Before the
Federal Communications Commission
Washington, DC  20554

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

To:    The Commission

COMMENTS OF CTIA–THE WIRELESS ASSOCIATION®

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Pursuant to Sections 1.415 and 1.419 of the Commission’s Rules, CTIA–The Wireless Association® (“CTIA”) files these comments in response to the above-captioned Notice of Proposed Rulemaking (“NPRM”). The NPRM seeks comments on the interim universal service contribution measures recently adopted by the Commission in its 2006 Contribution Order pending the Commission’s consideration of more fundamental changes to the universal service contribution methodology. CTIA recognizes the need for steps to ensure an equitable and sustainable universal service contribution assessment system, and urges the Commission to proceed expeditiously with comprehensive reform. Adoption of a numbers- and capacity-based contribution system is essential to ensure that the universal service program will continue to be adequately funded, that the contribution base keeps pace with technological and marketplace developments, and that contributions are assessed in a competitively neutral fashion. Interim measures adopted in the 2006 Contribution Order underscore the need for prompt,


2 Id.
comprehensive reform. During any interim period, the Commission should retain a reasonable wireless safe harbor and provide wireless carriers with reasonable flexibility in conducting traffic studies.

I. THE COMMISSION SHOULD ADOPT A NUMBERS- AND CAPACITY-BASED CONTRIBUTION METHODOLOGY

As it has shown previously, CTIA believes that a numbers- and capacity-based contribution methodology will best adapt to the evolving communications market and will produce significant public interest benefits.

A. Transition to a Numbers- and Capacity-Based Approach is Essential to Preserving the Universal Service Fund

The current interstate telecommunications revenue-based methodology for assessing universal service contribution obligations faces several challenges and is increasingly incompatible with the emerging multi-dimensional telecommunications market.

Contributors – including some traditional telecommunications service providers – increasingly are having difficulties segregating interstate and intrastate telecommunications and non-telecommunications revenues, making compliance with the revenue-based system administratively difficult and expensive. Wireless carriers, for example, have always struggled

3 CTIA also notes the urgent need for market-oriented reforms on the distribution side of the universal service equation.
4 See infra Section II.
6 Even some incumbent LECs, who once were able to use originating and terminating area codes to determine the jurisdiction of calls, no longer can segregate traffic precisely, since calls to or from mobile or VoIP numbers cannot necessarily be jurisdictionally classified with precision by
with the segregation of revenues and traffic because they provide a service that is inherently mobile. The distinction between intrastate and interstate traffic also is an issue for Voice over Internet Protocol (“VoIP”) service providers, whose customers can make and/or receive calls wherever in the world they have access to a broadband connection. Unlimited local and long-distance plans offered by wireline carriers, too, make it harder to identify and report the revenues associated with interstate calls. An approach that requires separation of interstate and intrastate, telecommunications and non-telecommunications revenue will grow even more cumbersome and unworkable with the growing transition to services that do not rely on fixed customer locations. Add to the mix new wireless devices allowing both mobile wireless and fixed Wi-Fi connectivity and the universal service contribution picture becomes even more complicated.

The growth of broadband services also strains a universal service contribution system based on “telecommunications service” revenues, since DSL and cable modem services have been defined as “information services” and, therefore, are not subject to mandatory contribution requirements.\(^7\) Several requests have been made or are pending before the Commission that would seek the same treatment.\(^8\) Continued reliance on a revenue-based funding mechanism in

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\(^8\) *Regulation of Prepaid Calling Card Services*, FCC 06-79, Declaratory Ruling and Report and Order, WC Docket No. 05-68 (rel. June 30, 2006) (rejecting AT&T’s petition for declaratory ruling that its calling card services were information services not subject to universal service

(continued on next page)}
these circumstances unfairly places more of the financial responsibility for the universal service program on a limited class of carriers and services.

These developments and circumstances are reflected in the decline of the interstate telecommunications revenue base used to assess universal service contributions, which has been stagnant or generally in decline since the fourth quarter of 2000. A numbers- and capacity-based approach would more fairly distribute the responsibility for the program and more effectively sustain the base that supports the program.

B. CTIA’s Numbers- and Capacity-Based Proposal

CTIA’s proposed numbers- and capacity-based approach is based upon the following core principles, which will bring substantial consumer benefits: (1) all providers of interstate telecommunications should contribute on an equitable and nondiscriminatory basis; (2) no individual consumer group should bear an unreasonable and unfair share of contribution obligations; (3) opportunities for telecommunications providers to avoid contribution obligations should be minimized; and (4) administrative burdens and/or costs for contributors (and by extension consumers) should be minimized.⁹

CTIA proposes that all switched connections be assessed based on working telephone numbers (or their functional equivalents), and non-switched connections be assessed based on assessment, and instead finding that both the menu-driven prepaid calling cards and the prepaid calling cards that utilize IP transport are telecommunications services); Pleading Cycle Established for Comments on United Power Line Council’s Petition for Declaratory Ruling Regarding the Classification of Broadband over Power Line Internet Access Service as an Information Service, WC Docket No. 06-10, Public Notice, DA 06-49 (rel. Jan. 11, 2006).⁹ CTIA Consumer Benefits Ex Parte at 4.
capacity units. Under the proposal, a number is considered a working telephone number if it is assigned to a specific end-user customer and provides the ability to receive calls. Non-switched connections should be assessed in a manner consistent with the capacity tiers (and units) proposed in the FCC’s 2002 Second FNPRM, which attempted to reflect how customers of different categories of non-switched connections value the services that they purchase. Carriers without working numbers or end-user connections would continue contributing based on their interstate telecommunications revenues. For these carriers, only annual revenue reporting would be required on a significantly simplified FCC Form 499-A (similar to the current FCC Form 499-Q).

CTIA has designed its proposal to ensure that no broadly defined consumer groups will be unfairly disadvantaged as a result of the transition to a numbers- and capacity-based system. Although individual customers may pay more or less under any new contribution system, under CTIA’s proposal, the typical household will pay about the same universal service costs as it does today. To achieve this result, CTIA proposes safeguards for certain broadly-defined low-income and low average revenue per unit residential consumer groups.

CTIA proposes that Lifeline and Link-Up customer numbers not be subject to universal service contribution obligations. CTIA also proposes to reduce assessments for discounted wireless “family plan” numbers and prepaid/month-to-month customer numbers by 50%. The universal service contribution for the typical wireless “family plan” number would quadruple if it

10 See, e.g., CTIA Proposal Ex Parte (attaching CTIA’s numbers- and capacity-based universal service contribution methodology proposal); CTIA Consumer Benefit Ex Parte (setting forth in further detail CTIA’s proposal as well as noting the numerous consumer benefits associated with the proposal).
were subject to a full numbers-based assessment of approximately $1.00 per month. Under the current revenue-based system, the typical wireless customer pays no more than $0.25 per month in federal universal service contribution costs for a “family plan” handset. Under CTIA’s proposal, the amount of that increase still would be significant (approximately an additional $0.25, or a 100% increase over current levels), but more manageable. Likewise, under the revenue-based system, typical prepaid customers pay no more than $0.50 per month in federal universal service contribution costs. Some wireless carriers, such as Tracfone, have reported significantly lower per month contribution costs for prepaid customers. Various proposals have been put forth to address the unique circumstances of prepaid wireless providers. Reducing prepaid customers’ $1.00 per month assessment by half will keep wireless prepaid customers at a consistent – although often higher – universal service assessment.

CTIA’s proposal also would prevent residential broadband services from being doubly assessed, so as to continue to promote the widespread deployment of such services to all consumers. Specifically, residential broadband services associated with a number should not be separately assessed – so that residential customers with broadband connections would not be assessed both for their numbers and for their broadband connections. All of CTIA’s proposed

12 CTIA Consumer Benefit Ex Parte at 5.
13 Id. at n.3 (explaining the calculation to determine what a typical “family plan” wireless customer pays under the current methodology).
14 Id. at n.4 (explaining the calculation to determine the amount a typical prepaid customer pays under the current revenue-based methodology).
16 See Letter from Eric Einhorn, AT&T Corp., to Marlene Dortch, FCC, filed April 18, 2006; Letter from Kathy Grillo, Verizon, to Marlene Dortch, FCC, filed March 3, 2006.
safe harbor provisions are necessary to ensure that residential customers – especially those that are low-income or low average revenue per unit – are not unfairly affected by the transition to a new system.

Regarding implementation of its proposal, CTIA asks that USAC transition to the new system over a period of approximately 12 months, collecting numbers and capacity data for at least two calendar quarters prior to the implementation of the new system. Once the transition is complete, quarterly revenue reporting should end. Importantly, contributors should continue to have the flexibility to recovery contribution costs from their end-user customers (e.g., through line items or service-related charges).

C. The 2006 Contribution Order Underscores the Need for Prompt Reform

The Commission’s most recent attempt to preserve the revenue-based system demonstrates the need for prompt and comprehensive reform. CTIA and Cingular Wireless LLC each have filed petitions for declaratory ruling regarding the Commission’s recent direction on reporting wireless toll revenues; CTIA’s petition also addressed the proper conduct of traffic studies.  

Additionally, on July 18, 2006, 8x8, Inc., a provider of interconnected VoIP services, filed a Request for Expedited Approval of Traffic Study, which the National Telecommunications Cooperative Association already is disputing. All the issues raised by these parties – which pose very complicated administrative issues for both the Commission and

18 8x8, Inc. Request for Expedited Approval of Traffic Study, WC Docket No. 06-122 (filed July 18, 2006).
the parties themselves – would be moot if the Commission were to expeditiously move to a numbers- and capacity-based approach.

II. ANY FURTHER INTERIM REFORM SHOULD MAINTAIN A REASONABLE WIRELESS SAFE HARBOR AND FLEXIBILITY FOR WIRELESS TRAFFIC STUDIES

Although CTIA urges the Commission to adopt thorough reform of the existing revenue-based system in favor of a numbers- and capacity-based system, any interim reform should preserve wireless carriers’ ability to report their revenues fairly and accurately. CTIA recently filed a Petition for Declaratory Ruling urging the Commission to clarify certain aspects of the 2006 Contribution Order, and urges prompt action on that Petition. Further, if the Commission nevertheless takes other interim actions before proceeding with comprehensive reform, it should preserve wireless safe harbors at a reasonable level, and ensure wireless carriers’ have the flexibility necessary to conduct reasonable traffic studies as a proxy for reporting their “actual” interstate and international revenues.

The Commission should not eliminate the wireless safe harbor. Some wireless carriers remain unable to conduct traffic studies or determine their actual percentages of interstate and international revenues. Some wireless carriers’ systems preclude them from performing traffic studies. Other wireless carriers, including some that might be technically capable of performing traffic studies, are unable to do so for economic reasons. This is particularly true of small

19 National Telecommunications Cooperative Association Ex Parte Presentation, WC Docket No. 06-122 (filed July 25, 2006).
wireless carriers. Thus, until it abandons the revenue-based assessment system, the Commission should continue to make a reasonable safe harbor available for CMRS carriers.

The Commission also should not eliminate the option for wireless carriers to use traffic studies to report their percentage of interstate and international revenues. Traffic studies greatly reduce the administrative and economic burden on carriers, particularly those that lack the resources to capture and process records of all calls. Traffic studies provide an accurate measure of actual usage – even more so now that the Commission has imposed accuracy standards.21

Further, if the Commission adopts any additional standards for wireless carriers’ traffic studies, it should ensure that those standards are not so restrictive that they effectively preclude wireless carriers from using traffic studies to report their interstate and international revenues. Wireless carriers should have the flexibility to rely on either originating/terminating cell sites, NPA-NXX, a combination of these methods, or any other similarly reliable data in determining the jurisdiction of calls.22 Wireless carriers should be allowed to make reasonable simplifying assumptions with regard to roaming traffic, calls to toll-free numbers, calls to directory assistance, and calls to other “short codes.” Preserving wireless carriers’ ability to perform traffic studies ultimately will promote greater accuracy in universal service reporting, pending needed comprehensive reform.

CONCLUSION

CTIA supports the need to sustain the universal service fund, and believes that the most effective means to accomplish that goal is prompt, fundamental reform of the contribution

21 2006 Contribution Order at n.115.
22 Indeed, in the current intermodal environment, all carriers need flexibility to make simplifying assumptions in classifying traffic. See supra note 6.
methodology. CTIA urges the Commission to adopt the numbers- and capacity-based contribution methodology it has proposed. During any interim period, the Commission should retain a reasonable wireless safe harbor, permit the use of traffic studies, and provide wireless carriers with reasonable flexibility in conducting traffic studies.

Respectfully submitted,

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