 2012) ("USTelecom Ex Parte").

<sup>3</sup> See News Release, FCC Announces Tentative Agenda for April Open Meeting (rel. April 6, 2012) (proposing to consider a Further Notice of Proposed Rulemaking seeking comment on proposals to reform and modernize the Universal Service contribution system).

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impact on its member providers and supporters.<sup>4</sup> Like USTelecom, the Coalition has advocated for reseller exemption process changes<sup>5</sup> and reform of prepaid calling card reporting requirements.<sup>6</sup> These petitions and various other appeals have remained pending for years at the Commission.<sup>7</sup> The Commission can address a number of concerns raised by USTelecom by resolving these pending proceedings.

The Coalition's petitions and the USTelecom ex parte letter also reflect many of the concerns expressed in the law review co-authored by the undersigned Coalition counsel.<sup>8</sup> The article describes ways in which USAC has overstepped the bounds of its limited delegated authority by making substantive changes to FCC Form 499, often in clear violation of the Administrative Procedures Act -- an observation made in no uncertain terms by USTelecom:

"There is, by now, no question that the Form 499A Worksheet Instructions matter—and they matter a lot. Because the USF contribution factor is so significant, how contributors report their revenues and the specific decisions they make in filling out the Form 499 drives market behavior. Regrettably, in the past the Commission has used changes in the Form 499 instructions to put in place substantive requirements without adherence to standard notice and comment procedures under the Administrative Procedures Act."<sup>9</sup>

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<sup>4</sup> *Ad Hoc Coalition of International Telecommunications Companies' Petition for Declaratory Rulings That: (1) Qualifying Downstream Carriers May Choose Either to Accept Supplier Pass-Through Surcharges or Pay Universal Service Fees Directly; and (2) Prepaid Calling Card Providers' Distributor Revenues are Not "End-User" Revenues and Allowing Reporting of Actual Receipts Only; or In the Alternative, to Initiate a Rulemaking to Address These Issues*, WC Docket No. 06-122, Petition for Declaratory Ruling (filed Feb. 12, 2009) ("First Coalition Petition"); *Ad Hoc Coalition of International Telecommunications Companies' Petition for Declaratory Rulings That (1) the Universal Service Administrative Company Lacks Authority to Indirectly Assess Universal Service Fund Fees on International Only Providers and (2) the FCC Lacks Jurisdiction over Certain Non-U.S. International Providers, or, in the Alternative to Initiate a Rulemaking Proceeding to Initiate a Rulemaking Proceeding to Examine These Issues*, WC Docket No. 06-122, Petition for Declaratory Ruling; Petition for Rulemaking (filed Sept. 4, 2009); *Ad Hoc Coalition of International Telecommunications Companies' Petition for Rulemaking to Address Inequities in USAC's Interpretation and Application of the Carrier's Carrier Rule*, WC Docket No. 06-122, Petition for Rulemaking (Feb. 16, 2010) (Third Coalition Petition).

<sup>5</sup> See generally First and Third Coalition Petitions.

<sup>6</sup> See generally First Coalition Petition.

<sup>7</sup> *Request for Review of Decision by the Universal Service Administrative Company by IDT Corporation*, CC Docket No. 96-45, Request for Review of Decision by the Universal Service Administrative Company by IDT Corporation and IDT Telecom (filed June 30, 2008); *Request for Review of Decision by the Universal Service Administrative Company by IDT Corporation*, CC Docket No. 96-45, Request for Review of Decision by the Universal Service Administrative Company by IDT Corporation and IDT Telecom (filed Apr. 10, 2006); *Request for Review by AT&T Inc. of Decision of Universal Service Administrator*, CC Docket 96-45, Request for Review by AT&T Inc. of Decision of Universal Service Administrator (filed Oct. 10, 2006); *XO Communications Services Inc. Request for Review of Decision of the Universal Service Administrator*, WC Docket No. 06-122, Request for Review of Decision of the Universal Service Administrator (filed Dec. 29, 2010).

<sup>8</sup> ["Mis-Administration and Misadventures of the Universal Service Fund: A Case Study in the Importance of the Administrative Procedure Act to Government Agency Rulemaking,"](#) CommLaw Conspectus, Journal of Communications Law and Policy, Volume 20, Issue 1, June 2011.

<sup>9</sup> USTelecom Ex Parte at 6.

The substantive changes in regulation and jurisprudence effected by USAC through Form 499 have created many serious market distortions which have been particularly impactful for companies in the international communications sector, whose revenues are predominantly drawn from international sources or for international services. The consequences of USAC's *ultra vires* actions can be felt up and down the service delivery chain, from wholesalers to resellers on down to distributors and retailers. The inequitable results of rigid filing instructions and reporting mechanics adopted and enforced by USAC have created, as USTelecom put it, "destabilizing competitive discrepancies."<sup>10</sup> Below, the Coalition elaborates on a few areas of specific concern and explains how USAC's actions as the data collection agent for various FCC support programs have harmed competition by creating incentives for international carriers to push business, revenues and jobs from international services offshore.

### **Restoration of Private Carrier / Common Carrier Dichotomy**

One of the largest impacts of USAC's actions is the destruction of the line which had once clearly divided the regulatory and statutory duties of common carriers from the sparse duties imposed on private carriers.<sup>11</sup>

The Coalition submits for the record an explanation of how USAC, in its ministerial role as data collection agent for several support and cost recovery mechanisms, has materially altered regulatory obligations and statutory duties vis-a-vis Title II regulatory regimes unrelated to universal service. Specifically, USAC has designed and enforced the Form 499 in ways that conflict with and stand in stark contrast to underlying long-held legal precedents and statutory distinctions between private and common carriage. In a variety of ways, USAC's instructions and the reporting form itself impute "common carrier" status on otherwise private service providers, thus exposing revenues from the provision of private services to a host of regulatory obligations arising under Title II of the Act, including, but not limited to the duty to contribute to the Telecommunications Relay Services ("TRS") Fund, support administration of the North American Numbering Plan (NANPA), and contribute toward the shared costs of local number portability administration (LNPA).<sup>12</sup> USAC has done so either intentionally or through inadvertence; either way, it has done so impermissibly. The Coalition calls upon the Commission to investigate all circumstances where USAC's actions as the data collection agent have precluded providers from segregating revenue from private carrier services from revenues lawfully subject to fees and contributions arising exclusively under Title II

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<sup>10</sup> USTelecom Ex Parte at 1.

<sup>11</sup> In a recent ex parte, EDUCAUSE stressed the "importance of maintaining the distinction between private networks and public networks. Private networks... are separate from the public network and should not be required to support the costs of those public networks." See Letter to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, from David V. Halidjian, Policy Specialist, EDUCAUSE (Apr. 16, 2012) ("EDUCAUSE Ex Parte"); available at: <http://apps.fcc.gov/ecfs/document/view?id=7021910679>;

Congress and the Courts have long recognized that the same principle espoused by EDUCAUSE in relationship to "networks" applies with equal force to "services" provided on a private carrier basis; that is, unless specifically authorized by Congress, revenue from private carrier services should not be required to support the costs of supporting the public network or providing public interest services, such as Telecommunications Relay Services. Yet this is precisely what is occurring in the marketplace due to USAC's administration of its role as the data collection agent.

<sup>12</sup> See First Coalition Petition at 3.

authority. The Commission should take such action as part of the interim reforms sought by USTelecom.

The private/common carrier dichotomy issue as it pertains to revenue reporting on FCC Form 499-A has its roots in the statutory distinctions in the Communications Act. Section 254 of the Act applies solely to universal service.<sup>13</sup> In Section 254, Congress granted to the Commission broad permissive authority over “providers of interstate telecommunications.”<sup>14</sup> The Commission has found that in accordance with this statutory authority it would be in the public interest to require private service providers that provide interstate telecommunications to others for a fee to contribute to universal service on the same basis as common carriers.<sup>15</sup> Section 254 does not grant the Commission the same broad authority with respect to the other Title II support mechanisms, such as TRS, NANPA, and LNP. Only common carriers are required to contribute to these support mechanisms.<sup>16</sup> Therefore, private service providers are exempt from contribution.

Several members of the Coalition derive some of their revenues from operations as private carriers in that they individually negotiate contracts with each of their reseller customers.<sup>17</sup> As such, Coalition members do not offer these services indiscriminately to the public at large.<sup>18</sup> For example, some members are pure wholesale service providers that pick and choose their customers, individually negotiate the terms and conditions of their services, including price, and do not sell directly to the public or, in such a manner as to be effectively available directly to the public. As such, these services do not fit the definition of common carriage. Consistent with the mandates of

<sup>13</sup> See generally 47 U.S.C. § 254.

<sup>14</sup> Section 254(d) grants the Commission authority to require “other providers of interstate telecommunications” to contribute to universal service if it finds it to be in the public interest to do so.

<sup>15</sup> See *In the Matter of Federal-State Joint Board on Universal Service*, 13 FCC Rcd 2372, para. 276 (1997).

<sup>16</sup> 47 C.F.R. § 64.604(c)(5)(iii)(A) (requiring “every carrier providing interstate telecommunications services” to contribute to TRS); 47 C.F.R. § 52.32(a)(requiring LNP contributions “from all telecommunications carriers providing telecommunications service...”); 47 C.F.R. § 52.17 (“All telecommunications carriers in the United States shall contribute on a competitively neutral basis to meet the costs of establishing numbering administration.”). The Commission has ruled that the terms “common carrier” and “carrier” are synonymous with the term “telecommunications carrier” for the purposes of the Act and the FCC’s rules. *In re AT&T Submarine Sys. Inc.*, File No. S-C-L-94-006, Mem. Opinion & Order, 13 FCC Rcd. 21585, 21587-88, ¶ 6 (1998) (“As the Commission has previously held, the term ‘telecommunications carrier’ means essentially the same as common carrier.”); see also *Virgin Islands Telephone Corp. v. FCC*, 198 F.3d 921, 922, 926 (D.C. Cir. 1999) (affirming the FCC’s conclusion that the terms “telecommunications carrier” and “common carrier” are synonymous for the purposes of the Act and the FCC’s rules). The Act defines the term “telecommunications carrier” as “any provider of telecommunications services.” 47 U.S.C. § 153(44). The term “telecommunications service,” in turn, is defined by the Act as “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.” 47 U.S.C. § 154(46).

<sup>17</sup> Each reseller customer individually negotiates any discount on service rates, volume discounts, payment terms, handset use and ownership, collateral requirements, etc. This individualized customization in cooperation with its reseller customers is not a common carrier offering. *NARUC v. FCC*, 533 F.2d 601, 641 (D.C. Cir. 1976) (“*NARUC I*”) (“[A] carrier will not be a common carrier where its practice is to make individualized decisions, in particular cases, whether and on what terms to deal.”).

<sup>18</sup> *NARUC I*, 525 F.2d at 642; see also *Sprint Communications Company, LP v. Nebraska Public Service Commission*, 2007 WL 2682181 (D. Neb.) (2007).

the Communications Act of 1934 and applicable precedent on the definition of common carriage, the Commission long ago determined that the term “telecommunications service” only includes telecommunications provided by a “common carrier” that holds itself out “to service indifferently all potential users,” and does not include carriers whose “practice is to make individualized decisions in particular cases whether and on what terms to serve.”<sup>19</sup>

The Coalition is concerned that while its members may operate as private service providers with respect to some of their revenues and, as such, those revenues should be immune from TRS, NANP, LNP and annual FCC regulatory fees, the member companies may unnecessarily be forced into subjecting revenues from private services to these Title II program fees due to the rigidly mechanical constraints imposed by USAC through the revenue reporting worksheet (Form 499-A). This is because the Form 499-A does not allow filers who derive revenues from both common carrier services and non-common carrier services to segregate out revenues from private services that should be exempt from the Title II programs applicable only to common carriers.

Coalition members have been informed by USAC during “desk” audits that in order to avoid payment of TRS, NANPA, LNP and FCC fees, apparently a Form 499-A filer must select “Private Service Provider” in Line 105. Doing so, however, implies that the carrier operates as a private service provider with respect to all services that it offers. In other words, the Form assumes that a carrier cannot offer both private and common carrier services, thereby operating as a private service provider with respect to certain offerings and a common carrier with respect to others.

This assumption conflicts with FCC rules and precedent holding that a provider can operate simultaneously as a common carrier and private service provider, even with respect to the same services.<sup>20</sup> The Communications Act provides that a “telecommunications carrier shall be treated as a common carrier under [Title II] *only to the extent that it is engaged in providing telecommunications services.*”<sup>21</sup> Accordingly, the FCC “must examine the actual conduct of an entity to determine if it is a common carrier” for the specific purposes at issue rather than relying merely on its status as a common carrier for some purposes.<sup>22</sup> As the D.C. Circuit has explained, “the mere fact that petitioners are common carriers with respect to some forms of telecommunication does not relieve the Commission from supporting its conclusion that petitioners provide [each service at issue] on a common carrier basis.”<sup>23</sup> This is true because the Commission’s jurisdiction under Title II is limited solely to practices that are undertaken (1) by [service providers] while “engaged as a common carrier” and (2) “for and in connection with” such common carrier services provided by

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<sup>19</sup> In re Matter of Federal-State Joint Board on Universal Service, Memorandum Opinion and Order, CC Docket No. 96-45 (Sept. 30, 1999).

<sup>20</sup> *NARUC I* at 608 (“[I]t is at least logical to conclude that one can be a common carrier with regard to some activities but not others.”); *In re Audio Comm’cns, Inc.*, 8 FCC Rcd. 8697, 8698-99 (1993) (“[A] single firm that is a common carrier in some roles need not be a common carrier in other roles.”).

<sup>21</sup> 47 U.S.C. § 153(44) (emphasis added).

<sup>22</sup> *FTC v. Verity Int’l, Ltd.*, 443 F.3d 48, 60 (2d Cir. 2006); *see also Washington ex rel. Stimson Lumber Co. v. Kuykendall*, 275 U.S. 207, 211-12 (1927) (explaining that “[a] common carrier is such by virtue of his occupation, not by virtue of the responsibilities under which he rests”).

<sup>23</sup> *Southwestern Bell Tel. Co. v. FCC*, 19 F.3d 1475, 1481 (D.C. Cir. 1994); *see also Eagleview Technologies, Inc. v. MDS Associates*, 190 F.3d 1195, 1198 (11th Cir. 1999).

[service provider] while engaged as a common carrier.<sup>24</sup> The Commission's jurisdiction under Title II does not extend to services provided on a private carriage basis, *even if provided by a common carrier*.<sup>25</sup> Thus, neither USAC nor any Commission Bureau nor even the Commission itself is authorized to impose Title II financial burdens on revenue derived from private carrier services. Yet this has occurred countless times and has affected countless service providers over the years.

In sum, the Commission has allowed USAC, as the dual USF administrator and data collection agent for the other Title II programs, to take legal concepts applicable to the USF program and superimpose them onto the Title II programs. USAC has mistakenly taken the Commission's broad authority under Section 254(d), which applies solely to USF, and has created administrative processes that impact Title II programs in ways that conflict with underlying legal precedents and statutory distinctions – namely not providing a way for private carriers to segregate private carrier revenue from common carrier revenue.

The Form, therefore, is rigid, overly restrictive and inconsistent with the legitimate and lawful private/common carriage dichotomy that has existed in Commission jurisprudence since the very origins of communications regulation. To remedy this reporting obstacle, the Coalition requests that the Commission in the short term direct USAC to revise the form to make accommodations to allow filers to separately report private service provider revenues from common carrier revenues, thereby facilitating the imposition of USF contributions on its private service provider revenue without exposing such revenue to TRS, LNP and NANP assessments which, by law, apply exclusively to revenue derived from common carrier services.

The Commission should seize the opportunity presented by USTelecom's calls for interim reforms to promptly rectify this situation in order to prevent even a single dollar more of Title II program support payments coming from the pockets of providers of private carrier services. For the long term, the Coalition urges the Commission to respect the private/common carrier dichotomy in its reform of the Universal Service Contribution methodology.

### **Restoration of the Purpose for the De Minimis Exemption**

The Coalition has detailed for the Commission the harsh economic consequence of the "LIRE Trap" on International telecommunications service providers.<sup>26</sup> LIRE, the Limited International Revenues Exception, applies to carriers for whom interstate revenues comprise 12% or less of their combined international and interstate revenues. The Commission created the LIRE exception after the D.C. Circuit had found that the Commission's previous rules, as applied to providers who derived a substantial portion of their revenues from the provision of international services, were in some

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<sup>24</sup> 47 U.S.C. § 153(10).

<sup>25</sup> *NARUC v. FCC*, 533 F.2d 601, 608 (D.C. Cir. 1976) ("[I]t is at least logical to conclude that one can be a common carrier with regard to some activities but not others."); *In re Audio Comm'cns, Inc.*, 8 FCC Rcd. 8697, 8698-99 (1993) ("[A] single firm that is a common carrier in some roles need not be a common carrier in other roles.").

<sup>26</sup> See First Coalition Petition at 5-10; Letter from Jonathan S. Marashlian, Coalition Counsel, The CommLaw Group, to Ms. Marlene Dortch, Secretary, Federal Communications Commission, WC Docket 06-122 (March 8, 2012) ("Coalition Ex Parte Letter").

cases inequitable and discriminatory because these providers paid more in universal service contributions than they earned in revenues from the provision of interstate services.<sup>27</sup> Accordingly, carriers who qualify for the LIRE exception only contribute to universal service based on their interstate revenues.

While the Commission created this exception to meet the equitable requirement of Section 254,<sup>28</sup> the interplay between the LIRE exception and the de minimis exemption creates a skewed result in the market. Carriers who qualify for the LIRE exception and whose resulting contribution obligation is less than 10% fall within the de minimis exemption automatically. These carriers cannot elect to pay as direct contributors if they fall within the de minimis exemption. This means that these carriers, whose direct contribution obligation would be de minimis are then treated as end users by their underlying carriers because they do not contribute directly to the Fund. Their underlying carriers then are permitted to bill pass-through charges on the entirety of the carriers predominantly international revenues, in some cases increasing a universal service contribution obligation from less than \$10,000 to potentially hundreds of thousands of dollars in indirect pass-throughs.

The Commission originally intended for de minimis providers to be wholly exempted from any contribution obligations whatsoever; indeed, the FCC made it clear that de minimis providers would not even be required to file Form 499s.<sup>29</sup> Today, however, USAC effectively imposes contribution obligations indirectly that it is legally barred from imposing directly. This means that de minimis providers by virtue of the LIRE exception find themselves subject to greater administrative burdens and contribution liabilities than providers who can avail themselves of the LIRE exception but earn enough interstate revenues to avoid de minimis classification. This is because Coalition members are billed more in USF pass-through surcharges than their direct contribution liability would entail if USAC permitted de minimis resellers to elect direct contributor status.

The Commission can resolve this inequity. In petitioning the Commission, the Coalition has advocated that ITCs should be entitled to opt-out of de minimis treatment and voluntarily contribute according to the same formula as all other carriers.<sup>30</sup> The Coalition has also offered simple changes to the mechanics of filing that would relieve them of the unintended marketplace consequences of the LIRE trap.<sup>31</sup> The Coalition urges the Commission in the short-term to undertake these reforms to address this competitive disparity. The Commission must act to relieve carriers who derive the bulk of their revenues from the provision of international services who also qualify as de minimis providers of the indirect obligation to pay pass-through charges on revenues that should otherwise be excluded from the assessable contribution base.

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<sup>27</sup> *TOPUC v. FCC*, 183 F.3d 393, 421-24 (5<sup>th</sup> Cir. 1999).

<sup>28</sup> See Fifth Circuit Remand Order, 15 FCC Rcd at 1685, para. 21.

<sup>29</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Fourth Order on Reconsideration, 13 FCC Rcd 5318, ¶ 293 (1997) ("The Commission found that, if a contributor's annual contribution would be less than \$100.00, it is not required to contribute to universal service or comply with Commission Worksheet filing requirements.").

<sup>30</sup> First Coalition Petition at 7, 10-11.

<sup>31</sup> See Coalition Ex Parte Letter at 4.

## Restoration of the Meaning and Purpose of End User Revenue

Universal service contributions are assessed on end-user telecommunications revenues only.<sup>32</sup> The Commission found that to base contributions on end user revenues would serve the public interest as a competitively neutral methodology to avoid counting the same revenues for assessment multiple times along the distribution chain.<sup>33</sup> Indeed, in adopting this scheme in the *First Report and Order*, the Commission sought to avoid “distort[ing] how carriers choose to structure their business.”<sup>34</sup> Yet, that is exactly what has happened through USAC’s application of this contribution methodology.

One example of this marketplace distortion is the discriminatory treatment of prepaid calling card providers under USAC’s application of the Commission’s rules. As detailed by the Coalition in its First Petition<sup>35</sup> and raised by USTelecom in its recent letter, USAC’s reporting instructions require prepaid calling card providers to report revenues from the sale of prepaid cards at face value, even when the filer is a wholesale provider who does not receive the entire value of the card. This interpretation of the rules is discriminatory because it requires prepaid calling card providers, as a particular industry segment, to include in their assessable base revenues they never actually collect. As USTelecom notes in its letter, the Commission’s delay in acting on appeals raising this issue “has provided at least one prepaid calling card provider with an unfair competitive advantage in the marketplace.”<sup>36</sup>

To resolve this issue, the Commission should, in the short term, adopt a reporting mechanism that allows filers to report end user revenues they actually received.

## Extension of International Revenue Exemption to Title II Programs

Another inequity facing international carriers is the method of assessing contributions for TRS that exposes revenues derived from international sources to Title II fund contributions. As discussed above, under Section 254, the Commission assesses contributions to universal service based on interstate and international revenues, except in cases where universal service contributions would effectively exceed a carrier’s interstate revenues. By contrast, Congress, in Section 225(d)(3)(B) of the Communications Act, has directed that funds to support TRS come from intrastate and interstate revenues.<sup>37</sup> Again, ignorance of this statutory distinction has led to competitively disparate results impacting providers of international telecommunications services.

STi Prepaid, LLC (by its predecessor company Telco Group, Inc.) raised the competitive harms arising from the Commission’s method of TRS contribution assessment years ago, and this

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<sup>32</sup> 47 C.F.R. § 54.706(b); Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776 (1997) (“First Report and Order”).

<sup>33</sup> *See id.* para. 844

<sup>34</sup> *Id.* para. 846.

<sup>35</sup> *See* First Coalition Petition at 13-15; USTelecom Ex Parte at 4.

<sup>36</sup> *See* USTelecom Ex Parte at 4.

<sup>37</sup> 47 U.S.C. § 225(d)(3)(B).

issue remains unresolved.<sup>38</sup> As STI Prepaid has since explained, “the Fund’s growth has so multiplied in recent years as to become a significant impediment to its ability to conduct business in the United States.”<sup>39</sup> Accordingly, the competitive disadvantages forced on providers of international telecommunications services is one more way the current contribution methodology is pushing business, revenues and jobs overseas.

With the opportunity to confront this inequity squarely before it, the Coalition joins STI’s earlier calls in urging the Commission to act on STI’s long-pending Application for Review.<sup>40</sup>

## Conclusion

The Coalition applauds the Commission for its plans to develop a complete record from parties impacted by the current revenue-based contribution regime. In the short term, the Coalition, USTelecom, STi Prepaid, IDT and countless others have already submitted myriad facts and proposals for reform that the Commission could adopt immediately to restore fairness and equity.

Should you have any further questions, kindly contact the undersigned at [jsm@commlawgroup.com](mailto:jsm@commlawgroup.com) or (703) 714-1313.

Respectfully submitted,



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<sup>38</sup> Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Telco Group, Inc., Petition for Declaratory Ruling, or in the Alternative, Petition for Waiver (filed July 26, 2004); *see also*, Telco Group, Inc., Application for Review (filed June 26, 2006).

<sup>39</sup> Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123, Comments of STi Prepaid (filed May 14, 2010).

<sup>40</sup> *See* Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Cherie R. Kiser, Counsel for STi Prepaid, LLC (Sept. 26, 2011)(“STi Ex Parte”); available at: <http://apps.fcc.gov/ecfs/document/view?id=7021711240>.