

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

In the Matter of)	
)	
Deltacom, Inc.'s Request for Review of a)	WC Docket No. 06-122
Decision by the Universal Service)	
Administrative Company)	

**COMMENTS OF THE
UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (“USTelecom”)¹ is pleased to submit these comments in response to the request by the Wireline Competition Bureau’s (“Bureau”) Public Notice² concerning Deltacom, Inc.’s (“Deltacom”) request for review (“Request”)³ of a decision by the Universal Service Administrative Company (“USAC”). Deltacom seeks review and reversal of an audit finding associated with the July 30, 2013, decision by USAC that reclassified private line revenues originally reported as intrastate as interstate.⁴ While USTelecom is not familiar with the specifics of Deltacom’s service offerings nor what the appropriate treatment of its revenues should be, USAC’s decision to reclassify the jurisdiction of Deltacom’s private line

¹ 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.

² See Public Notice, *Wireline Competition Bureau Seeks Comments on Deltacom, Inc.’s Request for Review of a Decision by the Universal Service Administrative Company*, WC Docket No. 06-122, DA 13-2116 (rel. Nov. 1, 2013).

³ Request for Review of a Decision by the Universal Service Administrator and Request for Waiver by Deltacom, Inc., WC Docket No. 06-122 (filed Sept. 30, 2013).

⁴ *Id.* at 1-2.

service revenues from intrastate to interstate nevertheless raises serious concerns. Among other things, USAC's decision, which has been applied to other local exchange carriers as well,⁵ appears to rely on an impermissible reading of the Commission's ten percent rule. The Bureau should carefully review Deltacom's submission and reverse incorrect applications of the ten percent rule. Resolution of the instant issue would provide necessary clarification for all parties impacted by USAC's interpretation.

I. **The Commission Should Focus on Reforming and Modernizing How Universal Service Fund (USF) Contributions Are Assessed and Recovered**

Regardless of the merits of Deltacom's Request, it is illustrative of the urgent need to reform the system of universal service fund contributions, particularly as proposals are made to place even more burdens on the fund. The instant issue raised by Deltacom involves a jurisdictional distinction that is no longer relevant in today's telecommunications marketplace.

One of the bases for the current system is the historical idea that services are either interstate or intrastate in nature, that providers can readily distinguish revenues associated with each jurisdiction, and that consumers purchase different, jurisdiction-based services. These things are no longer true. Stand-alone wireline ISCs no longer exist, most wireless services are based on national pricing models, and state boundaries are irrelevant to how consumers select and buy communications services. Consumers purchase bundles, or even unlimited capacity, of

⁵ See Request for Review by Puerto Rico Telephone Company, In. of Decision of the Universal Service Administrator; WC Docket Nos. 08-71 and 06-122, CC Docket Nos. 97-21 and 96-45, USAC Audit No. CR2009CP002 (filed June 25, 2012), Request for Review of PaeTec Communications, Inc. of Universal Service Administrator Decision, WC Docket No. 06-122 (filed April. 3, 2012), XO Communication Services, Inc., Request for Review of Decision of the Universal Service Administrator, WC Docket No. 06-122 (filed Dec. 29, 2010); Request for Review by Madison River Communications, LLC of Decision of Universal Service Administrator, WC Docket No. 06-122 (filed Dec. 12, 2008); McLeodUSA Telecommunications Services, Inc. Request for Review of Universal Service Administrator Decision, CC Docket Nos. 96-45 and 97-21 (filed Oct. 1, 2007).

any-distance voice, data, and other services – increasingly over IP platforms. From the financial perspective of most consumers, there is no meaningful difference between a “local” call, “intrastate long-distance call,” and “interstate long-distance call,” yet those classifications still form the basis for assessment of USF fees. This and other problems with the current legacy universal service contribution mechanism serve as another reminder of the need for prompt comprehensive USF contributions reform.

II. USAC Incorrectly Interprets the Ten Percent Rule

As Deltacom states in its request, USAC’s application of the ten percent rule rests on the erroneous assumption that circuits are interstate until proven otherwise and that carriers have an obligation to verify the intrastate use of private line circuits.⁶ In fact, the ten percent rule establishes the opposite presumption. And Deltacom’s request is the latest in a lengthy series of carrier requests for the Commission to instruct USAC as to the proper application of the rule. USAC is incorrect that the absence of a customer’s interstate certification results in the automatic classification of the line as interstate under current FCC rules. Nothing in the Commission’s rules or decisions supports this assumption. As Deltacom states in its Request, in order to ensure state regulators had authority over largely intrastate private line systems that carrier only a de minimis amount of interstate traffic, “...[t]he ten percent rule was adopted to ensure that a geographically intrastate private line would be treated as jurisdictionally intrastate. Only if the customer provides a certification that more than ten percent of the traffic on the line is interstate should the line be classified as interstate.”⁷ Deltacom goes on to cite two Commission orders adopted after the adoption of the ten percent rule which confirm that carriers have no obligation to verify with customers the intrastate use of private circuits connecting two points within a

⁶ See Deltacom Request at p. 1.

⁷ Id at p. 5.

state.⁸ The Commission should also remind USAC that private line circuits purchased from intrastate tariffs are presumed to be jurisdictionally intrastate.

III. The Bureau Should Review Deltacom's Appeal and Address the Ten Percent Rule

The Bureau should review Deltacom's submission and reverse erroneous applications of the ten percent rule.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION



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⁸ Id.