

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Universal Service Contribution Methodology)	WC Docket No. 06-122
)	
A National Broadband Plan For Our Future)	GN Docket No. 09-51
)	

**REPLY COMMENTS ON THE FURTHER NOTICE OF PROPOSED RULEMAKING
OF THE**



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SUMMARY

The Commission received an overwhelming response to its *FNPRM*, with more than 75 comments filed, many of which contained lengthy analyses and extensive proposals for reform of the Universal Service Fund (“USF”) contribution base and collection methodology. ACA believes several conclusions can be drawn from these filings.

First, the current contribution regime is too complex and often produces arbitrary outcomes, resulting in onerous burdens on contributors and potential contributors. Virtually all commenters called for a simpler, less burdensome system.

Second, there are a host of discrete problems with the current regime that do not involve altering the base or methodology. These range from altering the *de minimis* threshold to greater clarity in changes to the Form 499. Commenters want the Commission to address these immediately.

Third, the current regime is neither sustainable nor competitively neutral. But, while commenters agreed serious problems exist, they diverged substantially on what services should and can be assessable and what the collection methodology should be. If progress is to be made here, the Commission first will need to explore in greater detail the benefits and costs of each proposal.

Consequently, ACA believes the Commission should focus immediately on measures to improve the existing revenues-based regime, while it continues to gather information and hold further discussions upon which to base longer-term reform.

ACA is most concerned that the current contribution regime imposes onerous burdens on smaller providers, many of whom are members of ACA. In its initial comments, ACA described issues these smaller providers have with the current regime and proposed immediate steps the Commission could take to lessen these burdens, including by:

- Changing the *de minimis* threshold from \$10,000 in annual contributions to \$200,000 in annual assessable revenues.
- Permitting smaller contributors to elect to rely on the prior year’s traffic study when preparing Form 499-Qs and require only one traffic study filing per year in connection with the Form 499-A.

- Clarifying that it is not necessary to file a “traffic study” when a VoIP provider determines its jurisdictional allocations by measuring 100 percent of its traffic for the reporting period, which is “actual” interstate revenue.
- Revisiting and revising downward the VoIP safe harbor for allocating interstate/intrastate usage to reflect the fact that interstate usage of cable operator voice services is usually far less than the 64.9 percent allocation adopted six years ago.

In addition, ACA opposes the proposal in the *FNPRM* to allocate revenues in bundles of assessable and non-assessable services either by including all revenues from the bundle or by only excluding revenues from non-assessable services if they are offered on a standalone basis. Numerous commenters noted these proposals have little or no justification, are unduly restrictive and arbitrary, and would improperly result in fees being levied on non-assessable services.

As discussed above, the comments did not provide a clear, well-supported path for the Commission to resolve the issues of expanding the assessable base, including by making broadband Internet access service assessable, and altering the collection methodology. Most notably, there was a paucity of evidence on the effects caused by fundamental changes, particularly with respect to broadband adoption rates. As a result, the Commission should move deliberately before adopting wide-ranging proposals, some of which may undermine other Commission objectives. In particular, the Commission should gather additional data on the harms that may arise prior to imposing a fee on broadband Internet access service as an assessable service. Moreover, in no instance should the Commission impose a fee that acts to deter consumers from using higher-performance services, which would in turn harm deployment of broadband infrastructure.

Finally, ACA agrees with commenters that providers should continue to be permitted to state a separate USF surcharge on customer invoices. But it would be impractical and confusing

to consumers to require providers to explain the details of the surcharge calculation in invoices or to include USF or other taxes and fees in a total estimated price in advertising materials.

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**REPLY COMMENTS
ON THE FURTHER NOTICE OF PROPOSED RULEMAKING
OF THE AMERICAN CABLE ASSOCIATION**

The American Cable Association (“ACA”) respectfully submits these Reply Comments in response to the Federal Communications Commission’s (the “Commission’s”) Further Notice of Proposed Rulemaking (“*FNPRM*”) in the above captioned proceeding.¹

I. INTRODUCTION

The Commission received an overwhelming response to its *FNPRM*, with more than 75 comments filed, many of which contained lengthy analysis and extensive proposals for reform of the Universal Service Fund (“USF”) contribution base and collection methodology. From ACA’s reading of these comments, several conclusions can be drawn. First, the current contribution regime is too complex and often produces arbitrary outcomes, resulting in onerous burdens on contributors and potential contributors. Virtually all commenters called for a simpler, less burdensome system. Second, there are a host of discrete problems with the current regime that do not involve altering the base or methodology. These range from altering the *de minimis* threshold to greater clarity in changes to the Form 499. Commenters want the

¹ See *Universal Service Contribution Methodology and A National Broadband Plan For Our Future*, WC Docket No. 06-122, GN Docket No. 09-51, Further Notice of Proposed Rulemaking, FCC 12-46 (rel. Apr. 30, 2012).

Commission to address these immediately. Third, the current regime is neither sustainable nor competitively neutral. But, while commenters agreed serious problems exist, they diverged substantially on what services should and can be assessable and what the collection methodology should be. If progress is to be made here, the Commission first will need to explore in greater detail the benefits and costs of each proposal. Consequently, ACA believes the Commission should focus immediately on measures to improve the existing revenues-based regime, while it continues to gather information and hold further discussions upon which to base longer-term reform.

ACA's most significant concern with the current contribution regime lies with the burdens it imposes on smaller providers. Most ACA members meet the definition of a "small cable company" or operate a "small system" as set forth in the Initial Regulatory Flexibility Analysis section of the *FNPRM*,² and many provide voice telephony (interconnected VoIP) service, which results in them having to comply with the current requirements for contributing to USF. In its initial comments,³ ACA described issues these smaller providers have with the current regime and proposed immediate steps the Commission could take to lessen these burdens, including by:

- Changing the *de minimis* threshold from \$10,000 in annual contributions to \$200,000 in annual assessable revenues.
- Permitting smaller contributors to elect to rely on the prior year's traffic study when preparing Form 499-Qs and require only one traffic study filing per year in connection with the Form 499-A.
- Clarifying that it is not necessary to file a "traffic study" when a VoIP provider determines its jurisdictional allocations by measuring 100 percent of its traffic for the reporting period, which is "actual" interstate revenue.

² See *FNPRM*, Appendix E, ¶¶ 57-59.

³ Comments of American Cable Association, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) ("ACA Comments").

- Especially because smaller providers tend to rely on the safe harbor allocation to avoid the cost and time required to prepare and file traffic studies, revisiting and revising downward the VoIP safe harbor for allocating interstate/intrastate usage to reflect the fact that interstate usage of cable operator voice services is usually far less than the 64.9 percent allocation adopted six years ago.

In its reply comments, ACA reviews these immediate solutions, as well as select issues raised by other commenters that bear on long-term reform.

II. THE COMMISSION SHOULD ENSURE UNREASONABLE BURDENS ARE NOT IMPOSED ON SMALLER PROVIDERS

A. Introduction: Unanimous Concern With the Current Contribution Regime’s Administrative Burdens

While it is rare to find unanimity among participants in Commission proceedings, commenters in this proceeding representing the entire spectrum of interests agreed that the current USF contribution regime is unreasonably burdensome, especially for smaller providers. For instance, Google contended, “Compliance burdens on both contributors and consumers have also become increasingly costly and confusing.”⁴ The Universal Service for America Coalition, focusing on the particular problems faced by smaller wireless providers, stated:

According to USAC’s own estimates, the current USF contribution mechanism is too complex and imposes unnecessarily high administrative costs on contributors...It will take a contributor almost a week-and-a-half’s worth of work hours to comply with its annual reporting obligations...Even the slightest change in either a contributor’s revenue sources or in USAC’s Form 499-A or 499-Q instructions can dramatically increase the cost associated with compliance. Indeed, as a result of the complexities of the system, smaller contributors with limited staffs are often required to seek the service of outside counsel or consultants to determine their obligations.⁵

These views were supported by incumbent telephone carriers represented by the Independent Telephone & Telecommunications Alliance, which submitted, “Small and medium-size carriers

⁴ Comments of Google Inc., WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 4 (“Google Comments”).

⁵ Comments of the Universal Service for America Coalition, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 3-4.

have limited internal resources and limited funds that can be devoted to obtaining outside assistance in complying with regulatory obligations.”⁶

As a result of these concerns, commenters urged the Commission to make it a priority to ease burdens placed on contributors and potential contributors to comply with their obligations. This not only would benefit contributors but their customers as well. As the United States Telecom Association (“USTelecom”) stated, “Ease of administration would reduce costs on providers that must be passed through to consumers in the form of higher rates.”⁷

B. ACA’s Proposals Would Alleviate Burdens on Smaller Providers

1. The Commission Should Alter the *De Minimis* Threshold

In its comments, ACA proposed a number of measures by which the Commission could ease the burdens on smaller providers. One of the most important would be to alter the *de minimis* threshold, both by adopting the Commission’s proposal to determine the threshold on the basis of assessable revenues and by increasing the threshold at least to its original *de facto* level of \$200,000 in assessable revenues. ACA notes that USTelecom also supported moving to a revenues-basis for the threshold because under the current system “many providers with a *de minimis* contribution obligation must file the quarterly Telecommunications Reporting Worksheet and contribute on a quarterly basis.”⁸ But, simply moving to a revenues-basis solves only one of the problems facing smaller providers. Because the contribution rate has soared in recent years, the threshold has been effectively pushed downward, subjecting more filers to the

⁶ Comments of Independent Telephone & Telecommunications Alliance, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 15-16 (“The Commission...should endeavor to limit the compliance burden on small and medium-sized carriers as much as possible.”).

⁷ Comments of United States Telecom Association, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 6 (“USTelecom Comments”).

⁸ *Id.* at 13.

burdens of direct contribution, quarterly 499-Q and traffic study filings, and monthly USAC billing. ACA urges the Commission to correct this problem. It should establish a revenue-based threshold at the level of at least \$200,000 of assessable revenues. As ACA noted in its comments, this would reflect the level in the early years of the *de minimis* exception when the contribution rate was approximately five percent.⁹

2. The Commission Should Revise Downward the VoIP Safe Harbor

ACA, along with a number of other commenters, submitted that the Commission should revisit and revise downward the safe harbor for allocating VoIP traffic from the level of 64.9 percent adopted in 2006. Time Warner Cable, for instance, “maintained that the current safe harbor for interconnected VoIP of 64.9 percent – a figure that is now six years old – is a highly inflated proxy for interstate revenues.”¹⁰ Verizon agreed, stating that “the current safe harbors are outdated and rarely utilized because they are set at percentages that do not accurately reflect today’s mix of traffic,” and it proposed that the Commission “establish a new interstate safe harbor for both wireless and interconnected VoIP in the 20-25 percent range.”¹¹ Finally, USTelecom pointed out that because the safe harbor is set too high, for competitive reasons, few providers opt to use it, and, consequently, “relatively little USF revenue is assessed based on the jurisdictional safe harbor percentages.”¹²

⁹ ACA Comments at 6. Reducing the number of contributors also would reduce administrative processing, billing, and audit costs. In addition, because these smaller providers tend to rely on underlying wholesale providers, their contributions would largely be captured.

¹⁰ Comments of Time Warner Cable, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 12.

¹¹ Comments of Verizon, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 3 (“Verizon Comments”).

¹² USTelecom Comments at 12.

ACA agrees especially with the view of USTelecom. Unfortunately, smaller providers are the “few providers” that end-up using the safe harbor. As ACA set forth in its comments, for smaller providers, it is costly and administratively burdensome to engage consultants to prepare up to five traffic studies annually and use counsel to file them.¹³ As a result, they rely on the safe harbor, which places them at a competitive disadvantage. It also means that their customers overpay the universal service contribution (and other fees keyed to the Form 499). For these reasons, the Commission should enable smaller providers to use a reasonable safe harbor rate based on the average reported in the *FNPRM* (22.1 percent).¹⁴

3. The Commission Should Remove Unnecessary Traffic Study Requirements

Should a provider seek to use traffic studies to allocate the jurisdictional percentages of its VoIP revenue, it currently needs to submit at least four and possibly five studies annually – one with each quarterly Form 499-Q and one in connection with the Form 499-A. From the perspective of a smaller provider, this imposes a significant administrative burden and legal cost. Moreover, it is unnecessary because quarterly filings are simply estimations of projected revenue in the first place and do not establish a contributor’s ultimate liability. Moreover, the current system protects against under-reporting. If a provider has under-reported assessable revenues through its Form 499-Qs, the Universal Service Administrative Company (“USAC”) calculates an additional true-up payment using a formula that disfavors the provider. Thus, minor inaccuracies in estimated quarterly interstate revenues, especially by smaller providers, are not

¹³ ACA Comments at 4-5.

¹⁴ ACA also requests that the Commission decline to apply to interconnected VoIP the AT&T proposal for an interim 50 percent interstate allocation of revenue from calling plans that include local and long-distance calls. *See* AT&T Comments at 28-29. Fifty percent is far too high for a binding allocation in light of the evidence from interconnected VoIP traffic studies. Instead, to be competitively neutral, the Commission could apply the same traffic study-safe harbor paradigm to circuit switched all-distance calling plans. Such a change would moot AT&T’s proposal.

consequential in terms of funding. The Commission should permit smaller providers to elect to rely on the prior year's traffic study when preparing Form 499-Qs and require only one traffic study filing annually in connection with the Form 499-A.

The Commission also should clarify that it is not necessary to file a "traffic study" when a VoIP provider determines its jurisdictional allocations by measuring 100 percent of its traffic for the reporting period. When all of the traffic is measured, the provider is reporting its "actual" interstate revenue and not a "study" using statistical "sampling techniques" with a "margin of error."¹⁵ Further, there is no benefit when a provider explains the statistical "confidence level" and "margin of error" of a 100 percent sample. ACA thus requests that the Commission amend the Form 499-A to permit service providers to avoid any inquiry about their allocation if they certify they have measured 100 percent of the traffic to perform the jurisdictional allocation.

4. The Commission Should Not Adopt Its Proposed Rules for Allocating Revenues for Bundled Services

In the *FNPRM*, the Commission proposes two options for providers to use in allocating revenues for bundled services, some of which are not assessable: either use the standalone price of the assessable service or the full price of the bundle.¹⁶ In its comments, ACA argued against adopting this new, highly restrictive approach for a variety of reasons: there is insufficient

¹⁵ 2012 *Form 499-A Instructions*, at 25, available at (http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-313285A1.pdf) (explaining that when performing traffic studies, "Sampling techniques must be designed to produce a margin of error of no more than one percent with a confidence level of 95%. If the sampling technique does not employ a completely random sample (e.g., if stratified samples are used), then the respondent must document the sampling technique and explain why it does not result in a biased sample.").

¹⁶ The Commission also proposes to prohibit a provider from allocating a discount among services in a bundle. This is plainly arbitrary and inequitable. *See e.g.*, Comments of the National Cable & Telecommunications Association, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 9 ("The Commission's proposal to require that the entire discount attributable to a bundle be allocated to non-assessable services is particularly troubling...The more logical approach is to assume that a portion of the discount is attributable to each service in the package.") ("NCTA Comments").

evidence that contributors are abusing the current rules or that contributors have the wrong incentives to provide a proper allocation, and the proposed rules would force many providers to either adopt an unneeded commercial offering or overpay.¹⁷ ACA's views are shared by numerous commenters from various sectors of the industry, including:

Verizon – “The proposed modification...is premised upon a flawed assumption: namely, that carriers have unbridled discretion in apportioning revenues for bundled offerings. In fact, there already are specific requirements to which carriers must adhere in apportioning revenues for bundled offerings.”¹⁸

Level 3 Communications – “This proposed bundling rule appears patently designed solely to increase assessable revenue, by closing the door to reasonable alternatives...It is hard to see how this rule would not be arbitrary and capricious, as it could subject any revenues for any non-telecommunications services subject to USF assessment far disproportionate to the value of the telecommunications being provided.”¹⁹

Comcast – “A fundamental flaw of this proposal [assessing all bundled revenues] is that it could result in assessments on services or products that are beyond the scope of the Commission's statutory authority to assess under section 254 of the Act...Section 254 does not empower the Commission to impose a USF contribution obligation on services subject to the FCC's Title VI jurisdiction.”²⁰

¹⁷ See ACA Comments at 7-8.

¹⁸ Verizon Comments at 22-23.

¹⁹ Comments of Level 3 Communications, LLC, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 16.

²⁰ Comments of Comcast Corporation, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 10 (“Comcast Comments”). Comcast also raises a variety of other issues with the Commission's proposal:

“Assessing all bundled revenues also would deter providers from offering bundles that include a mixture of assessable and non-assessable services. Thus, the proposal would create a substantial risk that the options available to consumers would be influenced significantly by regulatory decisions, rather than consumer preferences.” *Id.* at 10.

“Deterring providers from offering certain bundles also could adversely impact innovation.” *Id.* at 11.

The standalone pricing approach “could introduce economic distortions by encouraging providers to alter components that are included in a bundle in response to the contribution mechanism rather than offering the package of services that consumers desire.” *Id.*

The standalone pricing approach “would reduce the full consumer benefit of bundled pricing by charging universal service fees on assessable services as if the consumer had not realized any price reduction from purchasing the service as part of a bundle.” *Id.* at 12.

Because of these many issues, the Commission should not adopt its proposal for allocating bundled services. Should it decide that the current approach needs to be altered, ACA suggests that the Commission enable providers to use other allocation alternatives. For example, it should explore creating a safe harbor allocation based on average industry allocations for residential triple-play services.

5. The Commission Should Establish the Contribution Factor Annually

Numerous commenters supported the proposal²¹ to move from revising the contribution factor quarterly and instead establish the contribution factor annually.²² ACA supports this proposal. It would relieve smaller contributors of the burden of changing their billing systems four times each year on relatively short (two weeks') notice. It also would reduce consumer confusion about "the ever-changing line-item charge on their bills."²³

III. EXPANDING THE ASSESSABLE BASE TO INCLUDE BROADBAND INTERNET ACCESS SERVICE MAY HARM ADOPTION, INNOVATION, AND NETWORK EXPANSION

One of the most contentious issues in the comments involved whether the Commission should expand the assessable base to include broadband Internet access service. Groups of

"Unless the Commission is prepared to restrict the assessment basis for state and local franchise authorities, the stand-alone option also is likely to increase the consumer contribution burden by assessing providers – and ultimately consumers – on the basis of more revenues than providers actually receive." *Id.*

²¹ *FNPRM*, ¶ 353.

²² *See e.g.*, Verizon Comments at 11; Comments of AT&T, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 43 ("AT&T Comments"); Comments of XO Communications Services, LLC, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 11; Comments of California Public Utilities Commission, WC Docket No. 06-122, GC Docket No. 09-51, (July 9, 2012) at 15 ("CA PUC Comments") ("The CPUC recommends that the quarterly contribution factor be revised so that it is calculated on either a six-month interval or annually.").

²³ AT&T Comments at 43.

incumbent local telephone carriers argued that because broadband service is “essential” and supported by the Connect America Fund (“CAF”), it should be an assessable service.²⁴ AARP and the National Association of State Utility Consumer Advocates share this view, claiming that imposing a fee on broadband service will not harm adoption.²⁵

Many other commenters took the opposite view, both in arguing against expanding the assessable base to include broadband service and against increasing the assessment as performance increases.²⁶

Comcast -- “If broadband Internet access services are assessed under such a [revenues] model, the Commission’s USF contribution regime would create an economic disincentive for consumers to subscribe to broadband services and also deter them from purchasing higher-speed offerings that are more expensive. The adverse effect on adoption incentives would be particularly acute for residential customers, whose demand for broadband services is likely quite elastic.”²⁷

ADTRAN – “A contribution methodology that discourages broadband adoption would also reduce carriers’ incentives to deploy broadband.”²⁸

Google -- “Many of the suggested changes, such as broadly requiring revenues-based contributions for all services with an interstate telecommunications component...are likely to dampen investment and innovation.”²⁹

²⁴ See e.g., Comments of the National Telecommunications Cooperative Association et al., WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 19 (“It would be self-defeating and ironically anomalous to fund a USF that has been modified to explicitly support broadband-capable networks and promote the universal availability of broadband service primarily through revenues from voice-grade and other ‘basic’ services.”).

²⁵ See Comments of AARP, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 25-29 (“AARP Comments”); Comments of National Association of State Utility Consumer Advocates, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 7.

²⁶ See also, Comments of Time Warner Cable, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 3 (“would risk undermining the Commission’s concerted efforts to promote increased broadband adoption and further infrastructure investment (including in both unserved and underserved areas.”); NCTA Comments at 4 (“a regime that imposed a larger contribution burden on faster tiers of residential service (e.g., through a revenue-based or capacity-based assessment) would be of great concern.”).

²⁷ Comcast Comments at 16. Comcast also urges the Commission to reject assessments based on speed tiers because it “would put downward pressure on demand” and “reduce providers’ incentives to deploy and upgrade broadband facilities.” *Id.* at 20-21.

²⁸ Comments of ADTRAN, Inc., WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 4.

ACA first notes that contrary to the claims of those commenters who support expanding the assessable base to include broadband service, the economic evidence does not indicate, much less conclusively demonstrate, that demand for broadband service as a whole or for higher-speed tiers would not be effected.³⁰ For instance, the studies relied upon by AARP are both dated (more than five years old) and limited in their application or conditioned in their conclusions. No other commenter arguing to expand the base produced any more reliable data or analysis. Second, the Commission should weigh potential harm against its goals for broadband adoption and infrastructure expansion. In other words, the downside – deterring broadband adoption and infrastructure development – from getting it wrong is significant.

Finally, it is specious to contend that all broadband service providers should be assessed because the CAF now provides support to carriers offering broadband service in high-cost areas. First, no commenter has supplied detailed evidence demonstrating the extent to which broadband users in non-supported areas benefit from the CAF, which is the basis of any contention that the fee correlates closely to any benefits derived. In fact, it is likely that the benefits from subsidized broadband service are more diffuse and are similar to those found in the Lifeline or E-rate programs. That is, society as a whole benefits more than any particular group of broadband users. ACA notes that USTelecom in its comments asks the Commission to consider replacing the current fee with “general revenues” and “specifically recommends that the Commission request federal legislation that would use general revenues to fund its low-income programs.”³¹ Further, the new broadband oriented fund continues to be accessible almost exclusively by

²⁹ Google Comments at 12.

³⁰ That is, current evidence does not support a conclusion that demand for broadband service is inelastic or the service is essential.

³¹ USTelecom Comments at 2.

incumbent providers. That is, if broadband becomes an assessable service, competitive broadband providers and their customers will pay-in but virtually all the support for broadband will go to incumbent carriers. That is hardly competitively neutral.

In the end, ACA supports a cautious approach, such as that suggested by Verizon.³² There are simply too many unknowns for the Commission to leap to make broadband service assessable and to make any assessment increase with higher-performing tiers of service, especially if such an assessment discourages adoption and the deployment of networks with higher-performing broadband services. Instead, the Commission should seek additional evidence on the benefits and costs on any expansion to ensure the public interest is best served.

IV. THE COMMISSION SHOULD NOT ADOPT ITS PROPOSALS MODIFYING CONSUMER BILLING OF USF CHARGES

Many commenters, including non-providers such as AARP and the public service commissions of California and the District of Columbia,³³ joined ACA's opposition to a rule that would prohibit service providers from separately identifying a USF surcharge in consumers' bills. ACA agrees with these parties that the separate identification of the surcharge on the bill is useful for consumer understanding and education. However, ACA disagrees with AARP that it would be helpful to consumers to require that each bill provide a detailed breakdown of how the surcharge was calculated. The reason: unfortunately, USF liability is so complicated to calculate. Many consumers purchase telephone service as part of a bundle that includes video, Internet, and other services, so the portion allocated to telephone service is not separately stated on their bill. Moreover, only the interstate portion of that telephone service is subject to

³² Verizon Comments at 5 (“significant change to the current system and would raise a number of challenges...warrants further study”).

³³ See AARP Comments at 52-54; CA PUC Comments at 16; Comments of the DC PSC, WC Docket No. 06-122, GC Docket No. 09-51 (July 9, 2012) at 5.

assessment, typically determined by either a traffic study or use of the safe harbor. Most customers would be more confused, rather than less so, if providers attempted to explain these calculations in the bill. Providers would have to train customer service representatives in the frustratingly complex details of the Form 499 process so they could respond to consumer questions, such as, for example, why their interstate percentage changed when the provider applied new traffic study results. Instead, the Commission should continue to rely on USAC to verify the accuracy of provider's surcharges. It is readily apparent to USAC when a provider overcharges, since the amount of the surcharges collected is listed separately in Line 403 of the Form 499-A.

ACA also agrees with AARP that it would confuse consumers to mandate that the USF surcharge be included in the provider's advertised rates. As AARP notes, consumers would not understand why USF would be treated separately from other taxes and surcharges in this manner.³⁴ Further, as ACA previously explained in its comments,³⁵ such a rule would force providers to scramble at the end of every quarter to adjust information in websites, direct mailers, advertisements, and package materials; would make it more difficult to market stable, consumer-friendly rates such as a \$99 triple play; and would deter the provision of long term plans with rate guarantees.

ACA, however, disagrees with AARP that the Commission should instead consider requiring providers to advertise an estimated total price with both USF and all other taxes and surcharges included. Such a rule would be even worse than the Commission's proposal because, while the federal universal service fee is standard across the country, other taxes and fees vary across jurisdictions. These taxes change frequently and at different times and can apply to

³⁴ See AARP Comments at 52-53.

³⁵ See ACA Comments at 11-13.

different rate bases. Companies serving many jurisdictions across multiple taxing districts, counties, and states would be burdened with having to advertise scores of different estimated total prices, and these prices would be changing frequently. Prospective customers are free to ask their service provider for an estimated total bill for their specific location at the time that they are considering placing an order. But it would be impractical to mandate such a disclosure for every location at every moment in a service provider's marketing materials.

V. CONCLUSION

The initial comments filed by ACA and numerous other parties provide the Commission with a path to make immediate reforms to address significant problems with the current USF contribution regime. It should take advantage of this opportunity most especially to relieve smaller contributors and potential contributors of the burdens of compliance. At the same time, the Commission should gather additional and sufficient evidence about whether to fundamentally change the regime by altering either the assessable base or the collection methodology.

Respectfully submitted,



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