

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

To: Wireline Competition Bureau

REPLY COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP, INC.

The Rural Telecommunications Group, Inc. (“RTG”),¹ by its attorneys, hereby submits its reply comments in response to comments submitted in response to the Federal Communications Commission’s (“FCC” or “Commission”) Further Notice of Proposed Rulemaking (“FNPRM”) in the above-captioned proceeding.² Many of the initial comments support Commission action to reform the universal service fund (“USF”) in a way that is fair to all sectors of the communications industry and benefits consumers. As soon as possible, the Commission should take the first step toward the creation of a more equitable contribution methodology by expanding the base of USF contributors to include broadband Internet access service providers and one-way Voice over Internet Protocol (“VoIP”) providers. Instead of taking on the Herculean task of crafting an entirely new contribution methodology based on

¹ RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education. RTG’s members have joined together to speed delivery of new, efficient, and innovative communications technologies to the populations of remote and underserved sections of the country. Many of RTG’s members are competitive eligible telecommunications carriers. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies. Each of RTG’s members serves less than 100,000 subscribers.

² *Universal Service Contribution Methodology*, WC Docket No. 06-122, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, Further Notice of Proposed Rulemaking, FCC 12-46 (Apr. 30, 2012) (*FNPRM*).

telephone numbers or network connections, the Commission should make updates and improvements to the current revenues-based system that reflect the principle that all those who benefit from a universal broadband network (hereinafter “network beneficiaries”) should help support it.

I. Comments Support Expanding the Base of USF Contributors to Include Broadband Internet Service Providers and One-Way VoIP Providers.

Nearly every commenter has identified at least one aspect of the USF contribution methodology that is unfair, outdated, or burdensome. Commenters have also called on the FCC to make changes to fix various problems in the existing revenues-based system. RTG agrees that many aspects of the existing contribution system are unfair, and initial comments overwhelmingly demonstrate that the current USF contribution system is most unfair to mobile wireless carriers because of their heavy contribution burden.

Mobile wireless carriers’ contribution burden continues to grow in comparison to the contribution burden of others. Wireless carriers’ contributions make up 44 percent of the nine billion dollar USF contribution burden.³ Wireless carriers contribute this very large amount even though they are subject to massive USF support reductions, with no future guarantee of support for every individual carrier.⁴ Indeed, as shown in comments by T-Mobile, “in four years, mobile wireless carriers will receive a total of only 500 million dollars while still paying out three billion dollars annually if the contribution mechanism is not meaningfully reformed.”⁵ This inequity must be fixed. Absent an increased share of USF support for mobile wireless carriers, the most sensible and quickest way to move USF contributions toward a more equitable system is to

³ See Comments of CTIA at 6-7.

⁴ The newly created Mobility Fund contains a fraction of the amount of funding provided to wireless carriers before adoption of the *USF/ICC Transformation Order* and does not guarantee funding to any provider because support will be distributed via a reverse auction mechanism.

⁵ Comments of T-Mobile at 4.

expand the base of contributors to include all types of broadband Internet access service providers and one-way VoIP service providers.

Many commenters support requiring broadband Internet access service providers to contribute to the USF.⁶ Likewise, many commenters support requiring one-way VoIP service providers to contribute to the USF.⁷ Taking such action will help the Commission achieve truly forward-looking reform, but more importantly it will lower the contribution burden for all involved, especially mobile wireless carriers. As RTG suggested in its initial comments, the Commission should bifurcate the USF contribution reform proceeding so it can take immediate action to expand the base of USF contributors.⁸ Attempting to address every issue outlined in the FNPRM at once will only slow down the reform process. Adding broadband Internet access service providers and one-way VoIP service providers to the base of USF contributors as soon as possible will have a positive effect on carriers and consumers. The Commission should focus on other, more difficult reform measures only after it has taken such action.

II. Improving the Current Revenues-Based Contribution Methodology Presents the Most Straightforward Path to Reform. A System Based on Connections Presents Uncertainty and Will Allow Entities to Avoid Contribution Obligations.

Retaining the existing revenues-based methodology and improving it by expanding the base of contributors presents the best immediate course of action for USF contribution reform. A

⁶ See Comments of Frontier Communications Corporation at 5 (Frontier supports expanding the base of USF contributors to include broadband Internet access.); Comments of MetroPCS at 13 (Broadband service and edge service providers, Internet backbone providers, and Internet service providers must be required to contribute to the USF.); Joint Comments of NTCA, OPASTCO, and WTA at 15; Comments of Peerless Networks, Inc. at 12; Comments of Alexicon at 3; Comments of T-Mobile at 6 (a fresh approach that involves broadening the contribution base to cover all communications and information services that include a transmission component, whether interstate, intrastate, or international (combined with a value added calculation to avoid double-assessment) deserves serious consideration).

⁷ See Comments of RCA at 5; Joint Comments of NTCA, OPASTCO, and WTA at 13; *see also* Comments of The Universal Service for America Coalition at 6 (advocating for an expansion of the contribution base to cover as many types of voice and data service providers as possible).

⁸ See Comments of RTG at 3.

system based on connections presents too many problems, is untested, and will allow too many service providers to avoid contributing to universal service. The FCC's and the communications industry's resources should be directed toward reform of the existing revenues-based system rather than spent on potentially significant transitional and ongoing costs of a new system.⁹

Naturally, there are commenters that support a system that presents the best opportunity for limiting their USF contribution obligation. For example, Microsoft supports a move to a connections-based system because such a system could insulate it from contribution obligations.¹⁰ Microsoft owns the one-way VoIP service Skype which is similar to regular telephone service except it runs over the top of a consumer's existing broadband connection. If the Commission retains the existing revenues-based contribution system and adopts rules to include contributions from one-way VoIP services, Skype would be assessed USF contributions. However, under a connections-based system, Skype would not have to contribute to the universal service fund.

Consider the position of Vonage under a connections-based system. Vonage, an interconnected VoIP service provider, currently contributes to universal service under the existing revenues-based system. However, in its comments, Vonage supports a move to contributions "based on the capacity of physical network access connections."¹¹ Presumably, Vonage supports a facilities-based definition of connection in which "the connection itself, and not the services that are provided over the connection, would be assessed."¹²

⁹ See Comments of National Cable and Telecommunications Association at 3 (acknowledging that the transitional and ongoing costs of adopting an entirely new approach to contributions could be significant).

¹⁰ See Comments of Microsoft at 13-15.

¹¹ Comments of Vonage at 2.

¹² FNPRM at ¶231.

Google supports a connections-based system which it claims will avoid “overly burdensome contribution obligations” because a connection is assessed once regardless of the number of services provided over the connection.¹³ While a connections-based system may benefit Google, it will result in more burdensome contribution obligations for those that provide physical connections. Under a connections-based system, many entities that provide communications services but not a physical network connection will be able to avoid paying into the USF, resulting in a contribution base that is smaller than the contribution base under the existing revenues-based system. When there is a small contribution base, each individual contributor must pay more. The Commission should take steps to grow the number of contributors, not shrink it.

As RTG stated in its comments with regard to one-way VoIP service providers, under a connections-based contribution system, providers of services that ride on top of a connection will not be assessed, but providers of functionally equivalent services that also provide the connection to the consumer would be assessed.¹⁴ In its comments, MetroPCS correctly points out that the shift toward broadband Internet has created “a whole new class of service providers who have no facilities and rely strictly on the Internet for the delivery of their services. In many cases, these services are functionally equivalent to – and competitive substitutes for – the telecommunications services that traditionally have comprised the USF contributor base.”¹⁵ A connections-based system will result in countless entities escaping the duty to contribute to the USF, and unfairly receiving a competitive advantage over entities that do contribute to universal service. This is the type of inequity that the Commission should avoid when adopting contribution reforms.

¹³ See Comments of Google at 6.

¹⁴ See Comments of RTG at 9.

¹⁵ Comments of MetroPCS at 9.

Furthermore, a connections-based contribution system would cause the FCC and the communications industry to spend untold amounts of time trying to determine whether a certain connection is assessable and whether rules comply with the Communications Act, cracking down on “gamesmanship,”¹⁶ and attempting to make sure the system is fair. As stated in Comments by RCA, “such a system would require myriad exceptions and carve-outs.”¹⁷ For example, if a connections-based system is ultimately adopted, there would need to be an exception for in-vehicle connectivity services because these connections are only invoked during emergencies and as such are limited in their amount of use.¹⁸

A connections-based contribution system raises other questions. For example, consider the shift toward shared data plans. Both AT&T and Verizon Wireless have begun to push consumers toward “share everything” data plans, where multiple wireless devices utilize one monthly data plan. Under a connections-based system, would there be a different contribution assessment for the multiple connected devices that share a single “USF assessable” data connection? Or, would each device count as a separate connection to the Internet, even though all devices share a single bucket of data during each monthly billing cycle?

Retaining and improving the existing system presents the best path toward reform. Under a reformed revenues-based system that includes broadband Internet access service providers and one-way VoIP service providers, there will be more contributors which will drive down the contribution amount per service provider, ultimately resulting in less of a burden on consumers in comparison to a connections-based system.

¹⁶ “Numbers or connection based approaches suffer from...gaming opportunities – such as manipulating how many numbers are active or causing devices which today require telephone numbers (such as aircards and tablets) to be retooled to eliminate their need for telephone numbers.” Comments of MetroPCS at 6.

¹⁷ Comments of RCA at 11.

¹⁸ See Comments of the Alliance of Automobile Manufacturers at 3.

III. Requiring All Those that Benefit from Broadband Networks to Contribute to the USF Will Result in a Robust USF that will Enable the Commission to Meet the Goal of the Newly-Created Connect America Fund.

In its comments, RTG advocated for a USF contribution methodology that splits the contribution obligation fairly between network operators and network beneficiaries.¹⁹ An approach to contribution reform based on the principle that those who benefit from the network should help support it will ensure a strong base of USF contributors and a robust USF. After taking immediate action to expand the base of contributors to include broadband Internet access service providers and one-way VoIP providers, the Commission should develop a way to include all beneficiaries of a broadband network within the contributions system. As shown below, contrary to what many network beneficiaries may advocate, it is in the interest of all network beneficiaries to contribute to the USF.

One beneficiary of universal broadband networks, Google, warns that expanding the base of USF contributors to “services never before deemed assessable” may “dampen investment and innovation.”²⁰ This is incorrect. The opposite will happen. As demonstrated by the FCC’s creation of a Connect America Fund (CAF), expanding the base of USF contributors is in the public interest and in the interest of those that provide service over broadband networks (companies like Google, Netflix, or Microsoft). The goal of the CAF is to facilitate the provision of broadband to the roughly 19 million Americans that currently lack access to it. This goal can only be accomplished with help from the USF, and if it is met, it will open up a massive new

¹⁹ See Comments of RTG at 11-14. Network beneficiaries are those entities that produce large amounts of network traffic and have business models that would not be possible or profitable without the existence of a national ubiquitous national broadband network (*e.g.*, Google, Facebook, Ebay, Amazon, NetFlix, Hulu, etc.). Network beneficiaries also include those who provide cloud computing and electronic storage services (*e.g.*, Microsoft, Apple, Cisco, etc.). See Comments of RTG at 12-13.

²⁰ Comments of Google at 12.

consumer market for the services provided by all USF contributors, including network beneficiaries.

Companies that provide services over broadband networks will only be able to reach these new customers if new broadband networks are built – something that is not possible without support from the USF. Opening up a market of 19 million new broadband users is a major opportunity for companies that provide services over broadband networks, and will result in new investment and innovation. From a public interest perspective, the “broadband have nots” will benefit from having access to the services of the network beneficiaries. Only with a strong base of USF contributors and a robust USF will the goal of the CAF be met. Requiring all those that depend on and benefit from broadband networks to contribute to the USF will create this strong base of USF contributors and robust USF. It will also help the USF become well-positioned for the future. As MetroPCS stated in its Comments, “Any USF contribution methodology that hopes to maintain competitive fairness and continued relevance as technology advances must include not only traditional USF contributors, but also those companies – such as Google, Facebook, Twitter and other edge providers – that offer services functionally equivalent to telecommunications services, regardless of technology or application.”²¹

Contributing to the USF is a small price to pay for companies such as Google, Netflix and Microsoft for the benefits they will receive from having tens of millions of more Americans connected to broadband. Comments of MetroPCS underscore this notion: “[B]roadband providers benefit when telecommunications facilities are extended into new communities and

²¹ Comments of MetroPCS at 9. The Independent Telephone and Telecommunications Alliance (ITTA) advocates a system that follows the principle of regulatory parity to ensure that all entities that benefit from the federal universal service system share in the contribution obligation. See Comments of ITTA at 13-14.

increased in capacity. Service providers, such as Google and Facebook, benefit when broadband services are widely available.”²²

IV. Conclusion

In recognition of the fact that the road to comprehensive USF contribution reform will be extremely difficult, the Commission should take immediate action to decrease the contribution obligation for all carriers by expanding the base of contributors to include broadband Internet access service providers and one-way VoIP service providers. There is a great deal of support for this action in the record, and as RTG has previously discussed, now that universal service supports broadband, many broadband providers that have not had to contribute in the past must be required to do so. Expanding the base of contributors will set a course for contribution reform that reflects the requirements of the statute that call for equitable and non-discriminatory contributions. At the same time, the Commission should ignore calls for adoption of any new methodology that will allow USF contribution obligations to be avoided. The Commission should then turn its attention to adopting more comprehensive reforms based on the principle that all those who benefit from a universal broadband network help support it.

Respectfully submitted,

RURAL TELECOMMUNICATIONS GROUP, INC.

By: */s/ Caressa D. Bennet*

Caressa D. Bennet
Anthony K. Veach
Bennet & Bennet, PLLC
6124 MacArthur Boulevard
Bethesda, MD 20816
(202) 371-1500

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²² Comments of MetroPCS at 4.