Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
	)	

COMMENTS OF U.S. TELEPACIFIC CORP., FIBERTECH, AND ZAYO GROUP

U.S. TelePacific Corp.; Fibertech Networks, LLC, on behalf of itself and its subsidiary Fiber Technologies Networks, L.L.C.; and Zayo Group, LLC ("Commenters") by their undersigned counsel, submit the following comments in response to the Public Notice, DA 13-1700, released August 2, 2013, in the above-captioned matter.

Commenters support the joint industry submission of proposed sample reseller certification language and accompanying sections of the FCC Form 499-A instructions.[1] This joint proposal is consistent with the intent of the Commission's *2012 Wholesaler-Reseller Clarification Order*[2] that a contributor can treat revenues from a particular service as received from a "reseller" only if it has a reasonable expectation that its customer is reselling that same service and making universal service fund contributions based on its revenues from that resold service. At the same time, the proposal provides contributors with needed flexibility as to *how* they make the determination that a customer qualifies as a "reseller," provided they have a reasonable basis for that determination.

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[1] Letter from AT&T Services, Inc., BCE Nexxia, BT Americas Inc., CenturyLink, Orange Business Services U.S., Inc., Sprint Corporation, Verizon, and XO Communications, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 06-122 (filed July 26, 2013).

[2] *Universal Service Contribution Methodology, Application for Review of the Decision of the Universal Service Administrator and Emergency Petition for Stay by U.S. TelePacific Corp. d/b/a TelePacific Communications, XO Communications Services, Inc. Request for Review of Decision of the Universal Service Administrator, Universal Service Administrative Company Request for Guidance*, WC Docket No. 06-122, Order, 27 FCC Rcd 13780, 13798, para. 41 (2012) (*2012 Wholesaler-Reseller Clarification Order*).

In particular, Commenters support footnote 4 of the joint proposal, which would clarify the instructions to permit a contributor to rely upon entity-level certifications, account-level certifications, service-specific certifications, or service-exemption certifications, depending on the use that a particular customer makes of the contributor's services. This degree of flexibility is appropriate to minimize the burden on contributors and their customers. For example, it would make no sense to require a customer that qualifies as a "reseller" with respect to all its purchases to make a separate certification for each purchase, if it can make a blanket certification under penalty of perjury as to all those purchases. Additionally, to avoid costly and unduly burdensome processes in implementing the service-by-service exemption, some resellers may choose to continue to certify exemption on an entity basis by implementing other reliable methods to report actual cost or good faith estimates of revenue relating to the transmission component of wireline broadband Internet access service to ensure contribution to federal universal service support mechanisms on each purchased service. Conversely, a customer that qualifies as a reseller only as to certain purchases should have the flexibility to make certifications that apply only to those purchases, to avoid inappropriate duplication of contribution obligations on those services.

Commenters propose one clarifying change to the joint proposal. Commenters recommend inserting the following additional sentence at the end of footnote 4 of the proposed instruction: "Where a reseller is unable to provide a certificate via any of the options provided by the filer, the filer may rely on other evidence from the reseller to demonstrate a reasonable expectation that its customer is a reseller with respect to purchased service(s)." This is intended to make clear that the certification options set forth in footnote 4 are not the exclusive method of demonstrating a reasonable expectation that a customer qualifies as a reseller, while emphasizing that the filer must have some form of evidence from the customer to support its expectation. Ultimately, the Commission's rule focuses on whether the filer "can demonstrate a reasonable expectation that each of their customers is a 'reseller'"[3]; the certification process provides a

[3] *2012 Wholesaler-Reseller Clarification Order*, para. 37.

"sufficient" method of demonstrating such an expectation[4] but is not the exclusive method. Adopting footnote 4 as so modified would promote this practical approach to ensuring proper contribution to the universal service fund.

Therefore, Commenters urge the Commission to adopt the joint proposal as filed on July 26, 2013, with one additional sentence inserted at the end of footnote 4 as suggested above.

Respectfully submitted,

/s/ Tamar E. Finn

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[4] *Id.*, para. 41.