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December 22, 2005

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DEC 23 2005

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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Kathy Hammond
United States Deputy Clerk of Court
225 S. Pierre, #405
Pierre, SD 57501

Re: Verizon Wireless v. SDTA and Venture
Civ. 04-3014

Dear Kathy,

Enclosed herewith, hand delivered, please find the original and one copy of the following:


1. Reply of Defendant and Intervenors to Summary Judgment Motion of Verizon Wireless;
2. Defendant's and Intervenors' Statement of Facts; and
3. Response of Defendant and Intervenors to Plaintiff's Statement of Facts.

Please file the same with your records.

Thank you.

Very truly yours,

RITER, ROGERS, WATTIER & BROWN, LLP

By: 
Margo D. Northrup

MDN/rar

Enclosures

cc: Rolayne Ailts Wiest
Gene N. Lebrun
Philip R. Schenkenberg
Rich Coit
Larry Thompson
Venture Communications Cooperative

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Verizon Wireless (VAW) LLC,
CommNet Cellular License Holding, LLC,
Missouri Valley Cellular, Inc.,
Sanborn Cellular, Inc., and
Eastern South Dakota Cellular, Inc.,
d/b/a VERIZON WIRELESS,

Plaintiff,

Vs.

Bob Sahr, Gary Hanson, and Dustin Johnson, in
their official capacities as the Commissioners of
the South Dakota Public Utilities Commission,

Defendant,

South Dakota Telecommunications Ass'n and
Venture Communications Cooperative,

Intervenors.

Civil Number 04-3014

REPLY OF DEFENDANT AND INTERVE-
NORS TO SUMMARY JUDGMENT MO-
TION OF VERIZON WIRELESS

COME NOW South Dakota Telecommunications Association and Venture Communica-
tions Cooperative (collectively "Intervenors") and Defendants Bob Sahr, Gary Hanson, and Dus-
tin Johnson in their official capacities as the Commissioners of the South Dakota Public Utilities
Commission (collectively "Defendant") and hereby respond to the Memorandum of Petitioners
as follows:

I. STANDARD OF REVIEW

Summary judgment is appropriate when "there is no genuine issue as to any material fact
and . . . the moving party is entitled to a judgment as a matter of law." Fed.R.Civ.P. 56(c). The
initial burden is on the moving party to demonstrate the absence of a genuine issue of material

fact. Celotex Corp. v. Catrett, 477 U.S. 317, 324, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986). The opposing party must then “go beyond the pleadings” and “designate specific facts showing that there is a genuine [material] issue for trial.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). During its summary judgment analysis, the court must construe the facts and draw all reasonable inferences in the light most favorable to the nonmoving party. Bombard v. Fort Wayne Newspapers, Inc., 92 F.3d 560 (7th Cir. 1996).

Defendant and Intervenors assert there are genuine issues of material fact that preclude summary judgment. Specifically, Verizon Wireless (“VAW”) LLC (hereinafter “Verizon Wireless” or “Verizon”) states that under the statute it will have intraMTA calls treated as interMTA calls and assessed access charges instead of reciprocal compensation charges in violation of the Communications Act of 1934 as amended (the Act) and the Federal Communications Commission’s (FCC’s) rules and orders. It has not been established, however, that Verizon Wireless has transmitted intraMTA calls without the appropriate identification as required by the statute such that these calls were assessed access charges. Moreover, Verizon Wireless points to no judicial or administrative order specifying any particular identification information that must be transmitted under the statute and which Verizon Wireless cannot or does not transmit. Accordingly, there is a genuine issue of material fact as to whether intraMTA traffic of Verizon Wireless has been or will be charged access charges under the statute.¹

II. PREEMPTION

The doctrine of preemption has been cited many times by this Court. Stanton v. State Farm Fire and Casualty Co., Inc., 78 F.Supp.2d 1029, 1031-32 (D.S.D. 1999) (citing Symens v.

¹ Verizon Wireless has also provided affidavits in support of its Motion for Summary Judgment raising various issues with respect to its present day technical capabilities and respecting the burdens of complying with the provisions of SDCL 49-31-109 through 49-31-115. To the extent that these factual matters are being relied on by Verizon Wireless, Defendants and Intervenors dispute some of the facts that are presented. Accordingly, there are other issues of fact. See Affidavit of Larry Thompson, attached hereto as Attachment 1.

Smithkline Beecham Corp., 1997 D.S.D. 29, 19 F.Supp.2d 1062 (D.S.D. 1997), reversed, in part, on other grounds, by 152 F.3d 1050 (8th Cir. 1998)). Defendant and Intervenors agree with the preemption case law as set forth in Verizon's Memorandum (Verizon Memorandum, Page 3). However, Defendant and Intervenors do not agree that SDCL 49-31-109 through 49-31-115 are preempted by federal law.

III. REGULATORY AUTHORITY OVER COMMERCIAL MOBILE RADIO SERVICE

The states have generally been given jurisdiction over intrastate services pursuant to section 152(b). 47 U.S.C. § 152(b). This section provides, in part, as follows:

Except as provided in sections 223 through 227 of this title, inclusive, and section 332 of this title, and subject to the provisions of section 301 of this title and subchapter V–A of this chapter, nothing in this chapter shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier...

As provided for in this section, this jurisdiction is circumscribed by Section 332. The relevant section is Section 332(c)(3)(A) which provides, in part, as follows:

Notwithstanding sections 152 (b) and 221 (b) of this title, no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service, except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services. Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates. 47 U.S.C. § 332(c)(3)(A) (emphasis added)

In its Memorandum, Verizon Wireless begins its discussion of the regulatory authority over CMRS by asserting that CMRS is a federally regulated service. (Verizon Memorandum, Page 4) Citing to section 332(c)(3)(A), Verizon Wireless states that Congress has preempted

state regulation of entry and rates for CMRS providers. However, Verizon leaves out the rest of the sentence which provides that a State is not prohibited “from regulating the other terms and conditions of commercial mobile services.” Moreover, the rate preemption language only applies to rates charged by the CMRS carrier, not to rates charged to the CMRS carrier.

In addition, this case concerns the access obligations of telecommunications carriers. Under Section 251(d)(3) of the Act, Congress expressly preserved state access regulations that are consistent with section 251. The section provides:

In prescribing and enforcing regulations to implement the requirements of this section, the Commission shall not preclude the enforcement of any regulation, order, or policy of a State commission that –
(A) establishes access and interconnection obligations of local exchange carriers;
(B) is consistent with the requirements of this section; and
(C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.

Verizon Wireless also cites to section 332(c)(1)(B) for the proposition that “the 1993 Act specifically established that carriers have a right to interconnect with LECs in order to exchange traffic, and established that CMRS interconnection matters are subject to regulation by the FCC.” Verizon Memorandum, Page 5. First, the Defendant and Intervenors do not dispute that CMRS providers have the right to interconnect with LECs; they just should not be allowed to interconnect and terminate their traffic for free. Second, the actual language of this provision only allows the FCC to order a carrier to establish a physical connection. It then goes on to say that this section “shall not be construed as a limitation or expansion of the Commission’s authority to order interconnection pursuant to this Act.” 47 U.S.C. § 332(c)(1)(B) (emphasis added).²

² The entire provision reads as follows:

Upon reasonable request of any person providing commercial mobile service, the Commission shall order a common carrier to establish physical connections with such service pursuant to the provisions of section 201 of this Act. Except to the extent that the Commission is required to respond to such a request, this subparagraph shall not be construed as a limitation or expansion of the Commission’s authority to order interconnection pursuant to this Act.

In addition section 261(b) and (c) provides as follows:

(b) Existing State regulations. Nothing in this part shall be construed to prohibit any State commission from enforcing regulations prescribed prior to February 8, 1996, or from prescribing regulations after February 8, 1996, in fulfilling the requirements of this part, if such regulations are not inconsistent with the provisions of this part.

(c) Additional State requirements. Nothing in this part precludes a State from imposing requirements on a telecommunications carrier for intrastate services that are necessary to further competition in the provision of telephone exchange service or exchange access, as long as the State's requirements are not inconsistent with this part or the Commission's regulations to implement this part.

Thus, under the plain terms of section 261(b), a state commission is allowed to enforce and prescribe regulations that are not inconsistent with Part II of the Act. The following paragraph, section 261(c), specifically allows the State to impose requirements for intrastate services with respect to furthering competition for telephone exchange service or exchange access, as long as they are not inconsistent with the FCC's regulations. The Defendant and Intervenors assert that the statutes at issue are not inconsistent with the Act, nor are they inconsistent with the FCC regulations. Rather, the statutes seek to ensure that a carrier's traffic is identified, an area in which the FCC has declined to act. Further the goal of the statutes is to require telecommunications carriers to comply with the separations process, not to impede it.

Finally, the Defendant and Intervenors point to section 601(c)(1). This section indicates that Congress did not intend for state law to be preempted by mere implication; rather, it provides that the Act "shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in such Act or amendments." 47 U.S.C. § 152 (note) (West 2005) (emphasis added).

IV. CHAPTER 284 IS NOT IN CONFLICT WITH THE FCC'S REGULATION OF CMRS-LEC COMPENSATION UNDER RULE 20.11.

Verizon Wireless notes at the outset of its argument that the FCC has authority under 47 U.S.C. § 332 to establish rules that govern compensation paid for traffic between LECs and CMRS providers. Verizon Wireless then points to the T-Mobile Order and the FCC's amendment of Rule 20.11 to support its premise that Chapter 284 is preempted under Rule 20.11.

Specifically, Verizon Wireless claims that Chapter 284 conflicts with Rule 20.11 and the T-Mobile Order in two impermissible ways: (1) Chapter 284 establishes conditions under which LECs would be authorized to classify intraMTA traffic as "non-local" traffic, and once it is so classified, interMTA traffic would be billed pursuant to state or federal tariff; and (2) Chapter 284 authorizes LECs to bill for call termination even if the parties have no interconnection agreement and neither party has requested such an agreement.

Verizon Wireless is mischaracterizing the legislative language and intent of Chapter 284, and in particular of SDCL 49-31-110. The plain language of the statute shows that it is about identification of traffic. It allows carriers to classify traffic as non-local only if it has not been identified as local or non-local. The statute requires carriers originating local traffic to transmit signaling information to the terminating carrier, and if the originating carrier is delivering both local and non-local traffic, the originating carrier is required to provide information, including percentage measurements, that enables the terminating carrier to classify traffic as local or non-local, and interstate or intrastate. Only if classification information is not provided is the terminating carrier allowed to classify all unidentified traffic as non-local for billing purposes.

Verizon further argues that LECs cannot charge CMRS providers for local calls absent an interconnection agreement or request for interconnection. Again, the statute allows for the billing of unidentified calls. All identified local calls will continue to be charged at local rates, pur-

suant to interconnection agreements. The provisions of SDCL 49-31-110 impose requirements on originating carriers that allow the terminating carrier to identify the calls, and then be properly compensated for termination of calls. It is reasonable for a state to impose a traffic identification requirement because it allows for compensation for termination of calls.

Furthermore, the Act is silent regarding identification requirements by carriers of transmitted telecommunications traffic. There also are no federal regulations relating to identification requirements. To date, the FCC has not addressed the information that must be transmitted with traffic that would allow for proper identification and would ensure that all traffic is subject to compensation at appropriate rates. Verizon Wireless fails to point out where the FCC has sought to preempt the states on the issue of unidentified traffic. The T-Mobile case applies only to local traffic, and is completely silent with respect to unidentified traffic. Since there are no federal statutes or regulations addressing identification of traffic, there can be no preemption on this issue. The provisions of SDCL 49-31-110 address this absence of regulation of traffic identification on the federal level, and it is an appropriate exercise of state power.

Moreover, unidentified traffic needs to be classified in order to be billed. The last sentence of SDCL 49-31-110 allows unidentified traffic to be classified as non-local for billing purposes. This is a reasonable requirement because it allows for the traffic to be billed at some rate in order to compensate the terminating carrier for the costs of the call termination.

The FCC's Wireline Competition Bureau ("WCB") took a similar approach in arbitrating an interconnection agreement between Cavalier Telephone, LLC ("Cavalier") and Verizon Virginia, Inc. ("Verizon"). In the Matter of Petition of Cavalier Telephone LLC pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc. for

Arbitration, DA 03-3947, released and adopted December 12, 2003, *recon. pending*. (hereinafter referenced as “Cavalier Telephone,” attached hereto as Attachment 2). In this proceeding, the WCB addressed, among other things, what call detail information should be provided on originated calls exchanged between the parties, and also what rates or charges should be applied to unidentified calls. In its decision, the WCB required Verizon to provide certain identification information, and allowed the terminating carrier to charge the higher of the intrastate or interstate switched access rate when traffic identifying information was not provided.³ The WCB took this approach to discourage actions that would interfere with the terminating carrier’s ability to bill for and receive appropriate compensation for call termination.

Even though the Cavalier Telephone decision was issued in the context of a proceeding arbitrated by the WCB, it lends strong support to the reasonableness of the approach incorporated into SDCL 49-31-110. Moreover, pursuant to the Act, the WCB, as the arbiter, was required “to ensure that such resolution and conditions meet the requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251 of the Act.” 47 U.S.C. Section 252(c)(1). Therefore, it is clear that a presumption that calls not properly identified by the originating carrier may be billed as non-local is not in violation of the Act and does not conflict with FCC precedent.

Finally, Verizon’s claims regarding these issues are clearly focused solely on the last sentence of SDCL 49-31-110. If this court concludes that the last sentence of SDCL 49-31-110 is

³ The specific interconnection agreement between the Parties, as arbitrated and approved by the WCB included, in part, the following terms: “If the originating Party passes sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN, on less than ninety-five percent (95%) of its calls, the receiving Party shall bill the originating Party the higher of its intrastate Switched Exchange Access Service rates or its interstate Switched Exchange Access Service rates for that traffic passed without sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN information, which exceeds five percent (5%), unless the Parties mutually agree that other rates should apply to such traffic.” Id. at Para. 43.

preempted, Defendant and Intervenors urge the court to uphold the remaining statutory provisions.

The central question as to whether a portion of a statute may be severed is whether, after the unconstitutional provisions are invalidated, “the remaining sections can stand by themselves and if it appears that the legislature would have intended the remaining sections to be in effect without the invalidated sections.” Dakota, Minnesota & Eastern Railroad Corp. v. South Dakota, 236 F.Supp.2d 989, 1030 (D. S.D. 2002) (citations omitted). A court should look to whether the valid and invalid portions are so connected to each other that the legislature intended them as a whole and would not have passed the valid portions without the invalid portions. State. v. Wilder, 73 S.D. 330, 341, 42 N.W.2d 891, 897 (1950). The burden is on Verizon Wireless to demonstrate that the legislature would not have enacted the statutes without the severed portions. Dakota, Minnesota & Eastern Railroad Corp., 236 F.Supp.2d at 1031.

It is apparent from SDCL 49-31-110 that the last sentence can be severed and the remaining portions allowed to stand by themselves. The overriding goal of the statute is to require originating carriers to correctly identify their traffic. The last sentence only comes into play if an originating carrier refuses to identify its traffic. The heart of Chapter 284 is the correct identification of traffic. If the last sentence were to be severed, originating carriers would still be required to correctly identify traffic in accordance with the language of the remainder of the statute. Thus, it is clear that the first two sentences of SDCL 49-31-110 can stand by themselves and the legislature would have passed them even without the final sentence.

V. THE FCC'S "MTA RULE" DOES NOT WORK TO PREEMPT THE PROVISIONS OF SDCL §49-31-110.

A. The Provisions of SDCL 49-31-109 through 49-31-115 Recognize Continued Distinctions between and the Different Charges Applicable to "Local" Versus "Non-local" Traffic.

With the passage of the 1996 Telecommunications Act, Congress established a mutual or "reciprocal" compensation obligation between telecommunications carriers exchanging local traffic. 47 U.S.C. Section 251(b)(5). Although the 1996 Act established a different regulatory scheme related to the exchange of local telecommunications traffic, it did not remove or change the access and interconnection requirements established in both federal and state law applicable to the provisioning of long distance telecommunications services. The language found in Section 251(g) of the 1996 Act confirms this.⁴

These differences between the regulatory schemes were acknowledged by the FCC in paragraph 1033 of its First Report and Order:

"[A]s a legal matter, . . . transport and termination of local traffic are different services than access service for long distance telecommunications. Transport and termination of local traffic for purposes of reciprocal compensation are governed by sections 251(b)(5) and 252(d)(2), while access charges for interstate long-distance traffic are governed by sections 201 and 202 of the Act. The Act preserves the legal distinctions between charges for transport and termination of local traffic and interstate and intrastate charges for terminating long-distance traffic." (emphasis added)

The FCC further stated that traffic originating or terminating outside of a local area is "subject to interstate and intrastate access charges." Id. at Para. 1035.

⁴ "On and after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier, to the extent that it provides wireline services, shall provide exchange access, information access, and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree, or regulation, order, or policy of the Commission, until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment. . . ." 47 U.S.C. § 251(g)

Thus, local transport and termination services provided between telecommunications carriers are provided under negotiated and/or arbitrated arrangements, and are subject to reciprocal compensation charges established within these arrangements. Non-local access services are provided by LECs pursuant to established federal (interstate) and state (intrastate) tariffs and are subject to either interstate or intrastate access charges.

Because of the established differences in regulation between local transport and termination and access services, and especially given the different rates applicable to such services, it is critical that facilities-based carriers of telecommunications services have an ability to identify and appropriately charge for telecommunications traffic carried over their network facilities. As regulated public utilities, the LEC members of SDTA, including Venture Communications Cooperative, have a constitutional right to a fair and reasonable return on their investment in regulated telecommunications facilities. Absent having some ability to identify traffic terminated over these facilities or having some other basis to classify traffic terminated over their telecommunications facilities as being local (subject to reciprocal compensation charges) or non-local (subject to access charges), LECs are forced to carry certain traffic for free, without compensation. This result, which effectively is the result supported by Verizon, results in confiscation of the LECs' property and is not a result consistent with federal law.

B. The Cases Cited by Verizon Do Not Support Its Preemption Claim.

Verizon claims that SDCL 49-31-110 is preempted by the FCC's "MTA Rule." Section 51.701(b)(2) defines "telecommunications traffic" as "traffic exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area . . ."⁵ Verizon Wireless argues that because the last sentence of SDCL 49-31-

⁵ Specifically, 47 C.F.R. § 51.701(b)(2) and First Report and Order, par. 495.

110 authorizes the application of access rates to unidentified traffic, which may include intraMTA wireless traffic, this statute is preempted under the federal law.

Defendant and Intervenors assert that the challenged statute is not in conflict with federal law, and the cases cited by Verizon offer no support for preemption. The cases relied upon by Verizon are limited to addressing telecommunications traffic exchanged between carriers (LECs and CMRS providers) that has been identified between the carriers and limited to resolving issues as to how certain identified traffic should be categorized for regulatory purposes. For example, in Rural Iowa Independent Telephone Association v. Iowa Utilities Board, 385 F.Supp.2d, 797 (S.D. Iowa 2005), the type or category of calls at issue was known, and the court was asked to address whether the particular telecommunications traffic, knowing the origination and termination points and method of interconnection, should be categorized as “local” or “long distance.” Id. at 799, 800, 807, 808, 810, 820, and 821. See also Iowa Networks Services, Inc., 385 F.Supp.2d 850, 853, and 857. Similar issues related to the categorization of “known” telecommunications traffic were addressed by the presiding court in Iowa Network Services, Inc. v. Qwest Corporation, 385 F.Supp.2d 850 (S.D. Iowa 2005) and 3 Rivers Tel. Coop., Inc., et al. v. U.S. West Comm., Inc., 2003 U.S. Dist. Lexis 24871 (D. Mont. Aug. 22, 2003).

In reviewing these cases cited by Verizon, it is essential to draw a distinction between decisions that address the categorization, for regulatory purposes, of traffic that has been specifically identified versus traffic that has not been identified. The decisions relied on by Verizon address questions as to how “local traffic” should be defined for purposes of determining the application of “reciprocal compensation” found in Sections 251 and 252 of the Act. They do not, more specifically, attempt to address questions as to how unidentified traffic should be dealt with in determining the application of either “reciprocal compensation” or “access charges.” Defen-

dant and Intervenor are unaware of any court decisions addressing specifically the question of how unidentified traffic is to be treated by carriers in their process of billing charges for use of their network facilities.

Contrary to the impression given by Verizon, SDCL 49-31-110 does not subject traffic that has, in fact, been identified as “local” to access rates or tariffs. The statute addresses only traffic that has not been identified, commonly referred to as “phantom traffic,” and works to put this unidentified traffic into a specific traffic category so that it can be charged or billed by the terminating carrier. Absent a jurisdictional classification of the traffic, the terminating carrier is effectively left with no direction as to what charges should be applied. Specifically, under SDCL 49-31-110, traffic exchanged between carriers, but not identified, is categorized as “non-local telecommunications traffic for service billing purposes.” This means that unidentified traffic exchanged may be subject to either intrastate or interstate “access rates,” instead of local reciprocal compensation charges, but this occurs only if the carrier originating the traffic fails to take reasonable steps to ensure that the terminating carrier is able to identify and measure the delivered telecommunications traffic.

C. The Provisions of SDCL 49-31-110 Allowing for the
Assessment of Non-local, Access Charges on Unidentified
Traffic is a Reasonable Approach to Addressing Separations Deficiencies.

As is commented on further in this Memorandum, *Section VII, *infra*, the process of identifying telecommunications traffic for purposes of determining the application of either local reciprocal compensation charges, interstate access charges, or intrastate access charges is part of the federal-state “separations” process. Verizon appears to believe that this separations process must be perfect, suggesting that, unless the jurisdictional nature of a wireline or wireless tele-

phone call can be determined with 100 percent certainty, the State has no ability to authorize the assessment of an intrastate access rate.

Verizon Wireless's position fails to take into account inherent difficulties associated with the separations process in general, and seems to establish a presumption of federal preemption in almost every case involving telecommunications regulation. In today's complex telecommunications environment, it is rarely if ever possible to draw neat, straight lines in separating telecommunications activity between interstate and intrastate, or between federal and state regulation. If the mere possibility of making mistakes in this process or creating some over-lap between federal and state regulation is sufficient to justify federal preemption, then there would appear to be no room for any state regulation of any telecommunications services. This is not the result intended by the 1996 Act.

Contrary to the arguments of Verizon, the approach taken in SDCL 49-31-110 of allowing the assessment of non-local, or access charges to traffic that is not identified is neither an improper assumption of state jurisdiction or improper application of state regulation over local, reciprocal compensation traffic. Specific support for the validity of the approach adopted by the South Dakota Legislature in SDCL 49-31-110 can be found in the WCB's decision in the Cavalier Telephone proceeding.

D. Issues Related to "Phantom Traffic" are Significant Issues that under Current Federal Law may Appropriately be Addressed by the States.

The provisions of SDCL 49-31-109 through 49-31-115 impose certain requirements on "originating carriers," "terminating carriers," and "transiting carriers" that are intended to result in the identification of all telecommunications traffic that is exchanged between such carriers. Issues related to unidentified traffic or "phantom traffic" carried over regulated telecommunications facilities, although they are of national importance, have not, to this point, been addressed

at the federal level. There are no provisions in the Federal Act establishing requirements related to the identification by carriers of transmitted telecommunications traffic. There are also no federal regulations relating to such matters. The FCC has not established any requirements that would put procedures in place to identify telecommunications traffic being carried over regulated telecommunications facilities and to ensure that all such traffic is subject to compensation under appropriate rates. There are certain voluntary industry-wide standards established by the Alliance for Telecommunications Industry Solutions (“ATIS”). These standards, however, are purely voluntary, and only set forth certain industry standards related to the use of signaling transmission protocols. (See Affidavit of Larry Thompson, attached, page 6) Moreover, the standards do not, in any way, address the carrier compensation issues that arise when terminated telecommunications traffic is not appropriately identified.

The provisions of Chapter 284 are intended to address this absence of regulation related to traffic identification. And, it is the position of Defendant and Intervenors that no conflict with federal law exists since the FCC has no regulations that apply to unidentified traffic.

Specifically, with respect to SDCL 49-31-110, the statute attempts to bring about an identification of all terminated telecommunications traffic in two ways. First, all originating carriers of local telecommunications traffic, including wireless providers, are required to transmit certain signaling information with that local traffic that will assist the terminating carrier in its identification of the traffic. More specifically, originating carriers are required to provide signaling information in transmitting their telecommunications traffic that is “in accordance with commonly accepted industry standards.” The information provided is intended to give the terminating carrier information that is “sufficient to identify, measure and appropriately charge” the originating carrier for services provided in terminating the local telecommunications traffic. Second, in

situations where the originating carrier is providing both local and non-local telecommunications traffic, the originating carrier has an additional obligation. The originating carrier is instructed to “separately provide” other information to the terminating carrier that allows the terminating carrier to appropriately classify the telecommunications traffic as being either local or non-local. This other information should under the statute be “accurate and verifiable,” and may include “percentage measurements.”

As a means of further ensuring that all terminated telecommunications traffic is compensated in some way, and to provide some incentive on the part of the originating carrier to comply with the above traffic identification requirements, the statute then provides that if this separate “accurate and verifiable information allowing appropriate classification of the terminated traffic” is not provided, all unidentified traffic may be classified as non-local for service billing purposes. This last sentence of SDCL 49-31-110 effectively clarifies what rates will be applied in instances where the originating carrier fails to provide the required traffic identification information.

The South Dakota Legislature, in adopting the provisions of Chapter 284, took action to address concerns related to unidentified or “phantom traffic.” Contrary to what appears to be suggested in the “Affidavit of John L. Campitt” filed by Verizon, issues related to unidentified traffic are not minimal or negligible. Affidavit of John L. Campitt, p. 4. Financial losses suffered by the LEC industry in South Dakota related to the carriage of “phantom traffic,” where the terminating LEC is unable to bill any rate or unable to bill the applicable reciprocal compensation rate or access rate, are significant. SDTA and Venture Communications object to any characterization that attempts to minimize the financial consequences of permitting certain telecommunications carriers to use the public switched telecommunications network free of any compensation obligation. (See Affidavit of Larry Thompson, attached, Page 9. Thus, there are good

public policy reasons behind the South Dakota Legislature's enactment of Chapter 284. Defendant and Intervenor believe the State Legislature acted within its authority in attempting to address "phantom traffic" concerns.

E. In the Alternative, if a Determination is made that the last Sentence of either SDCL 49-31-110 or 49-31-111 Conflicts with Federal Law, the Remaining Provisions should be Severed and Upheld.

Based on all of the foregoing, Defendant and Intervenor challenge the preemption of any portion of Chapter 284. If, however, this Court concludes that there is a federal-state conflict based on either the last sentence of SDCL 49-31-110 and/or the last sentence of § 49-31-111, Defendant and Intervenor urge the Court to uphold the remaining statutory provisions, for the reasons set forth at page 9, supra, of this Brief.

**VI. THE PROVISIONS OF SDCL 49-31-110 AND 49-31-111
DO NOT CONFLICT WITH PARAGRAPH 1044
OF THE FCC'S FIRST REPORT AND ORDER.**

As further support for its claims that SDCL 49-31-110 and 49-31-111 should be preempted, Verizon also cites to paragraph 1044 of the FCC's First Report and Order. According to Verizon, this paragraph indicates that the FCC has released wireless providers from any obligation to "identify, measure, or report calls" that are interMTA. Defendant and Intervenor disagree with this interpretation of the FCC's findings in paragraph 1044. And, further, a fair examination of the specific requirements related to traffic identification and traffic measurement/reporting contained in SDCL 49-31-110 and 49-31-111 indicates clearly that these statutes are not in conflict with the cited FCC findings.

First, even though the FCC addressed in paragraph 1044 of its First Report and Order, the difficulties of determining the precise geographic location of a mobile wireless customer in real time, and noted that this could complicate the process of identifying telecommunications traffic,

it did not in any way take action releasing CMRS providers from any obligation to identify or estimate InterMTA traffic. In issuing its First Report and Order, given current technology limitations, the FCC concluded that it would not be necessary to ascertain the geographic location of the originating wireless caller, for call rating purposes. The FCC did not stop there, however. It went on to conclude that “parties may calculate overall compensation amounts by extrapolating from traffic studies and samples.” Even more importantly, the FCC stated:

For administrative convenience, the location of the initial cell site when a call begins shall be used as the determinant of the geographic location of the mobile customer. As an alternative, LECs and CMRS providers can use the point of interconnection between the two carriers at the beginning of the call to determine the location of the mobile caller or called party.

Verizon, in making its argument, has conveniently dropped these two sentences contained in paragraph 1044 from its Memorandum. These two sentences, however, when also read in conjunction with the FCC’s conclusion that parties can calculate compensation amounts from traffic studies and samples, indicate very clearly that the FCC does not view an inability to identify the precise location of a wireless caller at the moment a call is made as an excuse to avoid proper compensation obligations.

To support its arguments, Verizon makes inaccurate statements concerning the exact requirements imposed on telecommunications carriers pursuant to SDCL 49-31-110 and 49-31-111. It is indicated on page 17 of Verizon’s Memorandum that the South Dakota Legislature “disagreed” with the FCC, and that the Legislature has mandated a result requiring that information identifying the “physical location of a call on a real time basis” be transmitted within call “signaling fields.” This is not a correct statement. Both SDCL 49-31-110 and 49-31-111 mandate only that originating carriers in delivering telecommunications traffic “transmit signaling information in accordance with commonly accepted industry standards.” This language, tying

the transmission signaling information requirement to “commonly accepted industry standards” eliminates any requirement for wireless carriers to deliver in the transmitted signaling stream related to any particular call the precise geographic location of the originating wireless caller. Evidence that this is not a current requirement under the state law is found in Verizon’s own affidavits submitted with its Memorandum. As indicated by the Affidavit of Jeff Harmon, the industry standards developed through ATIS, establishing voluntary standards for signaling protocols, do not currently require that the “Jurisdictional Information Parameter” or “JIP” SS7 field include an indicator of the originating caller’s actual physical location. (Affidavit of Jeff Harmon, pages 4 and 5). At some point, as telecommunications technology advances, more specific information such as information identifying the originating caller’s geographic locations may be made part of the ATIS standards, but that is not the case today. Accepting this, it is wrong for Verizon to suggest that the provisions of SDCL 49-31-110 and 49-31-111, in prescribing compliance with “commonly accepted industry standards,” are inconsistent with paragraph 1044 of the First Report and Order.

Verizon also indicates inaccurately that the statutory provisions somehow prohibit telecommunications carriers that exchange traffic from using traffic samples or studies to determine compensation amounts. Verizon apparently also views the provisions in SDCL 49-31-110 and 49-31-111 that require separately provided traffic information (information provided subsequent to actual transmission of the traffic) be “accurate and verifiable” as being in conflict with the language in Paragraph 1044. It is suggested that the use of these words actually prohibits the use of traffic studies or traffic sampling as was referenced by the FCC in its First Report and Order. Defendant and Intervenor disagree. Reading each statute in its entirety, neither statute indicates that traffic sampling or studies cannot be used. In fact, both statutes reference the use of “per-

centage measurements” which would allow a sampling or measurement of traffic to determine the appropriate classification of telecommunications traffic, on a going forward basis. The interpretation or effect attached by Verizon to the words “accurate and verifiable,” as used in each of the statutes, is unreasonable. Rather, the words merely require that any historical traffic data that is used as part of a traffic study or traffic sample be “accurate and verifiable.”⁶

VII. CHAPTER 284 DOES NOT IMPERMISSIBLY REGULATE INTERSTATE SERVICES.

Verizon Wireless asserts that Chapter 284 applies to interstate telecommunications services and that the “South Dakota Legislature has no authority to regulate interstate communications.” Verizon Memorandum at 22. With respect to this issue, Verizon is apparently claiming that this is express preemption.⁷ Verizon is claiming both SDCL 49-31-110 and 49-31-111 are expressly preempted.

SDCL 49-31-111 applies only to non-local traffic. Non-local traffic is subject to either interstate access rates or intrastate access rates. In support of its argument Verizon cites to the FCC’s Vonage Order, In the Matter of Vonage Holdings Corporation Petition for Declaratory Ruling Concerning an Order of the Minnesota Public Utilities Commission, WC Docket No. 03-211, 2004 WL 2601194, FCC 04-267, (rel. Nov. 12, 2004) (“Vonage Order”), wherein the FCC states “that a state commission must separate out and regulate only the intrastate services . . .” Defendant and Intervenors point out that trying to “separate and regulate” intrastate services is exactly what the statute was designed to do. The use of the word “interstate” in the second sentence does not demonstrate an intent to regulate interstate services; instead it demonstrates the

⁶ Given that Verizon merely attempts to create a conflict issue between the provisions of SDCL 49-31-110 and 49-31-111 and the language contained in paragraph 1044 of the FCC’s First Report and Order, where none in fact exists, there is no need to respond to the allegations that the two state statutes are in violation of the Hobbs Act. The provisions of the statutes do not attempt to impose a different result on issues “conclusively decided” by the FCC.

⁷ See *La. Pub Serv. Comm’n v. FCC*, 476 U.S. 355, 368 (1968). (“Pre-emption occurs when Congress, in enacting a federal statute, expresses a clear intent to pre-empt state law...”)

importance of properly identifying non-local access traffic in order to assess the applicable access charges. Obviously, if a carrier correctly identifies certain non-local traffic as intrastate, the result is that the rest of the traffic will be correctly identified as interstate. Distinguishing interstate from intrastate is part of the separations process. The Eighth Circuit has stated that the jurisdictional separations process “is one part of a larger regulatory process for rate regulation.” As we see it, neither the jurisdictional separations process, nor the larger regulatory framework in which it exists, is generally designed to confer exclusive regulatory power.” Qwest Corporation v. Scott, 380 F.3d 367, 372 (8th Cir. 2004).

The first sentence of SDCL 49-31-110 applies only to local traffic, and thus does not implicate interstate traffic since the FCC has determined that all intraMTA traffic is local and subject to reciprocal compensation.⁸ The second sentence requires a carrier that is delivering both local and non-local traffic to separately provide accurate traffic identification information. As with SDCL 49-31-111, this sentence seeks to have non-local traffic identified as intrastate or interstate, an identification that will help ensure the separation between intrastate and interstate. Obviously, it is the failure to identify the traffic, not the correct identification of traffic, that violates the separations process.

Although as noted earlier, Verizon attempts to portray CMRS providers as subject only to federal regulation, the fact is that CMRS providers are required to pay compensation for the termination of intrastate access traffic. Any difficulties Verizon Wireless may encounter in trying to separate intrastate from interstate access traffic do not change that fact. As noted by Verizon,

⁸ *First Report and Order* at para. 1036 (“Because wireless licensed territories are federally authorized, and vary in size, we conclude that the largest FCC-authorized wireless license territory (*i.e.*, MTA) serves as the most appropriate definition for *local service area* for CMRS traffic for purposes of reciprocal compensation under section 251(b)(5) as it avoids creating artificial distinctions between CMRS providers.”) (emphasis added). Even if reciprocal compensation were to implicate interstate traffic, the point of the statute is, as we have already noted, to correctly identify traffic along jurisdictional lines.

the FCC has stated that incumbent local exchange carriers and CMRS providers would not be required “to be able to ascertain geographic locations when determining the rating for a particular call at the moment the call is connected.” First Report and Order at Para. 1044. Instead, the FCC found “that parties may calculate overall compensation amounts by extrapolating from traffic studies and samples.” Id. Thus, despite finding that it may be difficult to determine the jurisdictional nature of traffic and apply the applicable rate, the FCC did not preempt efforts to determine the jurisdictional nature of traffic or the imposition of intrastate access rates on CMRS carriers.

The Vonage Order may be instructive, but not in the way hoped for by Verizon. Although Verizon quotes from the Vonage Order at length wherein the FCC explains why it classified Internet voice service offerings as interstate, the simple fact is that the FCC has not taken the same approach to CMRS calls. In fact, the two services are more notable for the different regulatory approaches taken by the FCC. For Internet voice service calls, the FCC found the calls are interstate. Vonage Order, at Para 14. For CMRS, the FCC has not found all CMRS calls to be interstate. For Internet voice service calls, the FCC is still considering what access charges should apply. IP-Enabled Services, WC Docket No. 04-36, Notice of Proposed Rulemaking, 19 FCC Rcd 4863, 4904, para. 61 (2004) (“The Commission seeks comment on the extent to which access charges should apply to VoIP or other IP-enabled services.”) For CMRS, calls may be subject to reciprocal compensation charges, intrastate access rates, or interstate access rates. For Internet voice service calls, the FCC determined that the calls cannot be separated into intrastate and interstate. Vonage Order at Para. 14. For CMRS, the FCC determined that calls can be rated through traffic studies.

Going to the last sentences of SDCL 49-31-110 and 49-31-111, these provisions apply only if a carrier refuses to produce a traffic study or submit identifying signaling information. If a carrier refuses to identify its traffic, the result of that refusal should not be a free ride. Thus, under the last sentence of SDCL 49-31-111, a terminating carrier may classify the unidentified traffic as intrastate. The unidentified traffic needs to be classified in order to be billed. It makes sense to classify unidentified non-local traffic as intrastate because otherwise there would not be an incentive for the carrier to send identifiable traffic. If the lower interstate rate were used, then there would be no incentive for an originating carrier to identify or use a traffic study to classify non-local traffic. The carrier could just choose not to identify the traffic and thereby pay the lower rate. Under SDCL 49-31-110, the last sentence allows unidentified traffic to be classified as non-local for billing purposes. Again, since it is unidentified traffic, it needs to be billed at some rate in order to compensate the terminating carrier for the costs of the call termination.

As previously discussed, the FCC's WCB took a similar approach when it arbitrated an interconnection agreement. The Bureau found that it was reasonable to require a transiting carrier that fails to provide adequate billing information to pay the "higher of the intrastate or interstate Switched Exchange Access Service Rate." Cavalier Telephone at fn. 153. The Bureau found that this would discourage the transiting carrier from providing inaccurate call data. Id. at Para. 42.

Verizon's argument on this issue, as with other issues, appears to be somewhat premised on a "perfect" separations world. However, the separations process has never been perfect and this lack of perfection has been recognized by the FCC. For example, the FCC has approved extended local calling areas that cross the borders of two states and involve interstate calls that are treated as local calls. See, e.g., In the Matter of Application of Access Charges for the Origina-

tion and Termination of Interstate, InterLATA Services and Corridor Services, 1985 FCC Lexis 3510, Memorandum Opinion and Order, (April 8, 1985). Moreover, as noted earlier, the FCC has determined that intraMTA calls will be treated as local calls subject to reciprocal compensation despite the fact that MTA boundaries often cross state boundaries. The Defendant and Intervenors would also note that the use of traffic studies, sanctioned by the FCC as a way to rate calls, results only in snapshots of a particular period of time. The very use of a traffic study is a recognition that each call will not be separately identified.

In conclusion, SDCL 49-31-110 and 49-31-111 do not impermissibly regulate interstate services; instead, the statutes seek to require the correct identification of traffic so that the correct rate may be applied to that traffic.

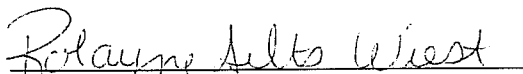
VIII. CONCLUSION

For the above reasons, Defendant and Intervenors respectfully request that the Court deny Verizon's Motion for Summary Judgment.

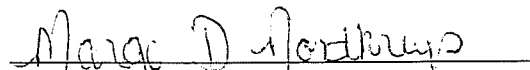
VIX. ORAL ARGUMENT

Defendant and Intervenors respectfully request oral argument in this case.

DATED this twenty-second day of December, 2005.



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ATTACHMENT 1

AFFIDAVIT OF

LARRY THOMPSON

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

CENTRAL DIVISION

Verizon Wireless (VAW) LLC,)
CommNet Cellular License Holding LLC,)
Missouri Valley Cellular, Inc.,)
Sanborn Cellular, Inc., and)
Eastern South Dakota Cellular, Inc.)
d/b/a VERIZON WIRELESS,)

Civil No. 04-3014

Plaintiff,)

vs.)

Bob Sahr, Gary Hanson, and Dusty Johnson,)
in their official capacities as the)
Commissioners of the South Dakota Public)
Utilities Commission,)

AFFIDAVIT OF
LARRY THOMPSON

Defendants,)

and)

South Dakota Telecommunications Ass'n)
and Venture Communications Cooperative,)

Defendant Intervenors.

STATE OF SOUTH DAKOTA

COUNTY OF DAVISON

1. My name is Larry D. Thompson. My business address is 1801 N. Main Street, Mitchell, South Dakota 57301. I am the Chief Executive Officer of Vantage Point Solutions, Inc. (VPS).

2. I received a Bachelors of Arts in Physics (1983) from William Jewell College, a Bachelors of Science in Electrical Engineering (1985) from the University of Kansas, and a Masters of Science in Electrical and Computer Engineering (1986) from the University of Kansas. I am a Registered Professional Engineer in South Dakota and 14 other states. I have been involved in the design and implementation of many voice, data, video, and wireless networks. I focus on assisting rural Local Exchange Carriers (RLECs) with nearly all technical and financial aspects of their operations.

3. VPS is a telecommunications and consulting firm headquartered in Mitchell, South Dakota. The client base of VPS is made up of RLECs. VPS provides engineering, financial, and regulatory services to our clients for both their wireless and wireline networks. VPS provides services to many of the RLECs in South Dakota that are SDTA member companies and I am familiar with much of their networks and operations.

4. My staff and I have performed numerous studies to determine the amount of wireless traffic that originates and terminates in different MTAs (interMTA). These studies consist of processing thousands of records to determine the amount of interMTA traffic that is being delivered to our landline RLEC clients. These studies have estimated the location of the wireless caller using either the calling party NPA-NXX from the SS7 messages or more accurately using the connecting cell site or tower location available in the wireless Call Detail Records (CDRs). The goal of these studies was to determine the amount of interMTA traffic delivered by a wireless carrier to many of our RLEC clients.

5. As described in the FCC First Report and Order,¹ wireless calls originating in one Major Trading Area (MTA) and terminating in the same MTA are subject to reciprocal compensation. Wireless calls that originate in one MTA and terminate in another MTA are subject to access charges. To properly bill for wireless traffic, it is necessary to also determine the amount of the interMTA traffic that is interstate and intrastate in nature.

6. I make this Affidavit in response to many of the matters and statements that were set forth in Verizon Wireless' Motion for Summary Judgment and associated Affidavits.² I am familiar with South Dakota Senate Bill SB144 as well as South Dakota Codified Laws 49-31-109 through 49-31-115. I provided testimony in both House and Senate legislative committee hearings held to address the Senate Bill. My handouts provided to the committee members as a supplement to my testimony provided during the committee hearings are attached as Exhibit LDT-1A and LDT-1B.³ Matters addressed in the provisions of SB144 related to unidentified telecommunications traffic are within my personal knowledge based on my job experience.

7. The Plaintiffs claim in their Motion for Summary Judgment at paragraph 21, that "the FCC recognized...that CMRS providers were not required to ascertain whether calls are interMTA or intraMTA,"⁴ and cite the *First Report and Order* at paragraph 1044 to support their claim. However, the very language that they emphasize does not support this claim, but instead

¹ *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, 11 F.C.C.R. 15499, FCC 96-325 First Report and Order (released Aug. 8, 1996) ("*First Report & Order*").

² Verizon Wireless (VAW) LLC, et al., Plaintiff vs. Bob Sahr, et al., Defendants and Intervenors, Civil Number 04-3014, Paragraph 9, November 15, 2005.

³ SDCL, 49-31-109 through 49-31-115.

⁴ Verizon Wireless (VAW) LLC, et al., Plaintiff vs. Bob Sahr, et al., Defendants and Intervenors, Civil Number 04-3014, Paragraph 21, November 15, 2005.

indicates only that "it is not necessary for incumbent LECs or CMRS providers to be able to ascertain geographic locations when determining the rating for any particular call at the moment the call is connected." The statute does not require the wireless provider to determine the physical location of the caller when identifying the MTA in which the call originates. Verizon Wireless incorrectly believes that the South Dakota legislation requires the wireless carrier to determine the actual location of the caller when determining if the call is interMTA or intraMTA. This is not required by the FCC or common industry practice. The FCC stated, "For administrative convenience, the location of the initial cell site when a call begins shall be used as the determinant of the geographic location of the mobile customer."⁵ Thus, for purposes of categorizing traffic as either intraMTA or interMTA, it is only necessary to know the originating or connecting cell site location, not the physical location of the caller. In his Affidavit, Jeff Harmon claims, "Because Verizon Wireless operates some cell towers that serve across MTA and/or state boundaries, Verizon Wireless could identify the MTA or state in which the call originates only by determining the physical location of the caller..."⁶ However, Verizon Wireless already must know the connecting cell site or tower location at the start of the call for its own networking and administration purposes. This information is needed by the wireless carrier for wireless call handling and handoff operations, as well as for call routing, roaming, and other network purposes.

8. Verizon Wireless would also need to know the calling party or tower location to determine appropriate taxes and Universal Service Fund contributions. All intrastate, interstate

⁵ *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, 11 F.C.C.R. 15499, FCC 96-325 First Report and Order (released Aug. 8, 1996) ("*First Report & Order*"), para. 1044.

⁶ Affidavit of Jeff Harmon, Verizon Wireless (VAW) LLC, et al., Plaintiff vs. Bob Sahr, et al., Defendants and Intervenors, Civil Number 04-3014, para. 9, November 15, 2005.

and international providers of telecommunications within the United States are required to file the FCC Form 499-A (Telecommunications Reporting Worksheet). The worksheet and associated instructions are included as Exhibit LDT-2. This form requires that these providers separately identify the portion of gross revenues that arise from interstate and international service. According to the instructions for this form, the FCC provides a safe harbor percentage of interstate revenues associated with mobile services of monthly and activation charges, as well as message charges including roaming, but excluding toll charges. However, these safe harbor percentages may not be applied to fixed local services revenues or toll service charges. All filers must report the actual amount of interstate and international revenues for these services. (For example, toll charges for itemized calls appearing on mobile telephone customer bills should be reported as intrastate, interstate or international based on the origination and termination points of the calls.)

9. Therefore, with information Verizon Wireless no doubt has concerning only the originating or connecting cell site location, not the physical location of the caller, Verizon Wireless could prepare "accurate and verifiable information, including percentage measurements that enables the terminating carrier to appropriately classify telecommunications traffic as being either local or nonlocal, and interstate or intrastate" for which the South Dakota statute allows.⁷

10. Jeff Harmon discusses the fields that are populated in the Initial Address Message (IAM) of a Signaling System 7 (SS7) message and states: "The mandatory SS7 fields that are automatically populated are message type, nature of connections, forward call indicators, calling party's category, user service information, and called party number."⁸ In his affidavit, Mr.

⁷ SDCL 49-31-110.

⁸ Affidavit of Jeff Harmon, Verizon Wireless (VAW) LLC, et al., Plaintiff vs. Bob Sahr, et al., Defendants and Intervenors, Civil Number 04-3014, para.12, November 15, 2005.

Harmon continues to discuss the optional SS7 message fields that Verizon utilizes as part of its standard business practices. These optional fields include the calling party number⁹ and the Jurisdictional Information Parameter (“JIP”).¹⁰ Mr. Harmon indicates that Verizon follows the Alliance for Telecommunications Industry Solutions (“ATIS”) Network Interconnection Interoperability Forum (“NTIF”) recommendations for the data fill of the JIP parameter.¹¹ Mr. Harmon does not address the other optional fields in the SS7 message that could be used to data fill information to assist both Verizon and other telecommunications service providers with the determination of traffic types (intraMTA, interMTA and intrastate, or interMTA and interstate) with standard AMA post-processing techniques. These optional fields include, but are not limited to, the Circuit Assignment Map parameter and the Generic Address parameter. The use of these optional fields has not been standardized by ATIS; however, they could potentially be used to address the traffic type separation issue with the proper software tools and post-processing techniques.

11. Jeff Harmon stated, “there is no industry-standard SS7 field that Verizon Wireless could use to identify whether a call is intraMTA, interMTA and intrastate, or interMTA and interstate.”¹² This is a correct statement, but only based on today’s SS7 signaling standards. The South Dakota legislation, however, is not limited by today’s signaling standards. It is recognized in the legislation that signaling standards are constantly being changed and, furthermore, there are other provisions in the legislation that allow for originating carriers to provide separate

⁹ *Id.* at para. 15.

¹⁰ *Id.* at para. 16.

¹¹ *Id.* at para. 18.

¹² *Id.* at para. 20.

information, regardless of actual signaling capabilities, that can assist in reasonably categorizing terminated telecommunications traffic. The Ordering and Billing Forum (OBF) has been working to expand the SS7 signaling format to better identify telecommunications traffic so the terminating carrier can more accurately bill for the traffic. Many involved with the OBF would like to see the Jurisdictional Information Parameter (JIP) field in the SS7 used to identify the wireless caller's connecting tower at the start of the call. Earlier this year, the JIP was expanded to include information regarding the originating wireless switch.¹³ This was certainly a step in the correct direction. I would expect that the use of the JIP will continue to be enhanced to provide more detailed information regarding the location of the originating wireless caller (with respect to the location of the initial tower location at the start of the call). Furthermore, there is signaling information available to Verizon Wireless with respect to each wireless originated call that is not passed along in the SS7 message such as the trunk group number associated with the originating cell tower or the actual cell site number. For example, the Lucent Technologies 5ESS can identify the cell site number as part of the Automatic Message Accounting ("AMA") setup internal to the switching system per Lucent Table 2003 - Radio/Channel/Cell Information.¹⁴ Similarly, the Nortel Network MTX identifies the originating trunk group from a specific cell location as a field in the AMA recording called the First Originating Trunk Common Language Location Identifier ("CLLI") field.¹⁵

¹³ Alliance for Telecommunications Industry Solutions, ATIS-0300011, Network Interconnection Interoperability (NIIF) Reference Document, Part III, Installation and Maintenance Responsibilities for SS7 Links and Trunks.

¹⁴ Lucent Technologies Document 401-610-133 Issue 28 - Flexnet[®]/Autoplex[®] Wireless Networks Executive Cellular Processor (ECP) Release 24 pp 4-125 to 4-127

¹⁵ Nortel Networks Document 411-2131-204 - MTX 12 (February 2004) - DMS-MTX CDMA/TDMA Billing Management Manual Standard Issue 11.11 p 6-147

12. Because the commonly accepted industry standards for signaling continue to evolve and are not yet adequate to quantify nonlocal traffic, SDCL 49-31-111 allows the originating carrier to “separately provide the terminating carrier with accurate information including verifiable percentage measurements that enables the terminating carrier to appropriately classify nonlocal telecommunications traffic as being either interstate or intrastate, and to assess the appropriate applicable access charges.”¹⁶ The form and substance of the accurate information required in this statute is not defined, except that it be adequate for the terminating carrier to appropriately classify the traffic and assess the applicable charges.

13. Because the commonly accepted industry standards for signaling are not yet adequate to indicate the precise location of the wireless caller, wireless carriers often establish their delivered local and toll (interstate and intrastate) traffic ratios in an agreed upon contract. Normally the contract ratios are based on historical experience or using a special study. Since wireless carriers have the ability to determine the connecting tower of their wireless customer, a special study can accurately determine the local and toll (interstate and intrastate) mix for a given test period.

14. John L. Clampitt claims that the amount of interMTA traffic is “limited” on the Verizon Wireless network.¹⁷ If the purpose of this statement is to imply that the issue of unidentified telecommunications traffic exchanged between wireless and wireline carriers is insignificant or inconsequential, I would disagree with the statement. Proper classification of wireless traffic is especially important for carriers operating in South Dakota, since South Dakota has three different MTAs (Minneapolis, Denver, and Des Moines). In addition, much of the

¹⁶ SDCL 49-31-111.

¹⁷ Affidavit of John L. Clampitt, Verizon Wireless (VAW) LLC, et al., Plaintiff vs. Bob Sahr, et al., Defendants and Intervenors, Civil Number 04-3014, Paragraph 15, November 15, 2005.

southern part of South Dakota borders the Omaha MTA. These MTA boundaries along with the RLEC territories are shown in Exhibit LDT-3. Because of this, South Dakota has a higher interMTA factor than most other states. VPS has not performed any interMTA studies for Verizon Wireless traffic. However, some recent wireless studies have shown interMTA traffic between 10% and 35%, and some higher. Even Verizon Wireless, in more than one of its Reciprocal Transport and Termination Agreements with wireline LECs in South Dakota, has agreed to an interMTA traffic factor or ratio of 20% (of all Verizon traffic terminated by the LEC, 20% is agreed to be interMTA). It is important for South Dakota carriers to be able to accurately classify the terminating traffic to be properly compensated for the use of their networks.

15. Phantom traffic is commonly defined as traffic for which the terminating carrier is unable to determine either the carrier responsible for paying for the call or traffic where the terminating carrier is not able to determine the appropriate jurisdiction for properly rating the call. If the wireless traffic is not properly categorized by jurisdiction (intraMTA or interMTA and interstate, or interMTA and intrastate), then the wireless traffic would be considered phantom traffic. According to a National Exchange Carrier Association (NECA) news release dated April 7, 2004, it is estimated that 20% or more of telephone call minutes processed by some end office switches cannot be billed and phantom traffic could represent hundreds of millions of dollars of lost revenue to local telephone companies. Craig Bellinghausen of Verizon included a statement in his September 24, 2004, presentation regarding Phantom Traffic in which Verizon acknowledges that it is a growing concern.¹⁸ According to his presentation, Verizon's

¹⁸ Craig Bellinghausen, Phantom Traffic Pennsylvania Telephone Association New York State Telecommunications Association, September 24, 2004 (note that Mr. Bellinghausen made these statements as a representative of "Verizon" and not "Verizon Wireless.")

“Measured Phantom Transit Traffic is in the 3% to 6% range. Phantom Calls Terminating on Verizon’s network is in the 12% to 15% range. Bottom Line: Significant Issue at Verizon.” This presentation has been included as Exhibit LDT-4.

16. Mr. Clampitt claims that Verizon Wireless does not today have the capability to measure traffic for intercarrier compensation purposes and does not have the ability to generate reports that would identify traffic as intraMTA/interMTA and intrastate/interstate.¹⁹ He also refers to “technical limitations and costs”²⁰ as the reason Verizon Wireless does not provide the signaling information or reports needed. As with other wireless carriers, I believe Verizon Wireless providers, with the proper software tools and post-processing techniques, have the ability to comply with the state statutes by generating Call Detail Records (CDRs) for wireless originated calls not handled by an Interexchange Carrier (IXC) that include the connecting tower at the start of the call, the called party number, the call date, and call duration. Using this information, Verizon Wireless or the terminating carrier could process the CDRs to determine the interMTA factor.

17. Mr. Harrop admits that there are systems and services that can measure and bill interMTA traffic.²¹ This seems contrary to the other affidavits that try to establish that the measurement of interMTA traffic is not possible with the Verizon Wireless network. VPS has recently worked with another wireless carrier in South Dakota to extract the required signaling information from the wireless network. VPS processed this data to determine the actual

¹⁹ Id. at para. 16.

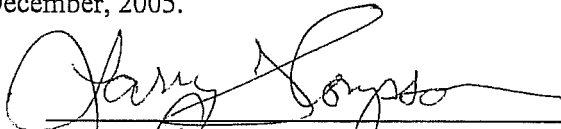
²⁰ Id. at para. 20.

²¹ Affidavit of Edward A. Harrop, Verizon Wireless (VAW) LLC, et al., Plaintiff vs. Bob Sahr, et al., Defendants and Intervenors, Civil Number 04-3014, Paragraph 3, November 11, 2005.

interMTA factor for the test period. In addition to determining the interMTA factor, the amount of interstate and intrastate traffic was also determined.

18. Verizon has also publicly offered suggestions as to how the industry should work together regarding phantom traffic. These suggestions included establishing industry standards, such as an interMTA record field, and seeking "legislation requiring that certain data legally must be passed on traffic."²²

Dated this 22 day of December, 2005.



By Larry Thompson, CEO
Vantage Point Solutions, Inc.

Subscribed and Sworn to me this 22nd day of December, 2005.



Notary Public

My Commission Expires: 08/28/2008

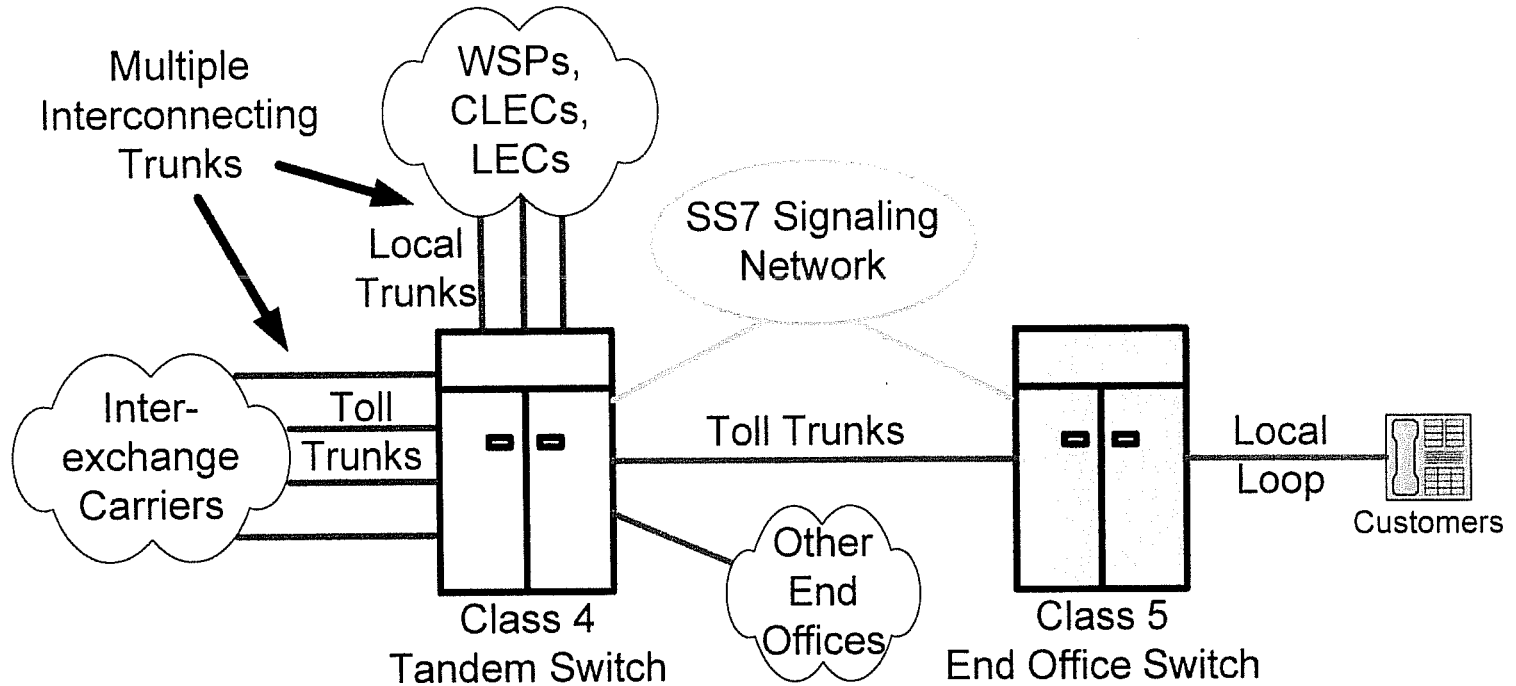
²²Craig Bellinghausen, Phantom Traffic Pennsylvania Telephone Association, New York State Telecommunications Association, September 24, 2004.

EXHIBIT LDT-1A

SOUTH DAKOTA SENATE

HANDOUTS

Switching Network



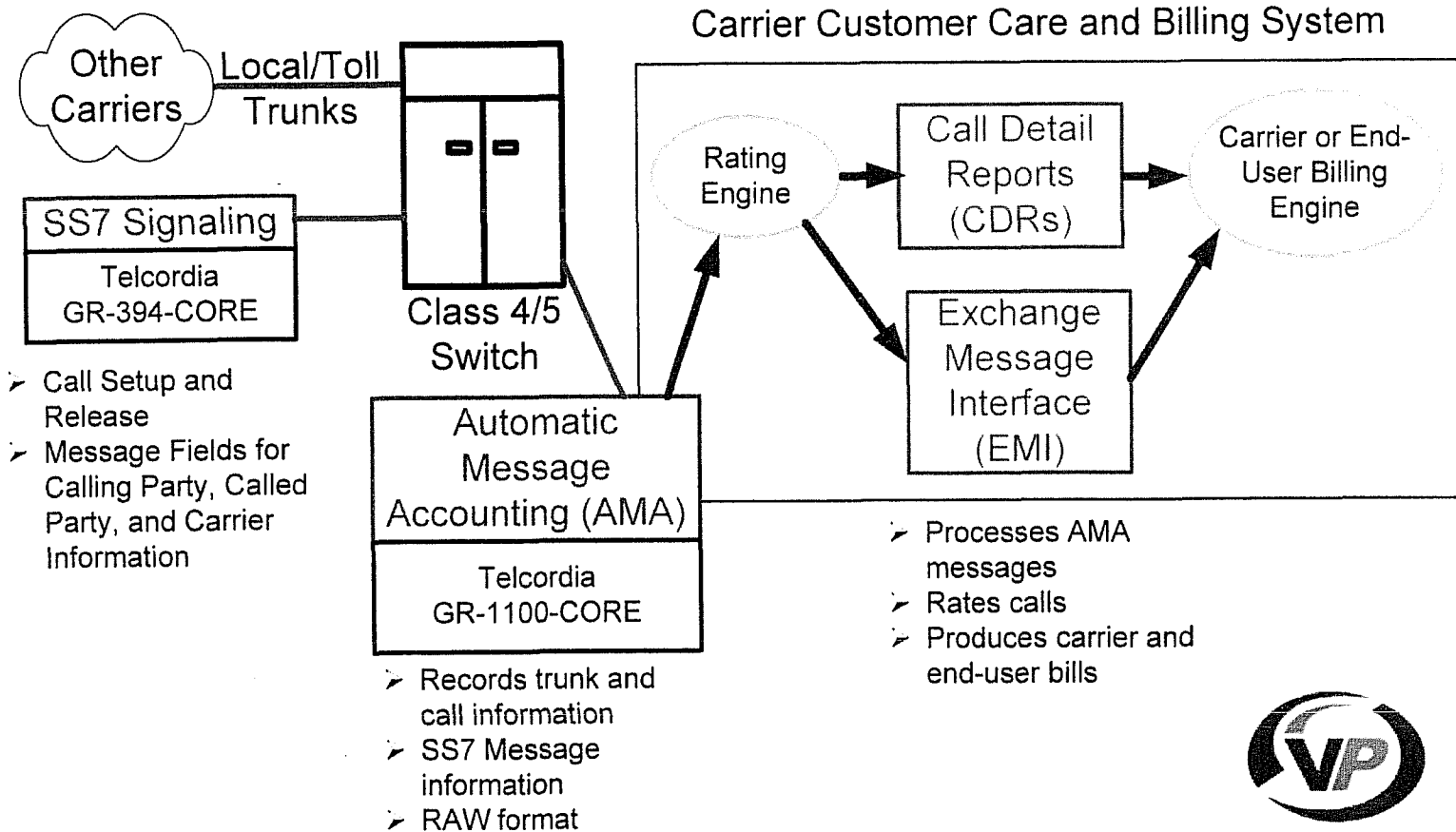
Switches Can Record Call Information Based on SS7, Trunk, and Switch Parameters



Vantage Point

Customer Focused. Technology Driven.

Carrier Call Information Processing



Vantage Point

Customer Focused. Technology Driven.

SS7 Signaling Overview

- Signaling protocol used between switches in the PSTN
- Sets up and releases call paths
- Call setup messages has fields for
 - Calling party number
 - Called party number
 - Local Routing Number
 - Carrier Identification Number
 - Many other fields



Vantage Point

Customer Focused. Technology Driven.

AMA Record Overview

- Records detailed information about each call
- SS7 Parameters
 - Calling and Called Number
 - Disconnect method
 - Jurisdiction Information, etc.
- Switch information
 - Trunk, etc.
- Call parameters
 - Duration
 - Time of day, etc.



Vantage Point

Customer Focused. Technology Driven.

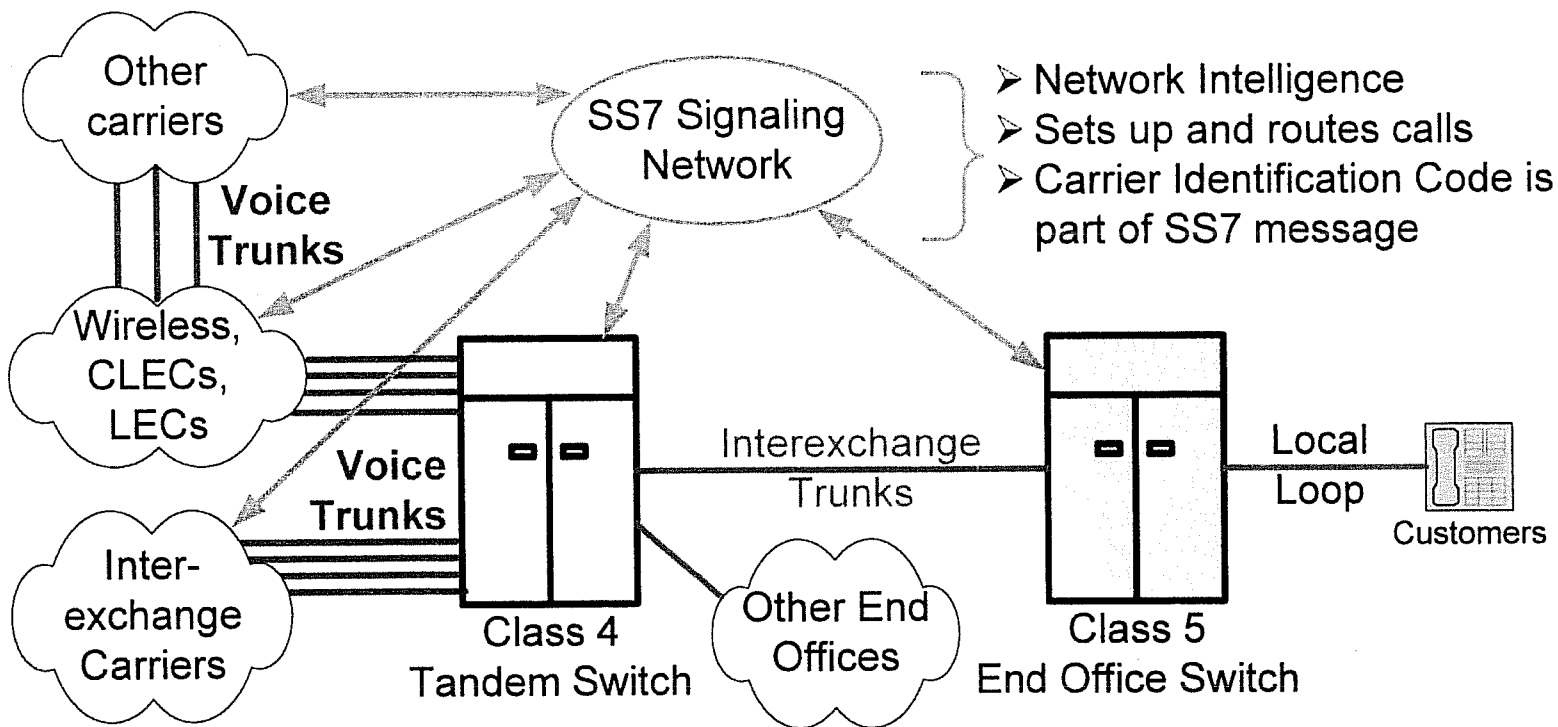
EXHIBIT LDT-1B

SOUTH DAKOTA

HOUSE OF REPRESENTATIVES

HANDOUTS

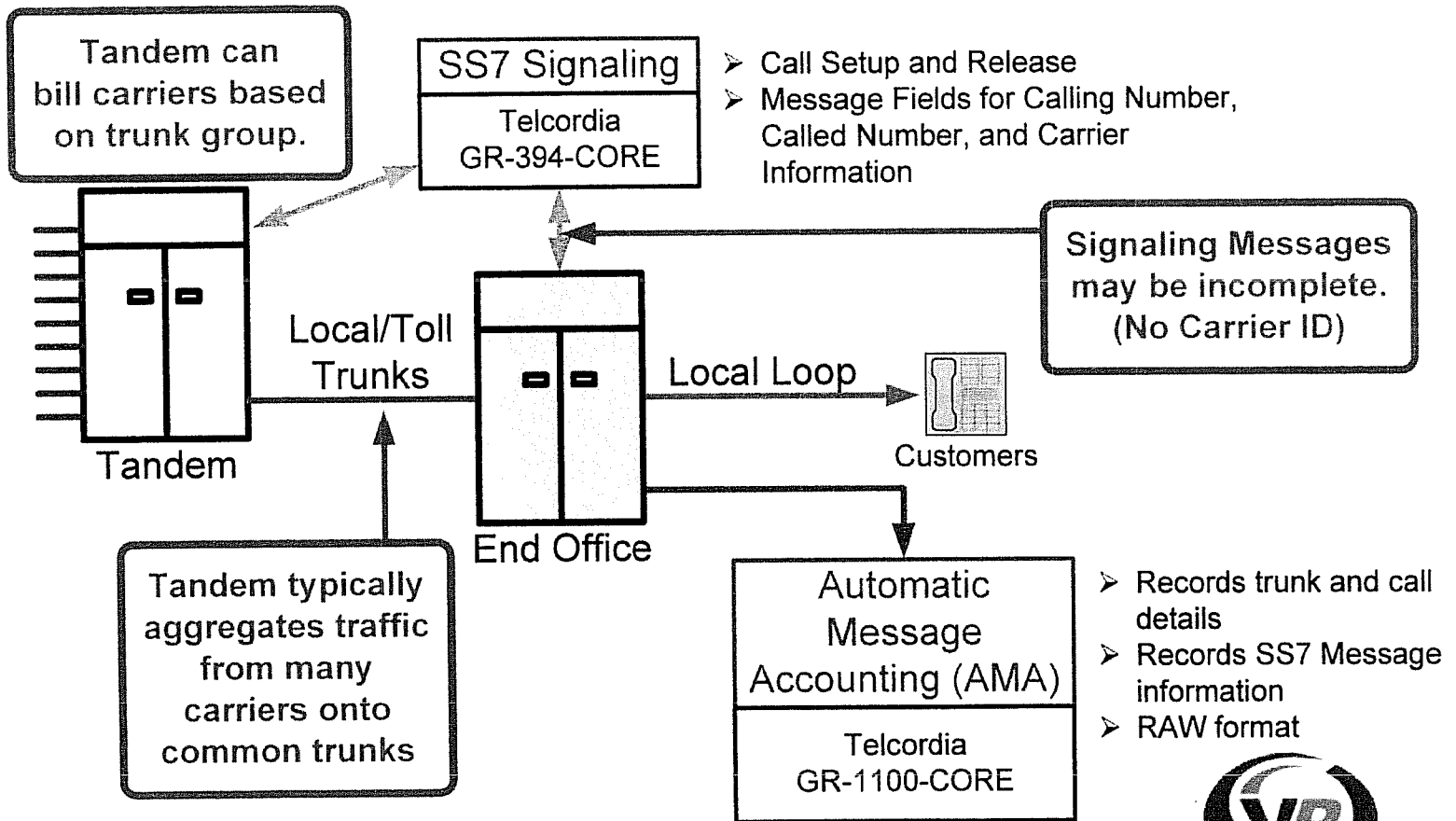
Switching Network



Vantage Point

Customer Focused. Technology Driven.

Call Recording

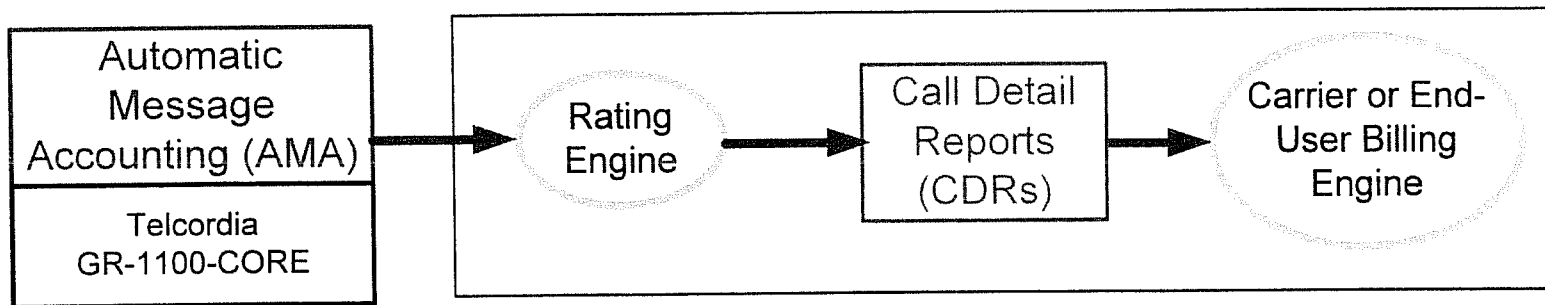


Vantage Point

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Call Processing and Billing

Carrier Customer Care and Billing System



- Recorded on hard disk (or tape) in switch
- Records trunk group, call details, and SS7 message details

Determines WHO to bill based on:

- Carrier ID (preferred)
- Incoming trunk (not possible on common/shared trunks)
- Calling party number (difficult and not accurate)
- Records from transiting carrier (often incomplete)

Determines WHAT to bill based on:

- Type (Local or Toll)
- Jurisdiction (state or interstate)
- Specific carrier contracts
- Time of day
- Call duration



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Issue Summary

- Telephone company cannot properly bill for traffic on their networks
 - Common trunks: Cannot bill based on incoming trunk group
 - Carrier ID: Often missing in SS7 signaling message
- Tandem records may also be incomplete
- Solution: Carriers should be required to use industry standard methods of identifying their traffic so it can be measured and billed properly.



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EXHIBIT LDT-2

FCC TELECOMMUNICATIONS

REPORTING WORKSHEET

Instructions to the Telecommunications Reporting Worksheet, Form 499-A

FCC Form 499, April 2005

Approved by OMB 3060-0855

Estimated Average Burden Hours Per Response: 13.5 Hours

Telecommunications Reporting Worksheet, FCC Form 499-A

Instructions for Completing the Worksheet for Filing Contributions to Telecommunications Relay Service, Universal Service, Number Administration, and Local Number Portability Support Mechanisms

* * * * *

NOTICE: Section 52.17 of the Federal Communications Commission's rules provides that all telecommunications carriers in the United States shall contribute on a competitively neutral basis to meet the costs of establishing numbering administration, and directs that contributions shall be calculated and paid in accordance with this Telecommunications Reporting Worksheet (FCC Form 499-A or Worksheet). 47 C.F.R. § 52.17. Section 52.32 provides that the local number portability administrators shall recover the shared costs of long-term number portability from all telecommunications carriers. 47 C.F.R. § 52.32. Sections 54.706, 54.711, and 54.713 require all telecommunications carriers providing interstate telecommunications services, providers of interstate telecommunications that offer interstate telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators to contribute to universal service and file this Worksheet once a year and the Telecommunications Reporting Worksheet (FCC Form 499-Q) four times a year. 47 C.F.R. §§ 54.706, 54.711, 54.713. Section 64.604 requires that every common carrier providing interstate telecommunications services contribute to the Telecommunications Relay Services (TRS) Fund on the basis of its relative share of interstate end-user telecommunications revenues, with the calculation based on information provided in this Worksheet. 47 C.F.R. § 64.604(c)(5)(iii)(B). Section 64.1195 requires all telecommunications carriers to register using the FCC Form 499-A. 47 C.F.R. § 64.1195(a).

This collection of information stems from the Commission's authority under Sections 225, 251, 254, and 258 of the Communications Act of 1934, as amended (Communications Act or Act), 47 U.S.C. §§ 225, 251, 254, and 258. The data in the Worksheet will be used to calculate contributions to the universal service support mechanisms, the telecommunications relay services support mechanism, the cost recovery mechanism for numbering administration, and the cost recovery mechanism for shared costs of long-term number portability. Selected information provided in the Worksheet will be made available to the public in a manner consistent with the Commission's rules.

We have estimated that each response to this collection of information will take, on average, 13.5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERMS, Washington, D.C. 20554, Paperwork Reduction Project (3060-0855). We also will accept your comments via the Internet if you send them to Judith-B.Herman@fcc.gov. Please DO NOT SEND COMPLETED WORKSHEETS TO THIS ADDRESS.

Remember -- You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection has been assigned an OMB control number of 3060-0855.

The Commission is authorized under the Communications Act to collect the information we request on this form. We will use the information that you provide to determine contribution amounts. If we believe there may be a violation or potential violation of a statute or a Commission regulation, rule, or order, your Worksheet may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your Worksheet may be disclosed to the Department of Justice, court, or other adjudicative body when (a) the Commission; or (b) any employee of the Commission; or (c) the United States government, is a party to a proceeding before the body or has an interest in the proceeding.

With the exception of your employer identification number, if you do not provide the information we request on the Worksheet, the Commission may consider you in violation of sections 1.47, 52.17, 52.32, 54.713, 64.604, and 64.1195 of the Commission's rules. 47 C.F.R. §§ 1.47, 52.17, 52.32, 54.713, 64.604, and 64.1195.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, P.L. No. 104-13, 44 U.S.C. § 3501, *et seq.*

* * * * *

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File FCC Form 499-A online. See: <http://form499.universalservice.org/>

I. Introduction

As required under the Communications Act,¹ the Commission has established, in a series of separate proceedings, procedures to finance interstate telecommunications relay services (TRS), universal service support mechanisms, administration of the North American Numbering Plan (NANPA), and shared costs of local number portability administration (LNPA). To accomplish these congressionally directed objectives, contributions are collected from all telecommunications carriers providing interstate telecommunications services and certain other providers of interstate telecommunications. On July 14, 1999, the Commission amended its rules so that contributors to these mechanisms need only file one Telecommunications Reporting Worksheet (Worksheet) for the purpose of determining their contribution(s).² This Worksheet sets forth the information that the filer must submit, so that the administrators of these mechanisms may calculate and assess contributions.³

¹ 47 U.S.C. §§ 151, 225, 251, 254.

² On March 9, 2001, the Commission modified its rules to base universal service contributions on information reported on quarterly Telecommunications Reporting Worksheet filings, with an annual true-up based on information reported on annual Telecommunications Reporting Worksheets. *Federal-State Joint Board on Universal Service, Petition for Reconsideration filed by AT&T*, Report and Order and Order on Reconsideration, CC Docket No. 96-45, 16 FCC Rcd 5748 (2001) (*Quarterly Reporting Order*). See also 1998 Biennial Regulatory Review -- *Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, Report and Order, CC Docket 98-171, 14 FCC Rcd 16602 (1999) (*Consolidated Reporting Order*).

³ In addition, common carriers use data filed on the Form 499-A to calculate their Interstate Telecommunications Service Provider (ITSP) fees. See *Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, MD Docket

While some entities that file the Telecommunications Reporting Worksheet may not need to contribute to each of the support and cost recovery mechanisms, in general, all telecommunications carriers and certain additional telecommunications providers must complete and file this Worksheet.⁴ These instructions contain an explanation of which carriers must contribute to particular mechanisms (*see* Section IV-A.), but filers should consult the specific rules that govern contributions for each of the mechanisms.⁵ In general, contributions are calculated based on contributors' end-user telecommunications revenue information, as filed in this Worksheet.

By filing this Worksheet, carriers may also satisfy their obligations under section 413 of the Act to designate an agent in the District of Columbia for service of process⁶ and their obligations to register with the Federal Communications Commission.⁷

II. Filing Requirements and General Instructions

A. Who Must File

All intrastate, interstate and international providers of telecommunications within the United States,⁸ with very limited exceptions, must file the FCC Form 499-A Telecommunications Reporting Worksheet.⁹

For purposes of determining whether an entity provides telecommunications, please note that the term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. For the purpose of filing, the term "interstate telecommunications" includes, but is not limited to, the following types of services: wireless telephony, including cellular and personal communications services (PCS); paging and messaging services; dispatch services; mobile radio services; operator services; access to interexchange service; special access; wide area telecommunications services (WATS); subscriber toll-free services; 900 services; message telephone services

No. 03-83, Report and Order, 18 FCC Rcd 15985 (2000). Section 6003(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) added Section 9(a) to the Communications Act, which authorizes the Commission to collect annual regulatory fees to recover the annual costs of its enforcement, policy and rulemaking, user information, and international activities. 47 U.S.C. § 159(a), (b)(1)(A), and (g).

⁴ Please note that this Worksheet refers to "filers," "reporting entities," and "contributors" interchangeably, except where specifically distinguished.

⁵ *See* 47 C.F.R. §§ 52.17 (numbering administration), 52.32 (local number portability), 54.706 (universal service), and 64.604 (TRS).

⁶ 47 U.S.C. § 413. *See also* 47 C.F.R. § 1.47.

⁷ 47 C.F.R. § 64.1195.

⁸ For this purpose, the United States is defined as the contiguous United States, Alaska, Hawaii, American Samoa, Baker Island, Guam, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Navassa Island, the Northern Mariana Islands, Palmyra, Puerto Rico, the U.S. Virgin Islands, and Wake Island.

⁹ Section 254(d) applies not only to "every telecommunications carrier that provides interstate telecommunications services" but also to certain "other provider[s] of interstate telecommunications." 47 U.S.C. § 254(d) (emphasis added). Solely for the purposes of these Instructions, we use the terms "telecommunications services" and "telecommunications" interchangeably, unless otherwise specified. For more information on these terms, *see* 47 U.S.C. §§ 153(43), (46); *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776 (1997) (*Universal Service Order*).

(MTS); private line; telex; telegraph; video services; satellite services, resale services, and frame relay and ATM services. Note, for example, that all incumbent and competitive local exchange carriers provide access services and, therefore, provide interstate telecommunications. There are no exemptions for data or non-voice services.

Note also that entities must file this Worksheet, and are subject to the universal service contribution requirement, if they offer interstate telecommunications for a fee to the public even if only a narrow or limited class of users could utilize the services. Included are entities that provide interstate telecommunications to entities other than themselves for a fee on a private, contractual basis. In addition, owners of pay telephones, sometimes referred to as "pay telephone aggregators," must file this Worksheet. Most telecommunications carriers must file this Worksheet even if they qualify for the *de minimis* exemption under the Commission's rules for universal service.¹⁰

Marketing agents (i.e., entities that market services on behalf of a telecommunications provider) are not themselves telecommunications providers and are not required to file this Worksheet. The amounts remitted to or retained by the marketing agent are treated as expenses of the underlying provider and may not be deducted from underlying carrier revenues. A reseller is not a marketing agent.

The following three sections list types of (non-common carrier) telecommunications providers that are not required to file the FCC Form 499-A Worksheet. Note that some carriers and telecommunications providers are required to file this Worksheet, but may not be required to contribute to all support mechanisms. For example, some carriers may be exempt from contributing directly to the universal service support mechanisms (e.g., because they are *de minimis*), but nevertheless must file because they are required to contribute to TRS, NANPA, or LNPA. These non-contributors must be treated as end users by their underlying carriers and therefore may end up contributing indirectly as a result of pass-through charges.

1. Universal service exemption for *de minimis* telecommunications providers

Section 54.708 of the Commission's rules states that telecommunications carriers and telecommunications providers are not required to contribute to the universal service support mechanisms for a given year if their contribution for that year is less than \$10,000.¹¹ Thus, providers that offer telecommunications for a fee exclusively on a non-common carrier basis need not file this Worksheet if their contribution to the universal service support mechanisms would be *de minimis* under the universal service rules. Note: Entities that provide solely private line service may nevertheless be considered common carriers if they offer their services directly to the public or to such classes of users as to be effectively available directly to the public. In contrast, telecommunications carriers (i.e., entities providing telecommunications services on a common-carriage basis) that meet the *de minimis* standard must file this Worksheet (because they must contribute to other support and cost recovery mechanisms), but need not contribute to the universal service mechanisms. (See Figure 3 "Which telecommunications carriers and telecommunications providers must contribute for which purposes" at page 31, below.)

Telecommunications providers (i.e., entities providing telecommunications on a non-common carrier basis) should complete the table contained in Figure 1 to determine whether they meet the *de minimis* standard. To complete Figure 1, potential filers must first complete Block 4 of the Telecommunications Reporting Worksheet and enter the amounts from Line 423(d) and 423(e) in Figure 1. Telecommunications providers whose estimated contributions to universal service support mechanisms would be less than \$10,000 are considered *de minimis* for universal service contribution purposes and will not be required to contribute directly to universal service support mechanisms. Use Figure 1 to calculate estimated universal service contributions for the period January 2004 through December 2004.

¹⁰ See 47 C.F.R. § 54.708.

¹¹ *Id.*

Telecommunications providers that do not file this Worksheet because they are *de minimis* for purposes of universal service contributions (and need not file for any other purpose) should retain Figure 1 and documentation of their contribution base revenues for 3 calendar years after the date each Worksheet is due.

Figure 1: Table to determine if a filer meets the *de minimis* standard for purposes of universal service contribution

1	Net interstate contribution base for filer (amount reportable on filer's FCC Form 499-A; Line 423(d))	\$
2	Net international contribution base for filer (amount reportable on filer's FCC Form 499-A; Line 423(e))	\$
3	Net interstate contribution base for all affiliates* (total of amounts reportable on FCC Form 499-A; Line 423(d) for all affiliates of the filer)	\$
4	Net international contribution base for all affiliates (total of amounts reportable on FCC Form 499-A; Line 423(e) for all affiliates of the filer)	\$
5	Consolidated interstate contribution base: Line (1) + Line (3)	\$
6	Consolidated international contribution base: Line (2) + Line (4)	\$
7	Total potential contribution base for filer and its affiliates: Line (5) + Line (6)	\$
8	Combined interstate contribution base as a percentage of total potential contribution base: Line (5) / Line (7)	%
9	Interstate contribution base for filer from Line (1)	\$
10	If the amount on line (8) is equal to or greater than 12%, enter into Line (10) the international contribution base for the filer from Line (2). If the amount on Line (8) is less than 12%, enter \$0	\$
11	Contribution base for the filer for determining contributions to universal service support mechanisms: Line (9) + Line (10)	\$
12	Estimation factor for determining whether to file a FCC Form 499-A on April 1, 2005	0.10**
13	Estimated annual contribution: amount on Line (11) multiplied by Line (12)	\$

* Unless otherwise specifically provided, an affiliate is a "person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person." For this purpose, the term 'owns' means to own an equity interest (or the equivalent thereof) of more than 10 percent. See 47 U.S.C. § 153(1).

** The estimation factor is based on a contribution factor of .110, which is higher than the contribution factor announced for the first quarter of 2005, and a corresponding circularity factor of .099099. Actual contribution and circularity factors for 2005 may increase or decrease depending on quarterly changes in program costs and the projected contribution base. Filers whose actual contribution requirements total less than \$10,000 for the calendar year will be treated as *de minimis* and will receive refunds, if necessary. Filers whose actual contribution requirements total \$10,000 or more are required to contribute to the universal service support mechanisms. Note that telecommunications carriers must file this Worksheet regardless of whether they qualify for the *de minimis* exemption unless they qualify for one of the exemptions detailed in Sections II-A-2 or II-A-3, below.

2. Exception for government, broadcasters, schools and libraries

Certain entities are explicitly exempted from contributing directly to the universal service support mechanisms and need not file this Worksheet. Government entities that purchase telecommunications services in bulk on behalf of themselves (e.g., state networks for schools and libraries) are not required to file or contribute directly to universal service. Public safety and local governmental entities licensed under Subpart B of Part 90 of the Commission's rules are not required to file or contribute directly to universal service. Similarly, if an entity provides interstate telecommunications exclusively to public safety or government entities and does not offer services to others, that entity is not required to file or contribute directly to universal service. In addition, broadcasters, non-profit schools, non-profit libraries, non-profit colleges, non-profit universities, and non-profit health care providers are not required to file the Worksheet or contribute directly to universal service. As explained above, these non-contributors must be treated as end users by their underlying carriers and therefore may end up contributing indirectly as a result of pass-through charges.

3. Exception for systems integrators and self-providers

Systems integrators that derive less than five percent of their systems integration revenues from the resale of telecommunications are not required to file or contribute directly to universal service. Systems integrators are providers of integrated packages of services and products that may include the provision of computer capabilities, interstate telecommunications services, remote data processing services, back-office data processing, management of customer relationships with underlying carriers and vendors, provision of telecommunications and computer equipment, equipment maintenance, help desk functions, and other services and products. Entities that provide services only to themselves or to commonly-owned affiliates need not file.

B. Filing by Legal Entity

Each legal entity that provides interstate telecommunications service for a fee, including each affiliate or subsidiary of an entity, must complete separately and file a copy of the attached Telecommunications Reporting Worksheet, except as provided for below. Entities that have distinct articles of incorporation, articles of formation, or similar legal document are separate legal entities. Each affiliate or subsidiary should identify their ultimate controlling parent or entity on Block 1 Line 106 -- Holding Company.

Consolidated filing will be permitted only if the filing entity certifies that all of the following conditions are met:¹²

- (1) A single entity oversees the management of the affiliated systems;
- (2) A single entity sends bills to customers and these bills identify a single entity (or trade name) as the service provider, rather than identifying the individual legal entities;
- (3) All revenues are posted to a single general ledger;¹³
- (4) To the extent that separate revenue and expense accounts exist, they are derived from one consolidated set of books and the consolidated filing must cover all revenues contained in the consolidated books;
- (5) Customers have a single point of contact;

¹² *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans With Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format, Further Notice of Proposed Rulemaking and Report and Order, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, 17 FCC Rcd 3752 (2002) (First Further Notice).*

¹³ The FCC Form 499 Filings for the consolidated filer must reflect all revenues in this general ledger.

- (6) The consolidated filer acknowledges that process served on the consolidated filer would represent process served on any or all of the affiliated legal entities;
- (7) The consolidated filer agrees to document and resolve all slamming complaints that might be served on either the filing entity or any of the affiliated legal entities;¹⁴
- (8) The consolidated filer obtains a separate FCC Registration Number (FRN) from those assigned to its affiliated legal entities;
- (9) The consolidated filer acknowledges that its obligations with regard to universal service, Telecommunications Relay Services, Local Number Portability, the North American Numbering Plan, and regulatory fees will be based on the data provided in consolidated Worksheet filings, that it bears the responsibility to satisfy those obligations, and that all legal entities covered by the filing are jointly and severally liable for such obligations; and
- (10) The consolidated filer acknowledges that it: (A) was not insolvent on the date it undertook to make payments on a consolidated basis or on the date of actual payments to universal service, Telecommunications Relay Services, Local Number Portability, the North American Numbering Plan, and regulatory fees, and did not become insolvent as a result of such undertaking or payments; (B) was not left with unreasonably small capital as a result of such undertaking or payments; and (C) was not left unable to pay debts as they matured as a result of such undertaking or payments.¹⁵

Each year, entities choosing to file on a consolidated basis must file a statement certifying that they meet all of the above conditions. Such certification also must include: (1) a list of the legal names of all legal entities that are covered by the filing; (2) the FCC Form 499 identification numbers of all legal entities that are covered by the filing; (3) the consolidated filer's FRN; and (4) for wireless carriers, a list of all radio licenses (call signs) issued to each legal entity covered by the filing. Consolidated filers should file this certification with the Commission's Data Collection Agent. Furthermore, a contributor choosing to file on a consolidated basis should recognize that any penalties associated with failure to pay or with underpayment of any of its obligations will be assessed on the total revenue reported on the consolidated basis, rather than on a separate legal entity basis.

¹⁴ A Commercial Mobile Radio Service (CMRS) carrier that is not subject to certain slamming regulations is not required to certify that it will document and resolve all slamming complaints that might be served on either the filing entity or any of its affiliated legal entities that also are not subject to the slamming regulations.

¹⁵ For purposes of this certification, the term "insolvent" means either unable to pay debts when due or having liabilities greater than assets. *See* 11 U.S.C. § 101(32).

C. When and Where to File

Figure 2 provides the filing schedule and relevant filing addresses. If a filing date is a holiday (as defined in Section 1.4(e)(1) of the Commission's rules), Worksheets are due the next business day.

Figure 2: Filing schedule

When to file	What to file	Where to file *
April 1	Annual Completed FCC Form 499-A	Form 499 Data Collection Agent c/o USAC 2000 L Street, N.W. Suite 200 Washington DC, 20036
February 1 May 1 August 1 November 1	Completed FCC Form 499-Q (universal service contributors only)	Form 499 Data Collection Agent (address above)
New telecommunications carriers and filers with changed registration information	Completed Pages 1, 2, 3 and 7 of FCC Form 499-A	Form 499 Data Collection Agent (address above)**
Telecommunications carriers within one week of a change in information concerning their designated agent for service of process	Completed Page 1, Block 2-B and Page 7 of FCC Form 499-A	One Copy to: Chief, Market Disputes Resolution Division, Enforcement Bureau Room 5-A865 445 12th Street, S.W. Washington, D.C. 20554
Telecommunications carriers within one week of a change in other registration information	Appropriate revised Blocks and completed Page 7 of FCC Form 499-A	Form 499 Data Collection Agent (address above) **
<p>* Do not send universal service, TRS, NANPA or LNPA contributions with this Worksheet or to any of these addresses. The appropriate administrators will calculate the amount of contribution due and send a bill to the billing contact person and billing address identified on line 208 of the FCC Form 499-A. For information on filing electronically, go to http://form499.universalservice.org/.</p> <p>** Filers may instead, send new carrier filings and corrected filings to the Office of the Secretary, Reference Information Center, Room CY-A257, 445 12th Street, S.W., Washington, D.C. 20554. Annual and quarterly filings should not be sent to the Office of the Secretary or any other FCC address.</p>		

If you have questions about the Worksheet or the instructions, you may contact:

Form 499 Telecommunications Reporting Worksheet Information	Form499@universalservice.org (888) 641-8722
Wireline Competition Bureau Industry Analysis and Technology Division TTY	(202) 418-0940 (202) 418-0484

If you have questions regarding contribution amounts, billing procedures or the support and cost recovery mechanisms, you may contact:

Universal Service Administration	(888) 641-8722
TRS Administration	(973) 884-8173
NANPA Billing and Collection Agent	(613) 236-9191
Local Number Portability Administrators	(877) 245-5277

D. Rounding of Numbers and Negative Numbers

All information provided in the Worksheet should be neatly printed in ink or typed. Please provide an original officer signature in ink on Line 606.

Dollar Amounts. Reported revenues in Blocks 3, 4 and 5 that are greater than a thousand dollars may be rounded to the nearest thousand dollars. Regardless of rounding, **all dollar amounts must be reported in whole dollars.** For example, \$2,271,881.93 could be reported as \$2,271,882 or as \$2,272,000, but could not be reported as \$2272 thousand, \$2,270,000.00, \$2,271,881.93, or \$2.272 million. Please enter \$0 in any line for which the filer had no revenues for the year.

Percentages. Percentages reported in Block 3 and Block 4, columns (b) and (c), should be rounded to the nearest whole percent. For example, if the exact amount of interstate revenues for a line is not known, but the filer estimates that the ratio of interstate to total revenues was .425, then the figure 43% should be reported and used for calculating the amount reported in column (b).

Negative Numbers. Carriers are directed to provide billed revenues without subtracting any expenses, allowances for uncollectibles or settlement payments and without making out-of-period adjustments. Therefore, do not enter negative numbers on any billed revenue lines on the Worksheet. See instructions for Lines 421 and 422 regarding negative uncollectibles.

E. Obligation to File Revisions

Line 612 provides check boxes to show whether the Worksheet is the original April 1 filing for the year, a registration form for a new filer, a revised filing with updated registration information, or a revised filing with updated revenue data for the year. Filers must submit a revised Form 499-A if there is a change in any of the following types of information: Contributor identification contained in Block 1; regulatory contact information contained in Block 2-A; agent for service of process in Block 2-B; or FCC registration information in Block 2-C.

A filer must submit a revised Worksheet if it discovers an error in the revenue data that it reports. Companies generally close their books for financial purposes by the end of March. Accordingly, for such telecommunications providers, the April filing should be based on closed books. In filing a revised Worksheet, filers should not include (carry back or bring forward) routine out-of-period adjustments to revenue data unless such adjustments would affect a reported amount by more than ten percent. To file revised revenue data, filers must complete Block 3, Block 4, Block 5, and Block 6.

Filers should not file revised revenue information to reflect mergers, acquisitions, or sales of operating units. In the event that a filer that submitted a Form 499-A no longer exists, the successor company to the contributor's assets or operations is responsible for continuing to make assessed contribution or true-up payments, if any, for the funding period and must notify the Form 499 Data Collection Agent. If the operations of an entity ceased during the previous calendar year and are now part of a successor, the successor must include the previous calendar year revenues of the now-defunct entity with its own Worksheet. Otherwise, the defunct entity must file its own Worksheet. The entity that ceased operations may owe additional universal service contributions or may be due refunds, depending on how its FCC Form 499-A Worksheet compares to previously filed FCC Form 499-Q Worksheets. Such entities are not liable for TRS, LNP or NANPA contributions for the upcoming year. Check the appropriate boxes on Line 603 and write "Not in business as of filing date" on the explanation line.

Filers shall submit any revised FCC Form 499-A Worksheet that would result in decreased contributions by March 31 of the year after the original filing due date.¹⁶

F. Record Keeping

Filers shall maintain records and documentation to justify information reported in the Telecommunications Reporting Worksheet, including the methodology used to determine projections and to allocate interstate revenues, for three years. Filers shall provide such records and documentation to the Commission or the Administrator upon request.¹⁷ Entities that acquire carrier operations through acquisition of property, consolidation, merger, etc, must maintain the records of the acquired entity.¹⁸

G. Compliance

Failure to file the Telecommunications Reporting Worksheet or to pay contributions in a timely fashion may subject entities to the enforcement provisions of the Communications Act and any other applicable law.¹⁹ In addition, entities may be billed by the administrators for reasonable costs, including interest and administrative costs that are caused by late, inaccurate, or untruthful filing of the Worksheet or overdue contributions.²⁰ Inaccurate or untruthful information contained in the Telecommunications Reporting Worksheet may lead to prosecution under the criminal provisions of Title 18 of the United States Code.²¹

¹⁶ See *Federal-State Joint Board on Universal Service; 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanism; Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 98-171, 97-21, Order, DA 04-3669 (rel. Dec. 9, 2004), *applications for review pending*.

¹⁷ See 47 C.F.R. § 54.711. Administrator refers to the Universal Service Administrative Company.

¹⁸ See 47 C.F.R. § 42.1.

¹⁹ In addition, pursuant to the Debt Collection Improvement Act of 1996, the Commission shall withhold action on applications or other requests for benefits by delinquent debtors and dismiss those applications or other requests if the delinquent debt is not paid or satisfactory arrangement for payment is not made. See 47 C.F.R. § 1.1910; *Amendment of Parts 0 and 1 of the Commission's Rules, Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors*, MD Docket No. 02-339, 19 FCC Rcd 640 (2004).

²⁰ See 47 C.F.R. § 54.713 (universal service); 47 C.F.R. § 64.604(c)(5)(iii)(B) (TRS). See also 47 C.F.R. § 52.17(b) (NANPA); 47 C.F.R. § 52.32(c) (LNPA).

²¹ See 47 C.F.R. § 54.711.

III. Specific Instructions

A. Block 1: Filer Identification Information

Block 1 of the Telecommunications Reporting Worksheet requires identification information.

Line 101 -- enter the "Filer 499 ID" number for the filing entity. This code is assigned by the Commission's Data Collection Agent after a company files its first FCC Form 499. Filer 499 IDs for current filers can be found at <http://gullfoss2.fcc.gov/cib/form499/499a.cfm> or in the FCC report *Telecommunications Provider Locator*, which is available on the Commission's web site at <http://www.fcc.gov/wcb/iatd/stats.html>. This code should be entered at the top of each page on the paper version of the Worksheet, the cover letter, and on supporting documentation, if any. First time filers should write "New" in this block. The Data Collection Agent will assign a Filer 499 ID number after it receives a completed FCC Form 499-A Telecommunications Reporting Worksheet.

Line 102 -- enter the legal name of the reporting entity as it appears on articles of incorporation or articles of formation and other legal documents. Each legal entity must file a separate Worksheet unless affiliated entities are filing on a consolidated basis.²²

Line 103 -- provide the Internal Revenue Service (IRS) employer identification number (EIN) for the filer. This should be the same EIN that the company uses to file federal excise taxes or income taxes, if the company offers services subject to that tax. Consolidated filers should provide the EIN of the holding company. The EIN is also known as the taxpayer identification number (TIN) or for individuals as the social security number (SSN).

Line 104 -- provide the principal name under which the company conducts telecommunications activities. This would typically be the name that appears on customer bills, or the name used when service representatives answer customer inquiries.

Line 105 -- mark the boxes that describe the telecommunications activity or activities of the filer. If more than one is appropriate, please label the telecommunications activities in order of importance to filer's business, *e.g.* enter a "1" in the box for carrier type that represents the most important part of the filer's telecommunications business, enter a "2" in the box that represents the next most important part, *etc.* Select no more than 5 of the following categories:

- | | |
|--|--|
| All Distance | -- primarily provides for a flat rate fixed local exchange service that is bundled with unmetered intrastate and interstate long distance |
| CAP/CLEC | (Competitive Access Provider/Competitive Local Exchange Carrier)
-- competes with incumbent local exchange carriers (LECs) to provide local exchange services, or telecommunications services that link customers with interexchange facilities, local exchange networks, or other customers, other than Coaxial Cable providers. |
| Cellular/PCS/SMR
(wireless telephony) | (Cellular, Personal Communications Service, and Specialized Mobile Radio - telephone service provider)
-- primarily provides wireless telecommunications services (wireless telephony). This category includes all providers of real-time two-way switched voice services that interconnect with the public switched |

²² See Section II-B, page 8, for information on making consolidated filings. See also Figure 1 (defining "affiliate").

	<p>network, including providers of prepaid phones and public coast stations interconnected with the public switched network.²³ This category includes the provision of wireless telephony by resale. An SMR provider would select this category if it primarily provides wireless telephony rather than dispatch or other mobile services.</p>
Coaxial Cable	-- uses coaxial cable (cable TV) facilities to provide local exchange services or telecommunications services that link customers with interexchange facilities, local exchange networks, or other customers.
Incumbent LEC	-- provides local exchange service. An incumbent LEC generally is a carrier that was at one time franchised as a monopoly service provider. <i>See</i> 47 U.S.C. § 251(h).
Interexchange Carrier (IXC)	-- provides long distance telecommunications services substantially through switches or circuits that it owns or leases.
Local Reseller	-- provides local exchange or fixed telecommunications services by reselling services of other carriers.
Operator Service Provider (OSP)	-- serves customers needing the assistance of an operator to complete calls, or needing alternate billing arrangements such as collect calling.
Paging and Messaging	-- provides wireless paging or wireless messaging services. This category includes the provision of paging and messaging services by resale.
Payphone Service Provider	-- provides customers access to telephone networks through payphone equipment, special teleconference rooms, etc. Payphone service providers also are referred to as payphone aggregators.
Prepaid Card	-- provides prepaid calling card services by selling prepaid calling cards to the public or to retailers. Prepaid card providers typically resell the toll service of other carriers and determine the price of the service by setting the price of the card and controlling the number of minutes that the card can be used for.
Private Service Provider	-- offers telecommunications to others for a fee on a non-common carrier basis. This would include a company that offers excess capacity on a private system that it uses primarily for internal purposes. This category does not include SMR operators.
Satellite Service Provider	-- provides satellite space segment or earth stations that are used for telecommunications service.
Shared-Tenant Service Provider / Building LEC	-- manages or owns a multi-tenant location that provides telecommunications services or facilities to the tenants for a fee.
SMR (dispatch)	(Specialized Mobile Radio Service Provider)

²³ 47 C.F.R. § 80.451.

-- primarily provides dispatch services and mobile services other than wireless telephony. While dispatch services may include interconnection with the public switched network, this category does not include carriers that primarily offer wireless telephony. This category includes LTR dispatch or community repeater systems.

Toll Reseller

-- provides long distance telecommunications services primarily by reselling the long distance telecommunications services of other carriers.

Wireless Data

-- provides mobile or fixed wireless data services using wireless technology. This category includes the provision of wireless data services by resale.

The Worksheet also provides boxes for "Other Local," "Other Mobile," and "Other Toll." If one of these categories is checked, the filer should describe the nature of the service it provides under the check boxes.

Line 106 -- **use this block to provide a common identifier for all affiliated filers.** Typically, this would be the name of the filer's holding company or controlling entity, if any. The common name used by all affiliates need not be a common carrier. All reporting affiliates or commonly controlled entities should have the **identical** name appearing on Line 106.1 and an **identical** IRS employee identification number on Line 106.2.

Line 107 -- provide the FCC Registration Number (FRN). The FRN is a ten-digit number that includes a check-digit. The FRN is used to identify an entity within all Commission Licensing/Filing systems and Ramis (the Commission's Revenue Accounting Management Information System.) This number is assigned by CORES (the Commission Registration System) and can be obtained at <https://gulfoss2.fcc.gov/cores/CoresHome.html> For assistance, contact the CORES help desk at (877) 480-3201 or by e-mail at CORES@fcc.gov.

Line 108 -- provide the name of the management company, if the filer is managed by an entity other than itself. If the reporting entity and one or more other telecommunications provider(s) are commonly managed, then each should show the same management company on Line 108. Filers need not be affiliated to have a common management company. The management company would typically be the point of contact for the administrators of the support mechanisms.

Line 109 -- enter the complete mailing address of the corporate headquarters of the reporting entity.

Line 110 -- provide a business address of the reporting entity that could be used either for customer inquiries or that parties could use to contact the carrier in order to resolve complaints. If this address is the same as the mailing address of the corporate headquarters on line 109, then enter "same" on this line.

Line 111 -- enter a telephone number that can be used to resolve customer complaints, for customer service or billing inquiries. Typically, this would be a customer toll-free number, such as an 800 or 888 number.

Line 112 -- provide all names that the reporting entity used in the past three years for providing telecommunications. Consolidated filers should provide all names used by all telecommunications affiliates covered by the filing. The Worksheet provides space for additional names for carrier activities (other than that contained on Line 104). Use an additional sheet if this space is not sufficient. Enter all names by which the filer would be known to customers, government bodies, creditors, the press, etc. This list must include the carrier's billing agents if those parties, rather than the carrier, are identified on customer bills. This list also should include names of predecessor companies that would have filed a universal service, TRS, NANP, local number portability (LNP) or Telecommunications Reporting Worksheet in the prior year. In such cases, include the prior Filer 499 ID as part of the name. This information will be used by the administrators in instances where other information indicates that a non-filer might exist, and also to ensure that entities are not billed improperly for predecessor companies that no longer exist.

B. Block 2: Contact Information

1. Block 2-A: Regulatory Contact Information

Lines 201-202 -- copy the Filer 499 ID from Line 101 into Line 201. Copy the legal name of the reporting entity from Line 102 into Line 202.

Lines 203-206 -- enter the name, telephone number, fax number, and e-mail address of the person who filled out the FCC Form 499. This should be a person who can provide clarifications or additional information, and, if necessary, who could serve as the first point of contact in the event that either the Commission or an administrator should choose to verify or audit information provided in the Telecommunications Reporting Worksheet.

Line 207 -- provide the contact person name, office name, and mailing address of a corporate office to which future Telecommunications Reporting Worksheets should be sent. The next Telecommunications Reporting Worksheet will be mailed to this address unless other arrangements are made. Failure to receive a Telecommunications Reporting Worksheet from an administrator or the FCC does not relieve the filer from its obligation to file in a timely fashion.

Line 208 -- provide a billing contact person name and address for administrators to send billing information for contributions to the mechanisms. Information on establishing electronic fund transfer and bills for universal service, TRS, NANPA or LNPA contributions will be sent to this address unless other arrangements are made via written request.

2. Block 2-B: Agent for Service of Process

Section 413 of the Act requires each carrier "to designate in writing an agent in the District of Columbia" upon whom all notices, process, orders, and decisions made by the Commission may be served on behalf of that carrier in any proceeding pending before the Commission.²⁴

Lines 209-218 -- The second part of Block 2 contains information on the filer's agents for service of process, including the agent located in the District of Columbia ("D.C. Agent"). All carriers must enter the name, business address, telephone or voicemail number, facsimile number, and, if available, Internet e-mail address for their designated D.C. Agent. Note that service of any notice, process, orders, decisions, and requirements of the Commission may be made upon the reporting carrier by leaving a copy thereof with this designated agent during normal business hours at the agent's office or other usual place of residence. In addition to providing the required information on the carrier's D.C. Agent, the carrier may elect to provide a local or alternate agent for service of process located outside the District of Columbia. Reporting entities other than carriers need only report one agent for service of process, whether located inside the District of Columbia or otherwise.

Carriers must designate a *single* agent for service of process in the District of Columbia for all Commission business. Although FCC Form 499-A permits carriers to designate a preferred alternate or local agents for service of process, each designated agent for a particular carrier must accept service for all purposes relating to Commission business. A carrier may not limit a designated agent's ability to accept service on behalf of the carrier by subject matter, by jurisdiction, by affiliate or by any other grounds. The Commission may assume that the local or alternate agent is the filer's preferred destination for all service of process.

²⁴ 47 U.S.C. § 413. *See also* 47 C.F.R. § 1.47(h) (stating that every common carrier subject to the Act "shall designate an agent in the District of Columbia" for service of process).

Note: New carriers must identify an agent for service of process within 30 days of providing service and all carriers must notify the FCC within one week if the contact information changes for their D.C. Agent. See Section II-C, above, for filing directions.

3. Block 2-C: FCC Registration Information

New telecommunications carriers must register with the Commission when they begin to provide service. Carriers must update registration information within one week of a material change. See Section II-C, above, for filing directions. Registration information includes information reported in Blocks 1, 2-A, 2-B, and 2-C of FCC Form 499-A.

Lines 219-227 -- The third part of Block 2 contains FCC registration information, as required of all interstate telecommunications carriers pursuant to section 64.1195 of the Commission's rules. 47 C.F.R. § 64.1195. As explained above, virtually all carriers filing the FCC Form 499 are considered to be interstate carriers. Interstate telecommunications carriers must provide the names and business addresses of their Chief Executive Officer, Chairman, and President. If the reporting entity does not have one or more of these officers or if the same person occupies more than one position, then names should be supplied for the three most senior-level officers of the reporting entity. For purposes of this filing, an officer is an occupant of a position listed in the articles of incorporation, articles of formation, or other similar legal document. List only one name if the filing entity is a sole proprietorship. If the filing entity is a partnership, list the managing partner on Line 221. If the legal entity is owned by two partners, list the second partner on Line 223. If there are three or more partners, provide information for the managing partner and the two other partners with the greatest financial interest in the partnership.

Line 227 -- check those jurisdictions where the filing entity provided telecommunications service in the past 15 months, and any additional jurisdictions in which the filing entity expects to provide telecommunications service in the next 12 months. Identify jurisdictions where customers physically obtain service. For most switched services, identify jurisdictions where customers can originate calls. However, for services where the called party pays, also identify jurisdictions where calls terminate.²⁵ For example, an operator service provider that handled inmate calls originating in New Jersey and terminating collect in New Jersey, New York, and Pennsylvania, would identify New Jersey, New York, and Pennsylvania as jurisdictions served.

C. Block 3, Block 4-A and Block 4: Filer Revenue Information

Lines 301-302; 401-402 -- copy the Filer 499 ID from Line 101 into Lines 301 and 401. Copy the legal name of the reporting entity from Line 102 into Lines 302 and 402.

Lines 303-314; 403-423 contain detailed revenue data.

1. Separating revenues from other contributors to the federal universal service support mechanisms (Block 3) from end-user and non-telecommunications revenues (Block 4) (carrier's carrier vs. end-user)

In the Telecommunications Reporting Worksheet, filers must report revenues using two broad categories: (1) Revenues from other contributors to the federal universal service support mechanisms; and, (2) Revenues from all other sources. Taken together, these revenues should include all revenues billed to customers and should include all revenues on the reporting entities' books of account.

²⁵ Both parties to a collect call are "consumers." 47 C.F.R § 64.708. See also 47 C.F.R § 64.710(b)(1).

For the purposes of this Worksheet, "Revenues from services provided for resale by other contributors to federal universal service support mechanisms" are revenues from services provided by underlying carriers to other entities that currently are contributors to universal service support mechanisms and that are resold in the form of telecommunications. Such revenues are referred to herein as "carrier's carrier revenues" or "revenues from resellers." An underlying carrier also may include as carrier's carrier revenues any switched service revenues received from another U.S. carrier where that carrier is using the underlying carrier's service to refile the foreign-billed traffic of a foreign telephone operator. Revenues from all other sources consist primarily of revenues from services provided to end users, referred to here as "end-user revenues." This latter category includes foreign and non-telecommunications revenues.

For the purpose of completing Block 3, a "reseller" is a telecommunications carrier or telecommunications provider that: 1) incorporates purchased telecommunications services into its own telecommunications offerings; and 2) can reasonably be expected to contribute to federal universal service support mechanisms based on revenues from such offerings when provided to end users.

Each filer should have documented procedures to ensure that it reports as "revenues from resellers" only revenues from entities that reasonably would be expected to contribute to support universal service. The procedures should include, but not be limited to, maintaining the following information on resellers: Filer 499 ID; legal name; address; name of a contact person; and phone number of the contact person. Filers shall provide this information to the Commission or the Administrator upon request. The filer should verify that each reseller will: 1) resell the filer's services in the form of telecommunications [and not as information services]; and 2) contribute directly to the federal universal service support mechanisms. If the filer does not have independent reason to know that the reseller satisfies these criteria, it should obtain a signed statement certifying that these criteria are met. Current contributors to universal service are identified at <http://gullfoss2.fcc.gov/cib/form499/499a.cfm>. Filers will be responsible for any additional universal service assessments that result if its customers must be reclassified as end users.

Note: For the purposes of filling out this Worksheet -- and for calculating contributions to the universal service support mechanisms -- certain telecommunications carriers and other providers of telecommunications may be exempt from contribution to the universal service support mechanisms. These exempt entities, including "international only" and "intrastate only" carriers and carriers that meet the *de minimis* universal service threshold, should not be treated as resellers for the purpose of reporting revenues in Block 3. That is, filers that are underlying carriers should report revenues derived from the provision of telecommunications to exempt carriers and providers (including services provided to entities that are *de minimis* for universal service purposes) on Lines 403-417 of Block 4 of the Telecommunications Reporting Worksheet, as appropriate. Underlying carriers must contribute to the universal service support mechanisms on the basis of such revenues. In Block 5, Line 511, however, filers may elect to report the amounts of such revenues (*i.e.*, those revenues from exempt entities that are reported as end-user revenues) so that these revenues may be excluded for purposes of calculating contributions to TRS, LNPA, and NANPA.

2. Column (a) - total revenues

The reporting entity must report gross revenues from all sources, including non-regulated and non-telecommunications services on Lines 303 through 314 and Lines 403 through 418 and these must add to total gross revenues as reported on Line 419. Gross revenues include account set-up, connection, service restoration, termination and other non-recurring charges. These charges should be reported on the same line that the filer reports any associated recurring revenue. For example, an early termination charge for an interstate private line service would be reported as interstate revenue on Line 415. Deposits are not revenue. Gross revenues should include revenues derived from the activation and provision of interstate, international, and intrastate telecommunications and non-telecommunications services. Gross revenues consist of total revenues billed to customers during the filing period with no allowances for uncollectibles, settlements, or out-of-period adjustments. Gross revenues do not

include amounts that cannot be billed to customers. Gross revenues should include collection overages and unclaimed refunds for telecommunications services when not subject to escheats. Gross billed revenues may be distinct from booked revenues. National Exchange Carrier Association (NECA) pool companies should report the actual gross billed revenues (CABS Revenues) reported to the NECA pool and not settlement revenues received from the pool. Entities making consolidated filings must include in their FCC Form 499 Filings all revenue on the consolidated books of account.

An entity is not required to impute or report revenues for services provided to itself or to wholly owned affiliates unless: 1) it is required to record such revenues for some other federal or state regulatory purpose; or 2) the filer is providing service to an affiliate for resale and the affiliate is not a direct universal contributor.

If revenue category breakout cannot be determined directly from corporate books of account or subsidiary records, filers may provide on the Worksheet a good-faith estimate of the breakout. Filers may not simply report all revenues on one of the "other revenue" lines.

Where two contributors have merged prior to the filing date, the successor company should report total revenues for the reporting period for all predecessor operations. The two contributors, however, should continue to report separately if each maintains separate corporate identities and continues to operate.²⁶ Where an entity obtains, through purchase, merger or transfer, the telecommunications operations or customer base of a telecommunications provider during the calendar year, it must report all telecommunications revenues associated with such operations or customer base including revenues billed in the calendar year prior to the date of acquisition

Gross revenues also should include any surcharges on telecommunications services that are billed to the customer and either retained by the filer or remitted to a non-government third party under contract. Gross revenues should exclude taxes and any surcharges that are not recorded on the company books as revenues but which instead are remitted to government bodies. Note that any charge included on the customer bill and represented to recover or collect contributions to federal or state universal service support mechanisms must be shown separately on Line 403. Other surcharges treated as revenues should be included in the revenue categories on which the surcharges were levied.

For international services, gross revenues consist of gross revenues billed by U.S. telecommunications providers with no allowances for settlement or settlement-like payments. International settlement and settlement-like receipts for foreign-billed service should not be included in revenues. For common carriers providing international telecommunications services: except in very limited circumstances, such as receipts from foreign carriers for calls that are reoriginated and reported as U.S. billed traffic, the total revenues identified as international on Line 419(e) should match the total U.S. billed revenues that will be reported each year pursuant to 47 C.F.R. § 43.61. For example, if a filer receives payment from a foreign carrier for traffic that the filer receives outside of the United States, brings into the United States, and then refiles and carries the traffic to a foreign point, the filer would not include those settlement-like payments as revenues on the FCC Form 499-A even though they might be reported as revenues on the Filer's 43.61 international traffic data report. Note that if the carrier receives the traffic in the United States, then it is providing ordinary international service from the United States to a foreign point and receipts from the originating carrier would be reported as revenue on Line 414.

For international private line services, U.S. carriers must report on Line 417 revenues from the U.S. portion of the circuit to the theoretical midpoint of the circuit regardless of whether such revenues were billed to the customer by the reporting carrier or by a partner carrier in a foreign point. Circuits within the United States that connect a customer to an international circuit should be reported as interstate. Circuits that connect foreign points should be reported on Line 418.

²⁶ See also Section II-E, above.

If you have any revenues for Lines 303-314 and 403-420, you may not omit the dollar amounts from column (a) even if 100% of the revenues are for interstate or international service.

3. Columns (b), (c), (d), and (e) interstate & international

Columns (b), (c), (d), and (e) are provided to identify the part of gross revenues that arise from interstate and international service for each entry on Lines 303 through 314 and Lines 403 through 417. Intrastate telecommunications means communications or transmission between points within the same State, Territory, or possession of the United States, or the District of Columbia. Interstate and international telecommunications means communications or transmission between a point in one state, territory, possession of the United States or the District of Columbia and a point outside that state, territory, possession of the United States or the District of Columbia. Revenues from services offered under interstate tariffs, such as revenues from federal subscriber line charges and from federally tariffed LNP surcharges, should be identified as interstate revenues. This includes amounts incorporated in or bundled with other local service charges.

For example, if a prepaid calling card provider collects a fixed amount of revenue per minute of traffic, and 65 percent of minutes are interstate, then interstate revenues would include 65 percent of the per-minute revenues. Similarly, if a local exchange carrier bills local measured service charges for calls that originate in one state and terminate in another, these billings should be classified as interstate even though the charges are covered by a state tariff and the revenues are included in a local service account. If over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate.²⁷ In general, flat-rated unbundled network access elements should be classified according to the regulatory agency that has primary jurisdiction over the contracts.

Amounts billed to customers to recover federal universal service contribution obligations should be attributed as either interstate or international revenues, as appropriate, but may not be reported as intrastate revenues. Filers should report intrastate revenues on Line 403 only to the extent that actual payments to state universal service programs were recovered by pass-through charges itemized on customer bills.

Note: Where possible, filers should report their amount of total revenues that are interstate and international by using information from their books of account and other internal data reporting systems. Where a filer can determine the precise amount of revenues that it has billed for interstate and international services, it should enter those amounts in columns (d) and (e), respectively.

If interstate and international revenues cannot be determined directly from corporate books of account or subsidiary records, filers may provide on the Worksheet good-faith estimates of these figures. In such cases, the filer should enter the good-faith estimates of the percentage of interstate and the percentage of international revenues in columns (b) and (c), respectively. A reporting entity may not submit a good-faith estimate lower than one percent unless the correct figure should be \$0. Information supporting good-faith estimates must be made available to either the FCC or to the administrators upon request. Using the good-faith estimate, calculate the amount of interstate revenues as the amount in column (a) times the percentage in column (b), and calculate the amount of international revenues as the amount in column (a) times the percentage in column (c). For convenience, calculated interstate and international revenue amounts that are greater than one thousand dollars may be rounded to the nearest thousand dollars. Please enter zero dollars in columns (d) and (e) if, and only if, there were no interstate revenues for the line for the reporting period.

²⁷ See 47 C.F.R. § 36.154(a).

Note that the FCC provides the following safe harbor percentages of interstate revenues associated with Line 309, Line 409 and Line 410.²⁸

- 28.5% of cellular and broadband PCS telecommunications revenues
- 12.0% of paging revenues
- 1.0% of analog SMR dispatch revenues

These safe harbor percentages may not be applied to universal service pass-through charges, fixed local service revenues, or toll service charges. **All filers must report the actual amount of interstate and international revenues for these services.** For example, toll charges for itemized calls appearing on mobile telephone customer bills should be reported as intrastate, interstate or international based on the origination and termination points of the calls.

Wireless telecommunications providers that choose to avail themselves of these safe harbor percentages for interstate revenues may assume that the FCC will not find it necessary to review or question the data underlying their reported percentages. All affiliated wireless telecommunications providers must make a single election, each quarter, whether to report actual revenues or to use the current safe harbor within the same safe harbor category.²⁹ So, for example, if in a calendar quarter a wireless telecommunications provider reports actual interstate revenues for its cellular and broadband PCS telecommunications services, all of its affiliated legal entities must also report actual interstate telecommunications revenues for cellular and broadband PCS offerings. The same wireless telecommunications provider and all affiliates, however, could use the safe harbor for paging services. Annual revenues reported on the FCC Form 499-A should reflect the filer's reporting of revenues in each quarter on FCC Form 499-Q.

Many carriers now offer packages that bundle fixed local exchange service with interstate toll service for a single price. Revenues for the whole bundle, except for tariffed subscriber line and PICC charges, should be reported on Line 404, as described more fully below. The portion of revenues associated with interstate and international toll services must be identified in columns (d) and (e), respectively. Filers should make a good faith estimate of the amounts of interstate and international revenues from bundled local/toll service if they cannot otherwise determine these amounts from corporate records, and must make their methodology available to the Commission or the Administrator, upon request.

²⁸ *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans With Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format, Report and Order and Second Further Notice of Proposed Rulemaking, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, FCC 02-329 (rel. Dec. 13, 2002) (Contribution Methodology Order); see also Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-45, 13 FCC Rcd 21252, 21258-60 (1998).*

²⁹ *See Federal-State Joint Board on Universal Service, Order and Order on Reconsideration, CC Docket No. 96-45, FCC 03-20 (rel. Jan. 30, 2003).* Note: Wireless telecommunications providers are "affiliated" for purposes of making the single election whether to report actual interstate telecommunications revenues or use the applicable interim wireless safe harbor if one entity (1) directly or indirectly controls or has the power to control another, (2) is directly or indirectly controlled by another, (3) is directly or indirectly controlled by a third party or parties that also controls or has the power to control another, or (4) has an "identity of interest" with another contributor. *See also* 47 C.F.R. § 1.2110(c)(5).

Filers report total uncollectible revenue/bad debt expenses on Lines 421 and 422. Filers that maintain separate detail of uncollectibles by type of business should rely on those records in dividing uncollectible expense between carrier's carrier, contribution base and other revenues, and for dividing uncollectibles associated with contribution base revenues between intrastate, interstate and international categories. Filers that do not have such detail should make such assignments in proportion to reported gross revenues.

4. Explanation of Block 3 and Block 4-A revenue categories

The revenue detail provided in Block 3 on Lines 303 through 314 and in Block 4-A on Lines 403 through 418 should total to total gross revenues reported on Line 419. This section explains the detailed revenue categories.

Filers are instructed to report revenues from other universal service contributors on Lines 303 through 314. *See* Section III-C-1, above. Filers are instructed to report all other revenues on Lines 403 through 418. In many cases, the line-item categories are duplicated in the two sections. Carriers that are required to use the Uniform System of Accounts (USOA) prescribed in Part 32 of the Commission's rules should base their responses on their USOA account data and supplemental records, dividing revenues into those received from universal service contributors and those received from end users and other non-contributors. All filers should report revenues based on the following descriptions.

Fixed local service revenue categories

Fixed local services connect a specific point to one or more other points. These services can be provided using either wireline or fixed wireless technologies and can be used for either local exchange service, private communications, or access to toll services.

Line 303 and Line 404 -- Monthly service, local calling, connection charges, vertical features, and other local exchange services should include the basic local service revenues except for local private line revenues, access revenues, and revenues from providing mobile or cellular services. These lines should include charges for optional extended area service, dialing features, local directory assistance, added exchange services such as automatic number identification (ANI) or teleconferencing, LNP surcharges, connection charges, charges for connecting with mobile service and local exchange revenue settlements. Revenues for services provided to carriers should be divided between Line 303.1 -- provided as unbundled network elements (UNEs) -- and Line 303.2 -- provided under tariffs or arrangements other than unbundled network elements (for example, resale). Line 303.2 should include Presubscribed Interexchange Carrier Charge (PICC) charges levied on carriers.

Line 404 should not include subscriber line charges levied under a tariff filed by the reporting entity or placed on customer bills as a pass-through of underlying carrier subscriber line charges. Filers should instead report such revenues on line 405. Note that federal subscriber line charges typically represent the interstate portion of fixed local exchange service. Filers without subscriber line charge revenue must identify the interstate portion of fixed local exchange service revenues in column (d) of line 404. Line 404 also should include revenues from federally tariffed LNP surcharges and these surcharges should be identified as interstate revenues.

Line 404 revenues should be divided between service plans that include interstate calling as part of the flat monthly fee (Line 404.1) and services plans that do not include interstate calling (Line 404.2). Consistent with the filer's books of account, Line 404.1 should include all revenues associated with flat-rate calling plans that allow customers to make fixed local and interstate long distance calls for at least some specified time periods. The filer must attribute a portion of the flat monthly charge to toll service and an appropriate portion of the toll revenue must be identified as interstate and international and shown in columns (d) and (e). If the toll portion is accounted as revenue for an affiliate, that affiliate must show these revenues on Line 404.1 and may not include these revenues on Line 414. Line 404.2 should include all revenues billed for fixed local service that does not include interstate toll calling as part of the flat monthly charge.

Line 304 -- Line 304 should include per-minute charges for originating or terminating calls. This line also would include revenues to the local exchange carrier for messages between a cellular customer and another station within the mobile service area. The line should include any other gross charges to other carriers for the origination or termination of toll or non-toll traffic. Do not deduct or net payments to carriers for origination or termination of traffic on their networks. Revenues for originating and terminating minutes should be divided between Line 304.1 - provided under state or federal access and Line 304.2 - provided as unbundled network elements or other contract arrangements. Do not include international settlement or settlement-like receipts or transiting fees from international toll services.

Line 405 -- Line 405 should include charges to end users specified in access tariffs, such as tariffed subscriber line charges and PICC charges levied by a local exchange carrier on customers that are not presubscribed to an interexchange carrier (*i.e.*, a no-PIC customer). However, Line 405 should not include charges to end users for special access services (which are reported on Line 406). Telecommunications providers that do not have subscriber line charge or PICC tariffs on file with the Commission or with a state utility commission or who are not reselling such tariffed charges, should report \$0 on Line 405.

Line 305 and Line 406 -- Local private line and special access service should include revenues from providing local services that involve dedicated circuits, private switching arrangements, digital subscriber lines, and/or predefined transmission paths. Line 406 should include revenues from special access lines resold to end users unless the service is bundled with, and charged as part of a toll service, in which case the revenues should be reported on the appropriate toll service line. Report on Lines 305 and 406 revenues from offering dedicated capacity between specified points even if the service is provided over local area switched ATM or frame relay networks.

Line 306 and Line 407 -- Line 306 should include revenues received from carriers as payphone compensation for originating toll calls. Line 407 should include revenues received from customers paid directly to the payphone service provider, including all coin-in-the-box revenues. Do not deduct commission payments to premises' owners.

Line 307 and Line 408 -- Other local telecommunications service revenues should include local telecommunications service revenues that reasonably would not be included with one of the other fixed local service revenue categories. Line 307 should include charges for physical collocation of equipment pursuant to 47 U.S.C. § 251(c)(6). Report on these lines revenues from offering switched capacity on local area data networks such as ATM or frame relay networks.

Line 308 -- Universal service support revenues should include all amounts that filers receive as universal service support from either states or the federal government. Line 308 should include as revenues Lifeline Assistance reimbursement for the waived portion of subscriber line or presubscribed interexchange carrier charges or credits for subsidized services provided to schools, libraries, and rural health care providers. Line 308 should include amounts received as cash as well as amounts received as credit against contribution obligations. Line 308 should not include any amounts charged to customers to recover universal service or similar contributions.

Mobile service

Mobile services are wireless communications between mobile wireless equipment, such as cellular phones, and other points.

Line 309, Line 409, and Line 410 -- Data reported on these lines should contain mobile service revenues other than toll charges to mobile service customers. Charges associated with customer premises equipment should not be included on these lines. A single category -- Line 309 -- is provided for all mobile service provided to resellers. Line 309 should include revenues received from another carrier for roaming service provided to customers of that carrier. For services provided to end users, Line 409 should contain monthly charges, activation fees, service restoration, and service order processing charges, etc. Line 410 should contain message charges, including any roaming charges assessed on customers for calls placed out of customers' home areas and local directory assistance charges. End-user prepaid wireless service revenues attributable to activation and daily or monthly access charges should be reported on Line 409. End-user prepaid wireless service revenues attributable to airtime should be reported on Line 410. Itemized toll charges to mobile service customers should be included in the Lines 413 or 414, as appropriate.

Roaming charges for service provided by foreign carriers operating in foreign points are not U.S. telecommunications revenues and therefore should be reported on Line 418.

Toll service revenue categories

Toll services are telecommunications services, wireline or wireless, that enable customers to communicate outside of local exchange calling areas. Toll service revenues include intrastate, interstate, and international long distance services.

Line 411 -- This line should include revenues from prepaid calling cards provided either to customers or to retail establishments. Gross billed revenues should represent the amounts actually paid by customers and not the amounts paid by distributors or retailers, and should not be reduced or adjusted for discounts provided to distributors or retail establishments. All prepaid card revenues are classified as end-user revenues. For purposes of completing this Worksheet, prepaid card revenues should be recognized when end-user customers purchase the cards. International revenues may be reported differently on the filer's 43.61 international traffic data reports, where revenues may be based on calls actually placed.

Line 412 -- International calls that traverse the United States but both originate and terminate in foreign points are excluded from the universal service contribution base regardless of whether the service is provided to resellers or to end users. These revenues should be segregated from other toll revenues by showing them on Line 412. Telecommunications providers should not report international settlement revenues from traditional settlement transiting traffic on the Worksheet.

Line 310 and Line 413 -- Operator and toll calls with alternative billing arrangements should include all calling card or credit card calls, person-to-person calls, and calls with alternative billing arrangements such as third-number billing, collect calls, and country-direct type calls that either originate or terminate in a U.S. point. These lines should include all charges from toll or long distance directory assistance. Lines 310 and 413 should include revenues from all calls placed from all coin and coinless, public and semi-public, accommodation and prison telephones, except that calls that are paid for via prepaid calling cards should be included on Line 411 and calls paid for by coins deposited in the phone should be included on Line 407.

Line 311 and Line 414 -- Ordinary long distance and other switched toll services should include amounts from account 5100 -- long distance message revenues-- except for amounts reported on Lines 310, 407, 411, 412 or 413. Line 311 and Line 414 should include ordinary message telephone service (MTS), WATS, subscriber toll-free, 900, "WATS-like," and similar switched services. This category includes most toll calls placed for a fee and should

include flat monthly charges billed to customers, such as account maintenance charges, PICC pass-through charges, package plans giving fixed amounts of toll minutes, and monthly minimums. However, where customers are charged single rate for a combined local and long distance service, all revenues for such service should be reported on Line 404(a).

Line 312 and Line 415 -- Long distance private line service should include revenues from dedicated circuits, private switching arrangements, and/or predefined transmission paths, extending beyond the basic service area. Line 312 and Line 415 should include frame relay and similar services where the customer is provided a dedicated amount of capacity between points in different basic service areas. This category should include revenues from the resale of special access services if they are included as part of a toll private line service.

Line 313 and Line 416 -- Satellite services should contain revenues from providing space segment service and earth station link-up capacity used for providing telecommunications or telecommunications services via satellite. Revenues derived from the lease of bare transponder capacity should not be included on Lines (313) and (416).

Line 314 and Line 417 -- All other long distance services should include all other revenues from providing long distance communications services. Line 314 and Line 417 should include toll teleconferencing. Line 314 and Line 417 should include switched data, frame relay and similar services where the customer is provided a toll network service rather than dedicated capacity between two points.

Other revenue categories

Line 403 -- Itemized charges levied by the reporting entity in order to recover contributions to state and federal universal service support mechanisms should be classified as end-user billed revenues and should be reported on Line 403. Any charge that is identified on a bill as recovering contributions to universal service support mechanisms must be shown on Line 403 and should be identified as either interstate or international revenues, as appropriate. Filers should report intrastate revenues on line 403 only to the extent that actual payments to state universal service programs were recovered by pass-through charges itemized on customer bills.

Line 418 -- Other revenues that should not be reported in the contribution bases. Line 418 should include all non-telecommunications service revenues on the reporting entity's books, as well as some revenues that are derived from telecommunications-related functions, but that should not be included in the universal service or other fund contribution bases. For example, information services offering a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications are not included in the universal service or other fund contribution bases. Information services do not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. Information services also are called enhanced services because they are offered over transmission facilities used in interstate communications and employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information; provide the subscriber additional, different, or restructured information; or involve subscriber interaction with stored information. For example, call moderation and call transcription services are information services. These services are exempt from contribution requirements and should be reported on Line 418. Line 418 should include revenues from published directory and carrier billing and collection services. Line 418 should include revenues from the sale, lease, installation, maintenance, or insurance of customer premises equipment (CPE). Line 418 should include inside wiring charges and inside wiring maintenance insurance. Line 418 should include the sale or lease of transmission facilities, such as dark fiber or bare transponder capacity, that are not provided as part of a telecommunications service or as a UNE. Line 418 should include pole attachment revenues. Line 418 should include revenues from providing open video systems (OVS), cable leased access, and direct broadcast satellite (DBS) services. Line 418 should include late payment charges and charges (penalties) imposed by the company for customer checks returned for non-payment. Line 418 should include revenues from telecommunications services provided in a foreign country where the traffic does not transit the United States or where the carrier is providing service as a foreign carrier, i.e. a carrier licensed in that country.

The Commission adopted two “safe harbor” methods for allocating revenue when telecommunication services and CPE/enhanced services are offered as a bundled package.³⁰ The first option is to report revenues from bundled telecommunications and CPE/enhanced service offerings based on the unbundled service offering prices, with no discount from the bundled offering being allocated to telecommunications services. Alternatively, contributors may elect to treat all bundled revenues as telecommunications service revenues for purposes of determining their universal service obligations. Filers may choose to use allocation methods other than the two described above. Filers should realize, however, that any other allocation methods may not be considered reasonable, and will be evaluated on a case-by-case basis in an audit or enforcement context.

5. Block 4-B total revenue and uncollectible revenue information

Line 419 -- Gross billed revenues from all sources should equal the sum of revenues by type of service reported on Lines 303 through 314 and Lines 403 through 418.

Line 420 -- Universal service contribution base revenues should equal the subtotal of Lines 403 through 411 and Lines 413 through 417 for each column. The totals on this line represent gross end-user revenues for the purpose of determining contributions to universal service support mechanisms. See also instructions for Line 511 in Section III-D.

Line 421 -- Show the uncollectible revenue/bad debt expense associated with gross billed revenues amounts reported on Line 419. This should be the amount reported as bad debt expense in the filer’s income statement for the year. Note that it will include uncollectibles associated with all revenue on the filer’s books (Line 419), covering carrier’s carrier revenues, end-user telecommunications revenues and revenues reported on Line 418. The contributor’s uncollectible revenues/bad debt expense should be calculated in accordance with Generally Accepted Accounting Principles. Thus, uncollectibles should represent the portion of gross billed revenues that the contributor reasonably expects will not be collected. Note that uncollectibles may not include any amounts associated with unbillable revenues.³¹ Filers that operate on a cash basis should report \$0 on this line.

Line 422 -- Show the portion of the uncollectible revenue/bad debt expense reported on Line 421 that is associated with just the universal service contribution base amounts reported on Line 420.³² Filers that maintain separate detail of uncollectibles by type of business should rely on those records in determining the portion of gross uncollectibles reported on Line 421 that should be reported on Line 422. Filers that do not have such detail should make such assignments in proportion to reported gross revenues. Filers must be able to document how the amounts reported on Line 422 relate to the uncollectible revenue/bad debt expense associated with gross billed revenues reported on Line 421.

In exceptional circumstances, amounts reported on Line 422 may exceed amounts reported on Line 421 or either amount might actually be negative. These situations can arise where amounts previously written off as uncollectible subsequently are collected.

³⁰ *Policies and Rules Concerning the Interstate, Interexchange Marketplace, Implementation of Section 254(g) of the Communications Act of 1934, as amended, 1998 Biennial Regulatory Review -- Review of Customer Premises Equipment And Enhanced Services Unbundling Rules In the Interexchange, Exchange Access And Local Exchange Markets*, Report and Order, CC Docket No. 96-61, 16 FCC Rcd 7418 (2001).

³¹ *See Contribution Methodology Order*, FCC 02-329 (rel. Dec. 13, 2002), footnote 95.

³² *See Contribution Methodology Order*, FCC 02-329 (rel. Dec. 13, 2002). *Also see*, for example, *Proposed First Quarter 2004 Universal Service Contribution Factor* CC Docket No. 96-45, Released December 4, 2003; DA 03-3866.

Line 423 -- Net universal service contribution base revenues should equal the amounts reported on Line (420) minus the amounts reported on Line 422.

6. Notes for carriers that use the USOA

The revenue accounts in the USOA as adopted in 1986 generally correspond to specific revenue lines in Block 3 and Block 4. For example, revenue amounts recorded in accounts 5001, 5002, 5050, 5060 and 5069 should be reported on Line 303 or Line 404, as appropriate. Similarly, revenues recorded in account 5280 should be reported on Line 407. There are some exceptions. For example, monthly and connection revenues from mobile services provided to end users in account 5004 should be reported on Line 409. Per-minute revenues from end users in account 5004 should be reported on Line 410. However, revenues in account 5004 from exchanging traffic with mobile service carriers should be reported on Line 304. Similarly, state per-minute access revenues recorded in account 5084 should be reported on Line 304; state special access revenues recorded in account 5084 should be reported on Line 305 and Line 406, as appropriate; and, state subscriber line charge revenues recorded in account 5084 should be reported on Line 405. Uncollectible revenue recorded in account 5300 should be reported on Line 421. The portion of these revenues that correspond to contribution base revenues should be reported on Line 422.

In 2001, the Commission adopted changes to the USOA.³³ These changes in account structure have not changed which revenues should be reported on which FCC Form 499 lines. Most revenues classified in account 5001 -- basic area revenues, should continue to be reported on Line 303 or Line 404. However, local exchange carrier revenues from mobile carriers for calls between wireless and wireline customers should be reported on Line 304 and revenues from mobile services on Line 309, Line 409 or Line 410, as appropriate. Revenues classified in account 5200, miscellaneous revenues, should be divided into several lines for reporting purposes. For example, account 5200 includes revenues derived from UNEs, which should continue to be reported on Line 303 and, reciprocal compensation, which will continue to be reported on Line 304.

Some types of incidental regulated revenues contained in account 5200, miscellaneous revenues, will continue to be reported on Lines 403 through 408. These include collection overages and non-refundable prepaid amounts that are not used by the customer. Note that late payment charges, bad check penalties imposed by the company, enhanced services, billing and collection, customer premises equipment sale, lease or insurance, and published directory revenues should continue to be reported on Line (418).

Revenues recorded in account 5100, long distance network service revenues, will continue to be reported on Line 310 through Line 314 and Line 411 through Line 417, as appropriate.

D. Block 5: Additional Revenue Breakouts

Lines 501-502 -- Copy the Filer 499 ID from Line 101 into Line 501. Copy the legal name of the reporting entity from Line 102 into Line 502.

Lines 503-510 -- In these lines, filers should identify the percentages of their telecommunications revenues by LNPA region. Filers that have certified that they are exempt from contributing to the shared costs of LNP need not provide these breakdowns. Carriers should calculate or estimate the percentage of revenues that they billed in each region based on the amount of service they actually provided in the parts of the United States listed for each region. The percentages in column (a) should add to 100% unless the filer did not provide any services for resale by other

³³ See 2000 Biennial Regulatory Review -- Comprehensive Review of the Accounting Requirements and ARMS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2, CC Docket No. 00-199, Report and Order in CC Docket Nos. 00-199, 97-212, and 80-286 and Further Notice of Proposed Rulemaking in CC Docket Nos. 00-199, 99-301, and 80-286, 16 FCC Rcd 19911 (2001), recon. pending.

contributors to the federal universal service support mechanisms. The percentages in column (b) should add to 100% unless the filer did not provide any telecommunications services to end users or non-contributing carriers. Carriers do not need to complete column (a) if they have some end-user revenues in each of the regions in which they have carrier operations.

Line 511 -- Identify revenues from resellers that do not contribute to universal service support mechanisms and that are included in Block 4. Revenues from resellers that do not contribute to universal service support mechanisms are included on Line 420 but may be excluded from a filer's TRS, NANPA, LNP, and FCC interstate telephone service provider regulatory fee contribution bases. To have these amounts excluded, the filer has the option of identifying such revenues on Line 511. Line 420 may contain revenues from some FCC Form 499 filers that are exempt from contributing directly to universal service support mechanisms. For example, these would include filers that meet the universal service *de minimis* exception or that provide "international only" service. Since these universal service exempt entities generally do contribute directly to the TRS, LNP, and NANPA mechanisms, revenues from these entities need not be included in the underlying service provider contribution bases for those mechanisms. Filers choosing to report revenues on Line 511 must have the FCC Filer 499 ID for each customer whose revenues are so reported.

E. Block 6: Certification.

Lines 601-602 -- Copy the Filer 499 ID from Line 101 into Line 601. Copy the legal name of the reporting entity from Line 102 into Line 602.

Line 603 -- In this line, filers may certify that they are exempt from one or more contribution requirement(s) by checking the box next to the mechanism(s) from which they are exempt. As explained above, the FCC Form 499 Telecommunications Reporting Worksheet enables telecommunications carriers and service providers to satisfy a number of requirements in one consolidated form. Not all entities that file the Telecommunications Reporting Worksheet must contribute to all of the support and cost-recovery mechanisms (universal service, LNP, TRS, and NANPA). For example, certain telecommunications providers that are not telecommunications carriers must contribute to the universal service support mechanisms, but not to the TRS, LNP, and NANPA mechanisms. Section IV-A below provides summary information on which filers must contribute and which filers are exempt from particular contribution requirements. Filers that certify that they are exempt from one or more mechanism(s) should use the space provided on Line 603 to explain the exemption.

Note: It is not necessary for a filer to certify that it is *de minimis* for universal service purposes because the universal service administrator can determine whether a filer meets the contribution threshold from other information provided on the form. If, however, a reseller qualifies for the *de minimis* exemption, it must notify its underlying carriers that it is not contributing directly to universal service, so that it may be treated as an end user when the underlying carriers file FCC Form 499.

Line 604 -- In this line, filers indicate whether they are exempt from FCC regulatory fees or the filer is an "exempt telecommunications company."³⁴ A state or local governmental entity is any state, possession, city, county, town, village, municipal corporation, or similar political organizations.³⁵ The second check box identifies organizations duly qualified as a nonprofit, tax exempt entity under section 501 of the Internal Revenue Code, 26 U.S.C. § 501. These organizations typically qualify for non-profit status under sections 501(c)(3) or 501(c)(12). Note that such entities are not exempt from universal service, TRS, LNP, or NANPA contributions unless they qualify under some other exemption.

³⁴ 47 C.F.R. § 1.1162(c). The FCC will presume that otherwise exempt carriers prefer to pay FCC regulatory fees unless they check this box.

³⁵ 47 C.F.R. § 1.1162(b).

Section 34(a)(1) of the Public Utility Holding Company Act of 1935 (PUHCA) allows registered public utility holding companies to enter the telecommunications industry without prior Securities and Exchange Commission (SEC) approval by acquiring or maintaining an interest in an "exempt telecommunications company". Moreover, exempt public utility holding companies, by owning or acquiring an interest in an exempt telecommunications company, may acquire a "safe harbor" from potential SEC regulation under PUHCA Section 3(a). The law vests the Commission with jurisdiction to determine whether a company warrants exempt status based on specific statutory criteria. Filers that are exempt telecommunications companies affiliated with a public utility holding company must identify themselves by checking the appropriate box on Line 604.

Line 605 -- Filers may use the box in Line 605 to request nondisclosure of the revenue information contained on the Telecommunications Reporting Worksheet. By checking this box, the officer of the company signing the Worksheet certifies that the information contained on the Worksheet is privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the company filing the Worksheet. This box may be checked in lieu of submitting a separate request for confidentiality pursuant to section 0.459 of the Commission's rules.³⁶ All decisions regarding disclosure of company-specific information will be made by the Commission. The Commission regularly makes publicly available the names (and Block 1 and 2-B contact information) of the entities that file the Telecommunications Reporting Worksheet and information on which filers contribute to which funding mechanisms, including entities that checked the boxes in Line 603.

Lines 606-611 -- An officer of the reporting entity must examine the data provided in the Telecommunications Reporting Worksheet and certify that the information provided therein is accurate and complete. Officers of entities making consolidated filings should refer to Section II-B, above and must certify that they comply with the conditions listed in Section II-B. An officer is a person who occupies a position specified in the corporate by-laws (or partnership agreement), and would typically be president, vice president for operations, vice president for finance, comptroller, treasurer, or a comparable position. If the reporting entity is a sole proprietorship, the owner must sign the certification. The signature on Line 606 must be in ink.

A person who willfully makes false statements on the Worksheet can be punished by fine or imprisonment under Title 18 of the United States Code.³⁷

Line 612 -- Indicate whether this filing is an original filing for the year, due on April 1, a registration filing for a new service provider, a filing with revised registration information or a filing with revised revenue information. See Sections II-C and II-E, above, for information on the obligation to file revisions.

³⁶ 47 C.F.R. § 0.459. See also *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, GC Docket No. 96-55, Report and Order, 13 FCC Rcd 24816 (1998) (listing the showings required in a request that information be withheld and stating that the Commission may defer action on such requests until a formal request for public inspection has been made).

³⁷ See 18 U.S.C. § 1001.

IV. Calculation of Contributions

A. Contribution Requirements

Most filers must contribute to the universal service, TRS, NANPA, and LNPA funding mechanisms. This section provides a short summary to assist carriers and service providers in determining whether they must contribute to one or more of the mechanisms. Filers should consult the Commission's rules and orders to determine whether they must contribute to one or more of the mechanisms.

Federal universal service support mechanisms. Entities that provide interstate telecommunications to the public for a fee must contribute to the universal service support mechanisms. *See* 47 C.F.R. § 54.706.

Telecommunications Relay Services. Every common carrier providing interstate telecommunications services shall contribute to the TRS Fund. *See* 47 C.F.R. § 64.604.

North American Numbering Plan Administration. All telecommunications carriers in the United States shall contribute to meet the costs of establishing numbering administration. *See* 47 C.F.R. § 52.17.

Shared Costs of Local Number Portability. The shared costs of long-term number portability attributable to a regional database shall be recovered from all telecommunications carriers providing telecommunications service in that region. *See* 47 C.F.R. § 52.32.

Figure 3 summarizes which telecommunications carriers and service providers must file for particular purposes.

Figure 3: Which telecommunications carriers and telecommunications providers must contribute for which purposes³⁸

Type of filer	Universal Service	TRS	NANPA	LNPA
<i>De minimis</i> payphone aggregators that do not also have telecommunications carrier revenues		X		
Other payphone aggregators that do not also have telecommunications carrier revenues	X	X		
Telecommunications providers with no telecommunications service revenues <u>and</u> that are <i>de minimis</i>				
Telecommunications providers with no telecommunications service revenues <u>and</u> that are not <i>de minimis</i>	X			
Telecommunications carriers that provide services only to other universal service contributors			X	X
Telecommunications carriers that provide only international services		X	X	X
Telecommunications carriers that provide only intrastate services			X	X
Satellite carriers providing interstate telecommunications services	X	X	X	X
<i>De minimis</i> telecommunications carriers providing interstate telecommunications		X	X	X
All other telecommunications carriers providing interstate telecommunications	X	X	X	X

³⁸ This chart is provided for informational purposes only. It is not intended to be exhaustive, nor is it intended to serve as legal guidance or precedent. Filers are instructed to consult the Commission's rules and orders to determine whether they must contribute to one or more of the mechanisms. See 47 C.F.R. §§ 52.17, 52.32, 54.706, 64.604.

B. Contribution Bases

Filers do not calculate, in this Worksheet, the amounts that they must contribute. The administrators will use the revenue information on the Worksheet to calculate a funding base and individual contributions for each support mechanism. Individual contributions are determined by the use of "factors" -- factors reflect the total funding requirement of a particular mechanism divided by the total contribution base for that mechanism. Information on the contribution bases and individual filer contributions are shown in Figure 4.

Figure 4: Contribution bases

Support Mechanism	Funding Basis
Universal service low income and high cost; Universal service schools and libraries and rural health care	Line 423(d)* + Line 423(e) ** less revenues corresponding to universal service contributions***
TRS (Filers with interstate or international end- user revenues must pay a minimum of \$25)	plus Line 420(d) + Line 420(e) less Line 412(e) less Line 511(b)
NANPA (Filers with end-user revenues must pay a minimum of \$25. Filers with no end-user revenues must pay \$25.)	plus Line 420(a) less Line 412(a) less Line 511(a)
LNPA - by region (Filers with no end-user revenues must pay \$100)	plus Line 420(a) less Line 412(a) less Line 511(a) times percentage of end-user revenues shown on Lines 503 through 509
<p>* As of April 2003, monthly billings for universal service are based on projected collected revenue information filed on the quarterly FCC Form 499-Q. Historical amounts reported on FCC Form 499-Q Line 116(b) and (c) correspond to FCC Form 499-A Line 420(d) and (e), respectively. The FCC Form 499-Q provides instructions for projecting revenues, and for removing uncollectible amounts from billed revenue projections. Projected collected revenues on FCC Form 499-Q Line 120(b) and (c) correspond to net universal service base revenues on FCC Form 499-A Line 423 (d) and (e), respectively. The amounts filed on the FCC Form 499-A are used to review and true-up FCC Form 499-Q filings and associated contributions.</p> <p>** Line 423(e) is excluded from the contribution base if the total of amounts on Line 423(d) for the filing entity consolidated with all affiliates is less than 12% of the total of Line 423(d) + Line 423(e) for the filing entity consolidated with all affiliates. See 47 C.F.R. §54.706(c).</p> <p>*** For the second quarter of 2002 through the first quarter of 2003, the contribution base for an individual filer was the subject interstate and international revenues from two quarters prior, less the universal service contributions actually made in that prior quarter.³⁹ Starting in the second quarter of 2003, the contribution base for an individual filer is the projected collected interstate and international revenues for the quarter, reduced by an imputed amount of universal service support pass-through charges, based on the actual factor for the quarter.⁴⁰</p>	

³⁹ See *First Further Notice*, 17 FCC Rcd 3752 (2002).

⁴⁰ See *Contribution Methodology Order*, FCC 02-329 (rel. Dec. 13, 2002). See also, e.g., *Proposed First Quarter 2004 Universal Service Contribution Factor*, CC Docket No. 96-45, Public Notice, DA 03-3866 (rel. Dec. 4, 2003).

V. Reminders

- File the FCC Form 499-A online at <http://form499.universalservice.org/>
- Is the filer affiliated with another telecommunications provider? Each legal entity must file separately unless they qualify for filing on a consolidated basis. See Section II-B above. Each affiliate or subsidiary must show the same holding company information on Lines 106.1 and 106.2.
- Provide data for all lines that apply. Show a zero for services for which the filer had no revenues for the filing period. Be sure to include on Line 112 all names by which the filer is known to customers, including the names of agents or billers if those names appear on customer bills.
- Telecommunications providers that are required to contribute to universal service support mechanisms must also file quarterly FCC Form 499-Q on February 1, May 1, August 1 and November 1.
- Wherever possible, revenue information should be taken from the telecommunications providers' financial records.
- The Worksheet must be signed by an officer of the reporting entity. An officer is a person who occupies a position specified in the corporate by-laws (or partnership agreement), and would typically be president, vice president for operations, comptroller, treasurer, or a comparable position.
- Do not mail the Worksheet to the FCC. See Section II-C for filing instructions.
- Remember -- you must refile parts of the Worksheet if the Agent for Service of Process or FCC Registration information changes during the year.
- Note that FCC Form 499 is one of several forms that telecommunications carriers and other providers of interstate telecommunications may need to file. Information concerning common filing requirements for such providers may be found on the Commission's web site, at www.fcc.gov/wcb/filing.html.

If you have questions about the Worksheet or the instructions, you may contact:

Form 499 Telecommunications Reporting Worksheet Information	Form499@ universalservice.org (888) 641-8722
Wireline Competition Bureau Industry Analysis and Technology Division TTY	(202) 418-0940 (202) 418-0484

If you have questions regarding contribution amounts, billing procedures or the mechanisms, you may contact:

Universal Service Administration	(888) 641-8722
TRS Administration	(973) 884-8173
NANPA Billing and Collection Agent	(613) 236-9191
Local Number Portability Administrators	(877) 245-5277

- FEDERAL COMMUNICATIONS COMMISSION -

2005 FCC Form 499-A Telecommunications Reporting Worksheet

Approval by OMB
3060-0855

>>> Please read instructions before completing. <<<

Annual Filing -- due April 1.

Block 1: Contributor Identification Information

During the year, carriers must refile Blocks 1, 2 and 6 if there are any changes in Lines 104 or 112. See Instructions.

101 Filer 499 ID [If you don't know your number, contact the administrator at (888) 641-8722.
If you are a new filer, write "new" in this block and a Filer 499 ID will be assigned to you.]

102 Legal name of reporting entity

103 IRS employer identification number

[Enter 9 digit number]

104 Name telecommunications service provider is doing business as

105 Telecommunications activities of filer [Select up to 5 boxes that best describe the reporting entity. Enter numbers starting with "1" to show the order of importance -- see directions.]

- | | | | |
|--|--|--|--|
| <input type="checkbox"/> All Distance | <input type="checkbox"/> CAP/CLEC | <input type="checkbox"/> Cellular/PCS/SMR (wireless telephony incl. by resale) | <input type="checkbox"/> Coaxial Cable |
| <input checked="" type="checkbox"/> Incumbent LEC | <input type="checkbox"/> Interexchange Carrier (IXC) | <input type="checkbox"/> Local Reseller | <input type="checkbox"/> Operator Service Provider (OSP) |
| <input type="checkbox"/> Payphone Service Provider | <input type="checkbox"/> Prepaid Card | <input type="checkbox"/> Private Service Provider | <input type="checkbox"/> Paging & Messaging |
| <input type="checkbox"/> Shared-Tenant Service Provider / Building LEC | <input type="checkbox"/> SMR (dispatch) | <input type="checkbox"/> Toll Reseller | <input type="checkbox"/> Satellite Service Provider |
| <input type="checkbox"/> Other Local | | <input type="checkbox"/> Other Mobile | <input type="checkbox"/> Other Toll |

If Other Local, Other Mobile or Other Toll is checked,
describe carrier type / services provided: →

106.1 Holding company name (All affiliated companies must show the same name on this line.)

106.2 Holding company IRS employer identification number

[Enter 9 digit number]

[This space reserved for processing]

107 FCC Registration Number (FRN) [<https://svartifoss2.fcc.gov/cores/CoresHome.html>]
[For assistance, contact the CORES help desk at 877-480-3201 or CORES@fcc.gov]

[Enter 10 digit number]

108 Management company [if carrier is managed by another entity]

109 Complete mailing address of reporting entity
corporate headquarters

110 Complete business address for customer inquiries and
complaints [if different from address entered on Line 109]

111 Telephone number for customer complaints and inquiries [Toll-free number if available]

112 List all trade names used in the past 3 years in providing telecommunications. Include all names by which you are known by customers.

a		g	
b		h	
c		i	
d		j	
e		k	
f		l	

Use an additional sheet if necessary. Each reporting entity must provide all names used for carrier activities.

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

2005 FCC Form 499-A Telecommunications Reporting Worksheet

Block 2-A: Regulatory Contact Information

201 Filer 499 ID [from Line 101]	
202 Legal name of reporting entity [from Line 102]	
203 Person who completed this Worksheet	
204 Telephone number of this person	
205 Fax number of this person	
206 E-mail of this person	
207 Corporate office, attn. name, and mailing address to which future Telecommunications Reporting Worksheets should be sent	
208 Billing address and billing contact person: [Plan administrators will send bills for contributions to this address. Please attach a written request for alternative billing arrangements.]	

Block 2-B: Agent for Service of Process

All carriers must complete Lines 209 through 213.
During the year, carriers must refile Blocks 1, 2 and 6 if there are any changes in this section. See Instructions.

209 D.C. Agent for Service of Process per 47 U.S.C. §413	
210 Telephone number of D.C. agent	
211 Fax number of D.C. agent	
212 E-mail of D.C. agent	
213 Complete business address of D.C. agent for hand service of documents	
214 Local/alternate Agent for Service of Process (optional)	
215 Telephone number of local/alternate agent	
216 Fax number of local/alternate agent	
217 E-mail of local/alternate agent	
218 Complete business address of local/alternate agent for hand service of documents	

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

2005 FCC Form 499-A Telecommunications Reporting Worksheet

Block 2-C: FCC Registration and Contact Information

Carriers must refile Blocks 1, 2 and 6 if there are any changes in this section. See Instructions.

219 Filer 499 ID [from Line 101]	
220 Legal name of reporting entity [from Line 102]	
221 Chief Executive Officer (or, highest ranking company officer if the filing entity does not have a chief executive officer)	
222 Business address of individual named on Line 221	check if same as Line 109 <input type="checkbox"/>
223 Second ranking company officer, such as Chairman (Must be someone other than the individual listed on Line 221)	
224 Business address of individual named on Line 223	check if same as Line 109 <input type="checkbox"/>
225 Third ranking company officer, such as President or Secretary (Must be someone other than individuals listed on Lines 221 or 223)	
226 Business address of individual named on Line 225	check if same as Line 109 <input type="checkbox"/>

227 Indicate jurisdictions in which the filing entity provides telecommunications service. Include jurisdictions in which telecommunications service was provided in the past 15 months and jurisdictions in which telecommunications service is likely to be provided in the next 12 months.

- | | | | | |
|--|---|---|--|--|
| <input type="checkbox"/> Alabama | <input type="checkbox"/> Guam | <input type="checkbox"/> Massachusetts | <input type="checkbox"/> New York | <input type="checkbox"/> Tennessee |
| <input type="checkbox"/> Alaska | <input type="checkbox"/> Hawaii | <input type="checkbox"/> Michigan | <input checked="" type="checkbox"/> North Carolina | <input type="checkbox"/> Texas |
| <input type="checkbox"/> American Samoa | <input type="checkbox"/> Idaho | <input type="checkbox"/> Midway Atoll | <input type="checkbox"/> North Dakota | <input type="checkbox"/> Utah |
| <input type="checkbox"/> Arizona | <input type="checkbox"/> Illinois | <input type="checkbox"/> Minnesota | <input type="checkbox"/> Northern Mariana Islands | <input type="checkbox"/> U.S. Virgin Islands |
| <input checked="" type="checkbox"/> Arkansas | <input checked="" type="checkbox"/> Indiana | <input type="checkbox"/> Mississippi | <input type="checkbox"/> Ohio | <input type="checkbox"/> Vermont |
| <input checked="" type="checkbox"/> California | <input type="checkbox"/> Iowa | <input type="checkbox"/> Missouri | <input checked="" type="checkbox"/> Oklahoma | <input type="checkbox"/> Virginia |
| <input type="checkbox"/> Colorado | <input type="checkbox"/> Johnston Atoll | <input type="checkbox"/> Montana | <input type="checkbox"/> Oregon | <input type="checkbox"/> Wake Island |
| <input type="checkbox"/> Connecticut | <input type="checkbox"/> Kansas | <input type="checkbox"/> Nebraska | <input checked="" type="checkbox"/> Pennsylvania | <input checked="" type="checkbox"/> Washington |
| <input type="checkbox"/> Delaware | <input type="checkbox"/> Kentucky | <input type="checkbox"/> Nevada | <input type="checkbox"/> Puerto Rico | <input type="checkbox"/> West Virginia |
| <input checked="" type="checkbox"/> District of Columbia | <input type="checkbox"/> Louisiana | <input checked="" type="checkbox"/> New Hampshire | <input type="checkbox"/> Rhode Island | <input checked="" type="checkbox"/> Wisconsin |
| <input type="checkbox"/> Florida | <input type="checkbox"/> Maine | <input type="checkbox"/> New Jersey | <input type="checkbox"/> South Carolina | <input type="checkbox"/> Wyoming |
| <input type="checkbox"/> Georgia | <input type="checkbox"/> Maryland | <input checked="" type="checkbox"/> New Mexico | <input type="checkbox"/> South Dakota | |

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

Save time, avoid problems -- file electronically at

<http://form499.universalservice.org>

FCC Form 499-A
April 2005

2005 FCC Form 499-A Telecommunications Reporting Worksheet

Block 3: Carrier's Carrier Revenue Information

301 Filer 499 ID [from Line 101]					
302 Legal name of reporting entity [from Line 102]					
Report billed revenues for January 1 through December 31, 2004. Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars.	Total Revenues (a)	If breakouts are not book amounts, enter whole percentage estimates		Breakouts	
See instructions regarding percent interstate & international.		Interstate (b)	International (c)	Interstate Revenues (d)	International Revenues (e)
Revenues from Services Provided for Resale as Telecommunications by Other Contributors to Federal Universal Service Support Mechanisms					
<i>Fixed local service</i>					
Monthly service, local calling, connection charges, vertical features, and other local exchange service including subscriber line and PICC charges to IXCs					
303.1 Provided as unbundled network elements (UNEs)					
303.2 Provided under other arrangements					
Per-minute charges for originating or terminating calls					
304.1 Provided under state or federal access tariff					
304.2 Provided as unbundled network elements or other contract arrangement					
305 Local private line & special access service					
306 Payphone compensation from toll carriers					
307 Other local telecommunications service revenues					
308 Universal service support revenues received from Federal or state sources					
<i>Mobile services (including wireless telephony, paging & messaging, and other mobile services)</i>					
309 Monthly, activation, and message charges except toll					
<i>Toll services</i>					
310 Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.)					
311 Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PICC pass-through, and other switched services not reported above)					
312 Long distance private line services					
313 Satellite services					
314 All other long distance services					

Note: As stated in the instructions, for all revenues reported on this page, you must retain the Filer 499 ID and contact information for the associated customers. You must verify that each of these customers is a direct contributor to the federal universal service support mechanism and that the customer is purchasing service for resale as telecommunications. These records must be made available to the administrator or the FCC upon request. (See instructions.)

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

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FCC Form 499-A
April 2005

2005 FCC Form 499-A Telecommunications Reporting Worksheet

Block 4-A: End-User and Non-Telecommunications Revenue Information

401 Filer 499 ID [from Line 101]						
402 Legal name of reporting entity [from Line 102]						
Report billed revenues for January 1 through December 31, 2004. Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars. See instructions regarding percent interstate & international.		Total Revenues (a)	If breakouts are not book amounts, enter whole percentage estimates		Breakouts	
			Interstate (b)	International (c)	Interstate Revenues (d)	International Revenues (e)
Revenues from All Other Sources (end-user telecom. & non-telecom.)						
403 Surcharges or other amounts on bills identified as recovering State or Federal universal service contributions						
<i>Fixed local services</i>						
Monthly service, local calling, connection charges, vertical features, and other local exchange service charges except for federally tariffed subscriber line charges and PICC charges						
404.1 Provided at a flat rate including interstate toll service						
404.2 Provided without interstate toll included (see instructions)						
405 Tariffed subscriber line charges and PICC charges levied by a local exchange carrier on a no-PIC customer						
406 Local private line & special access service						
407 Payphone coin revenues (local and long distance)						
408 Other local telecommunications service revenues						
<i>Mobile services (including wireless telephony, paging & messaging, and other mobile services)</i>						
409 Monthly and activation charges						
410 Message charges including roaming, but excluding toll charges						
<i>Toll services</i>						
411 Prepaid calling card (including card sales to customers and non-carrier distributors) reported at face value of cards						
412 International calls that both originate and terminate in foreign points			0%	100%		
413 Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.) other than revenues reported on Line 412						
414 Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PICC pass-through, and other switched services not reported above)						
415 Long distance private line services						
416 Satellite services						
417 All other long distance services						
418 Revenues other than U.S. telecommunications revenues. Information services, inside wiring maintenance, billing and collection customer premises equipment, published directory, dark fiber, Internet access, cable TV program transmission, foreign carrier operations, and non-telecommunications revenues (See instructions.)						

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

2005 FCC Form 499-A Telecommunications Reporting Worksheet

Block 4-B: Total Revenue and Uncollectible Revenue Information

	Total Revenues (a)	Breakouts	
		Interstate Revenues (d)	International Revenues (e)
419 Gross billed revenues from all sources [incl. reseller & non-telecom.] [Lines 303 through 314 plus Lines 403 through 418]			
420 Gross universal service contribution base amounts [Lines 403 through 411 Lines 413 through 417] See Figure 4 in instructions.			
421 Uncollectible revenue/bad debt expense associated with gross billed revenues amounts shown on Line 419			
422 Uncollectible revenue/bad debt expense associated with universal service contribution base amounts shown on Line 420			
423 Net universal service contribution base revenues [Line 420 minus line 422]			

Block 5: Additional Revenue Breakouts

501 Filer 499 ID [from Line 101]	
502 Legal name of reporting entity [from Line 102]	

Most filers must contribute to LNP administration and must provide the percentages requested in Lines 503 through 510. Filing entities that use Line 603 to certify that they are exempt from this requirement need not provide this information.

Percentage of revenues reported in Block 3 and Block 4 billed in each region of the country. Round or estimate to nearest whole percentage. Enter 0 if no service was provided in the region.

	Block 3 Carrier's Carrier (a)	Block 4 End-User Telecom. (b)
503 Southeast: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands	%	%
504 Western: Alaska, Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming	%	%
505 West Coast: California, Hawaii, Nevada, American Samoa, Guam, Johnston Atoll, Midway Atoll, Northern Mariana Islands, and Wake Island.	%	%
506 Mid-Atlantic: Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia	%	%
507 Mid-West: Illinois, Indiana, Michigan, Ohio, and Wisconsin	%	%
508 Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont	%	%
509 Southwest: Arkansas, Kansas, Missouri, Oklahoma, and Texas	%	%
510 Total [Percentages must add to 0 or 100.]	%	%

511 Revenues from resellers that do not contribute to Universal Service support mechanisms are included in Block 4-B, Line 420 but may be excluded from a filer's TRS, NANPA, LNP, and FCC interstate telephone service provider regulatory fee contribution bases. To have these amounts excluded, the filer has the option of identifying such revenues below. **As stated in the instructions, you must have in your records the FCC Filer 499 ID for each customer whose revenues are included on Line 511. (See instructions.)**

Revenues from resellers that do not contribute to Universal Service	(a) Total Revenues		(b) Interstate and International	
	\$		\$	

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

Block 6: CERTIFICATION: to be signed by an officer of the filer

601 Filer 499 ID [from Line 101]	
602 Legal name of reporting entity [from Line 102]	

Section IV of the instructions provides information on which types of reporting entities are required to file for which purposes. Any entity claiming to be exempt from one or more contribution requirements should so certify below and attach an explanation. [The Universal Service Administrator will determine which entities meet the *de minimis* threshold based on information provided in Block 4, even if you fail to so certify, below.]

603 I certify that the reporting entity is exempt from contributing to: Universal Service TRS NANPA LNP Administration

Provide explanation below:

604 Please indicate whether the reporting entity is State or Local Government Entity I.R.C. § 501Tax Exempt PUHCA § 34 (a)(1) Exempt

605 I certify that the revenue data contained herein are privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the company. I request nondisclosure of the revenue information contained herein pursuant to Sections 0.459, 52.17, 54.711 and 64.604 of the Commission's Rules.

I certify that I am an officer of the above-named reporting entity, that I have examined the foregoing report and, to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named company for the previous calendar year. In addition, I swear, under penalty of perjury, that all requested identification registration information has been provided and is accurate. If the above-named reporting entity is filing on a consolidated basis, I certify that this filing incorporates all of the revenues for the consolidated entities for the entire year and that the filer adhered to and continues to meet the conditions set forth in Section II-B of the instructions.

606 Signature	_____
607 Printed name of officer	_____
608 Position with reporting entity	_____
609 Business telephone number of officer	_____
610 E-mail of officer	_____
611 Date	_____

612 Check those that apply: Original April 1 filing for year New filer, registration only Revised filing with updated registration Revised filing with updated revenue data

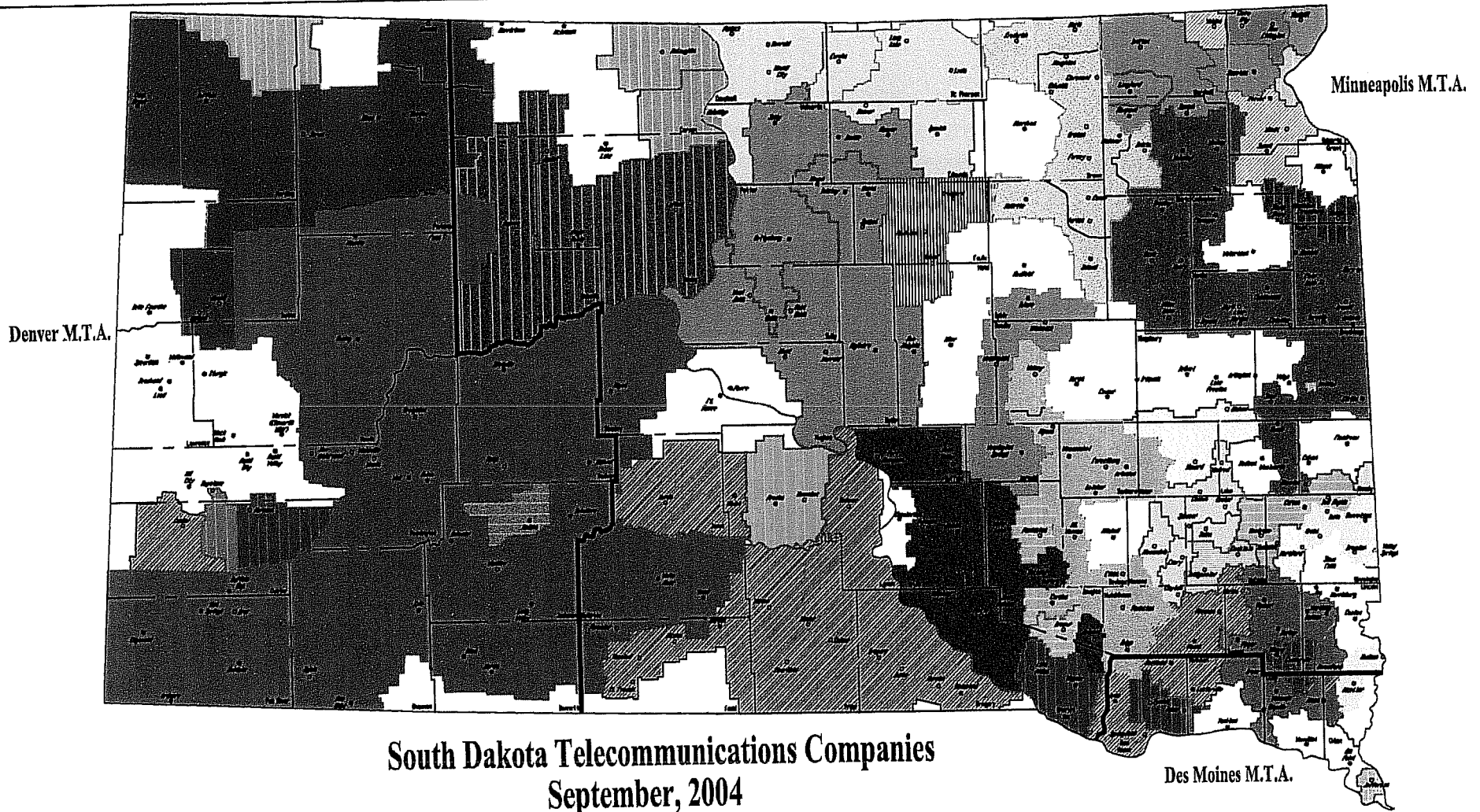
Do not mail checks with this form. Send this form to: **Form 499 Data Collection Agent c/o USAC 2000 L Street, N.W. Suite 200 Washington DC, 20036**
 For additional information regarding this worksheet contact: Telecommunications Reporting Worksheet information: (888) 641-8722 or via e-mail: Form499@universalservice.org

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. §1001

EXHIBIT LDT-3

SOUTH DAKOTA

MTA MAP



South Dakota Telecommunications Companies September, 2004

- | | | | | |
|--|--|---|--|--|
| <ul style="list-style-type: none"> ■ Alliance Communications Cooperative ■ Alliance Communications ■ Beresford Municipal Telephone Co. ■ Cheyenne River Sioux Tribe Telephone Authority ■ Consolidated Telephone Coop. ■ Faith Municipal Telephone Co. ■ Fort Randall Telephone Company | <ul style="list-style-type: none"> ■ Golden West Telecommunications Cooperative ■ Armour Independent Telephone Co. ■ Bridgewater-Cadiz Telephone Company ■ Kadoka Telephone Co. ■ Sioux Valley Telephone Co. ■ Union Telephone Co. ■ Vidian Telephone Company ■ GTE of Minnesota | <ul style="list-style-type: none"> ■ Interstate Telecommunications Cooperative ■ James Valley Cooperative Telephone Co. ■ Long Lines ■ Kennelbec Telephone Co. ■ Midstate Communications, Inc. ■ McCook Cooperative Telephone Company ■ Mount Rushmore Telephone | <ul style="list-style-type: none"> ■ Prairie Wave Communications ■ QWEST Communications ■ Roberts County Telephone Cooperative Assn. ■ RC Communications ■ Sanel Communications Cooperative ■ Stockholm-Strandburg Telephone Co. ■ Swiftel Communications | <ul style="list-style-type: none"> ■ Tri-County Telcom, Inc. ■ Valley Telephone Co. ■ Valley Telecommunications Coop., Inc. ■ Venture Communications Cooperative ■ West River Cooperative Telephone Company ■ West River Telecommunications Cooperative ■ Western Telephone Co. |
|--|--|---|--|--|

EXHIBIT LDT-4

VERIZON

PHANTOM TRAFFIC

PRESENTATION



Phantom Traffic
Pennsylvania Telephone Association
New York State Telecommunications Association

September 24, 2004

Craig Bellinghausen
Manager – Finance

Phantom Traffic
Agenda – Discussion Points



- ♦ **Today I will discuss:**
 - What is Phantom Traffic
 - Problematic call scenarios
 - Types of Fraud
 - How the Industry can work together

Phantom Traffic

What is Phantom Traffic?



-
- ♦ **Phantom Traffic is defined as calls being established into or transiting a carrier's network that lack sufficient information to determine the offering carrier or the jurisdictional nature (interstate vs. intrastate) of the traffic for billing purposes.**
 - Sources – Any Interconnect Carrier: Wireless, CLECs, IXC, ILECs, ISPs.
 - Verizon also subtends other's tandems
 - ♦ **National Exchange Carrier Association (NECA) indicates that, for a random sample of NECA central offices, between 10% and 30% of traffic that transited their switches lacked sufficient information to perform accurate billing. This figure does not include instances in which message parameters were modified, allowing the calls to be billed, but at improper rates.**

Phantom Traffic

What is Phantom Traffic? (cont.)



-
- ◆ **What is the missing/manipulated identifying information?**
 - Information needed is contained in the Initial Address Messages (IAMs) of the SS7 Signaling Message associated with the establishment of a call. All of this information (with the exception of the Called Party Number) can be selectively manipulated or deleted en route. These parameters include:
 - Calling Party Number (CPN)
 - Charged Number (CN)
 - Jurisdictional Information Parameter (JIP)

Phantom Traffic

What is Phantom Traffic? (cont.)



-
- ♦ **Verizon is not immune to Phantom Traffic.**
 - Verizon acknowledges that it is a growing concern, and is working to better understand the full extent of Phantom Traffic. Some recent Verizon Studies:
 - Measured Phantom Transit Traffic is in the 3% to 6% range.
 - Phantom Calls Terminating on Verizon's network is in the 12% to 15% range.
 - Bottom Line: Significant Issue at Verizon.

Phantom Traffic

What is Phantom Traffic? (cont.)



-
- ♦ **Interconnect Fraud organization recently formed in Verizon.**
 - Identifying and quantifying the magnitude of the issue.
 - Intentional Fraud is the main focus. Detecting and assessing the impact of anomalies associated with external events.
 - Inadvertent Fraud is associated with internal process/system issues, such as trunk recording, incorrect application of billing factors, network routing, inappropriate rates, etc.
 - Both result in revenue leakage and/or inflated expense levels.

Phantom Traffic

Problematic Call Scenarios



- ♦ **Intentional Fraud Example**
 - Originating carriers have “business incentives” that motivates deletion or manipulation of information
 - Rate application and/or rate differentials due to jurisdictional issues
 - Regulatory and Legal issues
 - Contractual issues
- **Inadvertent Fraud Example**
 - Call Detail changed by an Intermediate Carrier that uses it for billing purposes and other processes
 - Terminating Carrier is reliant upon intermediate switches to “faithfully” pass along the IAM information from the originating switch.

Phantom Traffic *Problematic Call Scenarios (cont.)*



-
- ♦ **Intentional or Inadvertent Fraud? Could be either one?**
 - Transit traffic that is unbillable
 - Calls where a carrier's tandem is used as an intermediate switch and the carrier has insufficient information to properly bill the originating or terminating carrier.
 - Underlying issue may be strictly technology based. Issue needs to be addressed on three fronts:
 - Technology
 - Standards
 - Regulatory
 - Inadvertent Fraud occurring in this area lends itself to be addressed at an Industry level.
 - Verizon strongly desires proper routing and billing of this traffic. Please contact us if you feel we can be of assistance.

Phantom Traffic *Intentional vs. Inadvertent Fraud*



- ♦ **How to curtail Phantom Traffic?**
 - Need to make a distinction between Intentional vs. Inadvertent Fraud
 - Intentional Fraud Detection is focused on detecting external activities targeted at damaging your company and is focused on the network.
 - Detecting Inadvertent Fraud is generally focused on your company's internal processes and events.
 - Action plans and ownership of the issues will greatly differ
 - There are three different types of Telecom Fraud – Interconnect, Carrier and Consumer. Focus of this discussion is on Interconnect Fraud (which can be Intentional or Inadvertent).

Phantom Traffic

Different Types of Telecom Fraud



There are 3 categories of telecom fraud. In the table below, examples have been outlined:

1. *Interconnect Fraud*: Fraud perpetrated between carriers
2. *Carrier Fraud*: Fraud perpetrated by carriers against consumers
3. *Consumer Fraud*: Fraud perpetrated by consumers against carriers

Interconnect Fraud	Carrier Fraud	Consumer Fraud
<ul style="list-style-type: none"> ♦ Invalid Billing Factors ♦ Illegally sourcing power, usually inadvertent (collocation) ♦ Prepaid calling card – routing and jurisdiction issues; is it an Information Service, not subject to Access? ♦ VoIP - disguising access as local ♦ Access over Local-only trunks ♦ Routing calls through Canada ♦ Routing 900 calls to carriers to increase settlement ♦ etc 	<ul style="list-style-type: none"> ♦ <i>Slamming</i> - LD carrier requests Local carriers to change a customer's LD carrier without the customer's request ♦ <i>Cramming</i> - LD carrier puts erroneous or complex charges on a Local carrier's bills to the customer (eg, LD service fees) ♦ <i>Jamming</i> - LD carrier applies a PIC freeze on a customer's LD provider to prevent the customer from being changed to another LD carrier ♦ etc 	<ul style="list-style-type: none"> ♦ Subscription and Roaming Fraud - Invalid sign-up without intention to pay ♦ Prepaid Card Fraud - Fraudulently recharging cards ♦ Voice Mail Fraud - Transferring calls when in a customer's voicemail ♦ Call Forwarding Fraud - Call a forwarded number and fraudulently change the destination number ♦ etc

Phantom Traffic 2004

Fraud Markers



-
- ◆ **Industry Accepted Phantom Traffic Markers**
 - CPN Stripping
 - CN Manipulated
 - ◆ **Other Potential Phantom Traffic Indicators**
 - Use of Pseudo CPNs
 - Sudden shifts in CPN Delivery percentages
 - Average Holding Time (AHT) trend shifts
 - Percentage of Unanswered Calls trending higher
 - Historical Revenue and Volume Data Trends
 - ◆ Trend analysis by Carrier, by state, by Interstate, Intrastate and Local MOUs
 - ◆ Compare market share and industry trend data against a Carriers' MOU trend data

Phantom Traffic 2004

Categories of Suspicious Activity



- ♦ **Data anomalies can be captured and classified into the following “buckets” based upon Business Rules:**
 - **Jurisdictional**
 - CPN stripping and CN manipulation
 - Identify arbitrage markers and Phantom Traffic usage patterns
 - Correlation of low CPN delivery and trends as an indication of potential Phantom Traffic
 - **Billing Factor Issues**
 - Factor misrepresentation (Carrier reported)
 - Factor inaccuracies
 - **Routing Issues**
 - Reporting of multiple hand-offs, transit routing through ITC and potential “Least Cost Routing” schemes
 - **LNP Dip Issues**
 - Carrier performing “dips” and routing inaccuracies

Phantom Traffic

Addressing Exchange Carrier Member Input



PTA - Carrier Interface Committee - Phantom Traffic Issue

- 1. Large volume of wireless CDRs with empty SS7 Jurisdictional Information Parameter (JIP) field coming through a connecting company's tandem. SS7 JIP field usually populated on direct interconnection trunks.
 - The JIP standard for Wireless carriers is still under development via OBF Issues 2308, 2349, and NIIF Issue 208. Even when these standards are final, there is no certainty as to when they will be put into practice from a Generic perspective.

- 2. Large volume of interstate traffic being routed on wireless trunk groups. We believe it to be IXC traffic being routed as local to avoid access.
 - Local Traffic from Wireless carriers may appear to have an Access (Intra/InterLATA) Jurisdiction due to CPN identification of traveling wireless callers. When these customers roam or travel out of their MSA, and access a local cell site for a local call, jurisdictions assigned based upon the handset number will not be correct.

Phantom Traffic

Addressing Exchange Carrier Member Input (cont.)



-
- 3. IXC traffic being routed as VoIP – decrease in EMI records and an increase in zero-CIC EMI records.
 - Difficult issue. From an originating perspective, VoIP local customers belong to another carrier, i.e. so there is no customer to bill. From a PSTN originating perspective, IXC VoIP transport/termination perspective, the Originating Access is BAU.
 - From a Terminating perspective, VoIP originated/transported traffic looks like wireline traffic to the PSTN terminating company, and terminating access or recip comp charges are applied BAU. Possible exceptions are improper routing (tandem to tandem) or improper use of ISDN PRI connections.

Phantom Traffic

Addressing Exchange Carrier Member Input (cont.)



-
- ♦ 4. Missing Calling Party Number (CPN) / ANI from AMA and/or SS7 record. We have been able to track down missing CPN if SS7 record is populated.
 - No From Number can be caused by: No Calling Party Number (CPN) being signaled by the terminating carrier.
 - Verizon contractually requires a 90% or higher CPN delivery rate in its Interconnect Agreements.
 - Verizon is also interested in pursuing the party responsible.

 - ♦ 5. Calling Party Number is populated with an 800 #.
 - Verizon has no control over the SS7 signaling of CPNs. Many call centers signal the 800 number of customer they are soliciting for instead of the actual call center number. This is just another example where CPN does not correctly identify jurisdiction or ownership.

Phantom Traffic

Addressing Exchange Carrier Member Input (cont.)



-
- ♦ 6. Receiving, via Verizon Access tapes, FG D records that contain zeros in the CIC. Some of these records contain valid “from NPA-NXXs” and some contain zeros in the “from NPA-NXX”.
 - Zero CICs can be caused by:
 - 1) Use of Pseudo CICs (NANPA reserves CICs 9000-9199 for local Intra-network use). OBF Issue 2139 prohibits the use of these CICs for EMI exchange, and instead provides for billing identification by use of the Originating OCN field as per OBF Issue 1921. Pseudo CICs are often assigned for Wireless carriers and some CLECs who do not have CICs assigned by NANPA.
 - 2) Traffic identified LEC terminated (instead of IXC terminated) is also to be identified by Originating OCN instead of CIC, although CIC may optionally be populated as per OBF Issue 2309.

Phantom Traffic

Addressing Exchange Carrier Member Input (cont.)



-
- ♦ 7. Nearly half of the “zero-CIC” traffic that makes it to our CABS system comes off the switch with a Structure Code 364. 364’s do not store a CIC and almost always terminate to a toll free number.
 - That is correct and another growing concern. SC364/CC142 are defined for LEC carried 800 service. The 110 CIC associated with these calls is not valid for billing, and is not recorded by the SCP. Billing ownership needs to be determined via the POTS translated number (which may also be pooled or ported). There also appear to be RESPORG issues concerning improper SMS800 administration and revenue responsibilities by 3rd party RESPORGs.

Phantom Traffic

How can the Industry work together?



-
- ♦ **Establish Industry Standards. Such as:**
 - Record Exchange – Establish a standard that record exchange under meet point billed arrangements is to be done between companies without charging one another for the records.
 - Review of originating number – Establish a standard that all carriers involved in transiting traffic will check the originating number to determine if the traffic has been delivered to the appropriate tandem. If traffic is not being delivered to the appropriate tandem, the transiting carrier will contact the originating carrier to inform them of the proper routing.

Phantom Traffic

How can the Industry work together? (cont.)



-
- ♦ **Establish Industry Standards. Such as:**
 - Establish a clearinghouse to share information concerning RESPORG activities. The concept would be that every participating company would provide information when they find suspicious RESPORG activity involving the use of 800 numbers.
 - Establish a PRI Standard. All companies offering PRI service would include a provision, either in their tariff or in their contracts with customers, that prohibits the use of PRI service for access bypass. Each company would establish internal controls to attempt to prevent use of PRI service to bypass access.
 - An interMTA Record Field. Create a field in SS7 record that indicates “yes/no” for interMTA CRMS traffic. Would most likely an OBF issue.

Phantom Traffic

How can the Industry work together? (cont.)



◆ **Lobbying and Regulation**

- In addition to company specific fraud investigations, this effort would include additional preventive measures from a regulatory and legislative perspective. Ideas include:
 - Potential to require 3rd party audits / verifications of networks and billing data
 - Legislation requiring that certain data legally must be passed on traffic (cannot be stripped out or omitted)
 - Impact legislation / regulation by using historical data about fraud related investigations to show how your company was negatively impacted (even in cases where no monies were recovered)
- ◆ **Goal: Regulation or Legislation that prevents companies from benefiting from unethical behavior.**

Phantom Traffic *Conclusions*



-
- ◆ **Phantom Traffic needs to be addressed at both a company and industry level.**
 - Each company must develop and manage Business Rules
 - Must seek out and reach a “common ground” at an Industry level, especially on Inadvertent Fraud issues.
 - ◆ **Understanding the types of Phantom Traffic is a key to addressing the issue.**
 - Intentional vs. Inadvertent
 - Action plans will differ


Phantom Traffic Conclusions (cont.)



-
- ♦ **Industry solutions and Regulatory standards are effective, and are being pursued and evaluated throughout Verizon. Three key areas that must be addressed:**
 - Technology (generally ahead of standards/regulatory, e.g. VoIP)
 - Evaluation of feasible technical alternatives. Cost/Benefit analysis.
 - Standards
 - Understanding the role of existing Industry Standard bodies
 - Regulatory
 - State and Federal Levels
 - ♦ **Many Phantom Traffic Issues are not state or region specific and tend to be national in scope. Addressing as such may facilitate near-term solutions.**

ATTACHMENT 2

FCC MEMORANDUM
OPINION AND ORDER
(CAVALIER ORDER)

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*18 FCC Rcd 25887, *; 2003 FCC LEXIS 6879, ***

In the Matter of Petition of Cavalier Telephone LLC Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc. and for Arbitration

WC Docket No. 02-359

FEDERAL COMMUNICATIONS COMMISSION

18 FCC Rcd 25887; 2003 FCC LEXIS 6879

RELEASE-NUMBER: DA 03-3947

December 12, 2003, Released; December 12, 2003, Adopted

ACTION: **[**1]** MEMORANDUM OPINION AND ORDER

JUDGES:

By the Chief, Wireline Competition Bureau

OPINIONBY: MAHER

OPINION:

[*25888] I. INTRODUCTION AND BACKGROUND

1. In this Order, we resolve open issues in dispute between Cavalier Telephone, LLC (Cavalier or Petitioner) and Verizon Virginia, Inc. (Verizon) (collectively the Parties) arising out of negotiations for interconnection and unbundled access under section 251(c) of the Telecommunications Act of 1996 (1996 Act). n1 On February 4, 2003, at Cavalier's request, we preempted the jurisdiction of the Virginia State Corporation Commission (Virginia Commission). n2 The Virginia Commission had declined to arbitrate the interconnection disputes raised by Cavalier. n3 Consequently, we decide these issues today pursuant to section 252(e)(5) of the Act and the Commission's rules implementing that section. n4

n1 See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). The Telecommunications Act of 1996 amended the Communications Act of 1934. See 47 U.S.C. §§ 151 et seq. We refer to the Communications Act as amended by the 1996 Act and other statutes, as the Communications Act, or the Act. Throughout this Order, we will use "Party" or "Parties" when referring specifically to either Cavalier or Verizon, or both, respectively. **[**2]**

n2 See Petition of Cavalier Telephone, LLC Pursuant to § 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding

a network rearrangement by Verizon, this section 4.1.1 shall be interpreted to require Verizon to continue to provide transport from the existing point of interconnection and Cavalier shall pay Verizon no more than the reciprocal compensation rate that it paid before the network rearrangement occurred. Cavalier shall have the right to designate additional points of interconnection in its sole discretion and subject to technical feasibility. In the event of a conflict between this section 4.1.1 and any other provision of this Agreement, this section 4.1.1 shall govern.

2. Issue C3 (Call Detail for Traffic Over Interconnection Trunks)

a. Introduction

32. The Parties disagree whether, and to what extent, a Party sending traffic over interconnection trunks must provide certain information **[**45]** regarding the origin of those calls, necessary for billing, or may be held responsible for calls that lack that information. Both Parties propose language designed to facilitate accurate billing, to the appropriate carrier, for telephone exchange service traffic and exchange access traffic. n109 Verizon's proposed language would require the originating Party to include identifying information, specifically the Calling Party Number (CPN), on calls transported to the receiving Party. n110 Cavalier proposes similar **[*25905]** language, but would expand the information that must be provided. n111 Both proposals would allow the receiving Party to bill the originating Party directly if that Party does not pass along sufficient billing information on 95 percent or more of calls transported to the receiving Party. n112 Verizon also proposes language obligating it to provide billing information only to the extent the carrier originating the call provides such billing information to Verizon and the provision of such billing information is consistent with industry guidelines. n113

n109 See Final Proposed Language at 1-4 (Cavalier Proposed §§ 1.12(b), 1.46, 1.48, 1.62 (a), 1.87, 5.6.1, 5.6.6, 5.6.6.1, 5.6.6.2, 6.3.9, 7.2.2, Verizon Proposed §§ 1.87, 5.6.1, 5.6.6, 5.6.6.1, 5.6.6.2, 6.3.9, 7.2.2). **[**46]**

n110 For purposes of Verizon's proposal, the "originating Party" is the Party delivering the traffic for termination. The "receiving Party" is the Party to which the originating Party delivers the traffic. See Final Proposed Language at 2-3 (Verizon Proposed §§ 5.6.6.1, 5.6.6.2). These terms apply with respect to interexchange traffic from an interexchange carrier and local traffic that originates with a third party (*i.e.*, transit traffic).

n111 This information includes the following codes, which help identify the carrier originating the call, the number placing the call, or the type of call: the CPN, the Carrier Identification Code (CIC), the Local Routing Number (LRN), the Operating Company Number (OCN), and/or the Jurisdiction Information Parameter (JIP). See Final Proposed Language at 1-2 (Cavalier Proposed §§ 1.12(b), 1.46, 1.48, 1.62(a), 5.6.6).

n112 See Final Proposed Language at 2-4 (Cavalier Proposed §§ 5.6.6.1, 5.6.6.2, Verizon Proposed §§ 5.6.6.1, 5.6.6.2). Cavalier explains that its proposal would permit Cavalier, to the extent Verizon does not provide adequate billing information on up to 5% of calls, to bill Verizon "at a prorated local/access ratio." Cavalier Brief at 8. Furthermore, Cavalier explains

that its proposal also would permit Cavalier, to the extent Verizon does not provide adequate billing information on more than 5% of calls, to bill Verizon at Switched Exchange Access rates for those calls. Cavalier Brief at 8. See Final Proposed Language at 3-4 (Cavalier Proposed § 5.6.6.2). **[**47]**

n113 See Final Proposed Language at 2-3 (Verizon Proposed §§ 5.6.6.1, 5.6.6.2).

b. Positions of the Parties

33. Cavalier maintains that as a transiting carrier, Verizon is obligated to pass correct billing information on to other carriers. n114 Cavalier contends, however, that information necessary to identify the proper carrier and calling number is missing on 17 percent of all minutes that Verizon transits to Cavalier's network. n115 According to Cavalier, this problem arises in part from Verizon's mixing of traffic on local exchange and exchange access trunk groups. n116 Cavalier contends that the problem arises when originating carriers deliver one type of traffic and Verizon sends it to Cavalier in a manner that makes it look like a different type of traffic. n117 Cavalier maintains that it currently has \$ 8 million in uncollectible access and local termination **[*25906]** revenue because of inaccurate billing information or because Verizon has done something to change the appearance of the traffic. n118

n114 In normal circumstances, the terminating carrier would use this information to render a bill for the call to the originating carrier if that carrier is not Verizon. See Cavalier Brief at 10; Verizon Brief at 5. **[**48]**

n115 Cavalier Reply Brief at 7; Cavalier Brief at 13; Cavalier Direct Testimony of Haraburda at 1-2. See Cavalier Direct Testimony of Cole at 4. For example, Cavalier maintains that in Richmond, on July 8, 2003, Verizon misrouted 23,763 minutes of Access Traffic on Local Trunks. Cavalier Direct Testimony of Cole at 5-6; see also Cavalier Direct Testimony of Haraburda at 3-4. This "misrouting will cause our trunks groups to be sized incorrectly over the long term." Cavalier Direct Testimony of Cole at 6. Cavalier contends that Verizon omits CIC or OCN on 17% of calls, or over 64 million minutes, from the August 1, 2003 Carrier Access Billing Records. Cavalier Rebuttal Testimony of Whitt at 1.

n116 Cavalier Brief at 10-11, 17; Cavalier Direct Testimony of Cole at 6; Cavalier Rebuttal Testimony of Whitt at 2; Cavalier Direct Testimony of Whitt at 6.

n117 Cavalier Brief at 9, 13; Cavalier Direct Testimony of Whitt at 2.

n118 Cavalier Brief at 16; Cavalier Direct Testimony of Whitt at 7.

34. An example of traffic that is unable to be properly identified is when an interexchange carrier sends a Cavalier-bound call to a Verizon end office, rather than to a Verizon **[**49]** tandem switch. n119 Verizon first determines that the called party is a Cavalier customer, not a Verizon customer. Consequently, and according to Cavalier, contrary to the express language of the current agreement, n120 Verizon then reoriginates the call and routes it to Cavalier's switch over Cavalier's local interconnection trunks, rather than the appropriate access traffic trunks. n121 The Parties indicate that in this circumstance, Cavalier is unable to

identify the originating carrier -- even though Verizon should know its identity based on the trunk group over which it received the call or the identifying information sent to Verizon by that carrier and even though Verizon would bill the carrier that passed the call to Verizon at access rates. n122 In such cases, Cavalier does not even know that the call originated from an interexchange carrier. n123 The call appears to be a local call originating from Verizon, which Cavalier would bill to Verizon at the local reciprocal compensation rates, rather than appropriately billing the originating interexchange carrier at the higher Switched Exchange Access Service rates. n124 In yet another example, the record shows that when an originating **[**50]** carrier populates the call record with zeros, Verizon re-populates the call record with the called party's number in order to permit the call to be transported to Cavalier. n125

n119 This situation may arise when an interexchange carrier fails to conduct a local or line number portability (LNP) dip to determine which local carrier serves a called party. Verizon Reply Brief at 10; Tr. at 80-82, 95-98. See Cavalier Brief at 8-9, 11.

n120 Cavalier Brief at 8; see also Aug. 1 Draft Agreement § 5 (specifying what type of traffic should be sent over interconnection trunks).

n121 See Verizon Reply Brief at 10 (conceding that Verizon sends an access call over Cavalier's local interconnection trunks); Cavalier Brief at 9, 10-13.

n122 See Tr. at 91-92, 96-97.

n123 Tr. at 95-97, 124. See Cavalier Brief at 8-10.

n124 See Cavalier Brief at 8-9, 11-13.

n125 Cavalier Brief at 9, 10-13; Verizon Brief at 10-11; Verizon Reply Brief at 9-10; Verizon Rebuttal Testimony of Smith at 6. Verizon explains that this practice arose as an accommodation to independent telephone companies that cannot process calls where the "From Number" field includes zeros. To enable the call to be completed, Verizon inserts the "To Number" in both fields in this circumstance. Verizon Brief at 10-11. **[**51]**

35. To resolve the problem, Cavalier proposes that Verizon must include any adequate combination of CPN, CIC, LRN, OCN, and/or JIP information on calls it passes to Cavalier. n126 Cavalier asserts that Verizon is in a better position than Cavalier to require **[*25907]** originating carriers to supply the necessary information. n127 According to Cavalier's proposal, if Verizon passes sufficient information to allow proper billing of traffic on less than 95 percent of all calls, Cavalier would be permitted to bill Verizon directly, for those insufficiently identified calls that exceed 5 percent, at the higher of the intrastate Switched Exchange Access Service rates or the interstate Switched Exchange Access Service rates. n128

n126 Cavalier Brief at 7-8; 17; Cavalier Direct Testimony of Cole at 7. See Cavalier Direct Testimony of Haraburda at 2. Cavalier's proposal states, in this respect, "To facilitate

accurate billing to the originating carrier, each Party shall pass sufficient information to allow proper billing, in the form of Calling Party Number ("CPN"), CIC, LRN, OCN, and/or JIP information on each call, including Transit Traffic, carried over the Interconnection Trunks." Final Proposed Language at 2 (Cavalier Proposed § 5.6.6). **[**52]**

n127 Cavalier Brief at 9; Cavalier Direct Testimony of Whitt at 10.

n128 See Final Proposed Language at 3-4 (Cavalier Proposed § 5.6.6.2); Cavalier Brief at 7-8. Cavalier's proposal also provides that if the receiving Party is not compensated for traffic the originating Party transits without adequate billing information, then the originating Party must cease routing such traffic upon 10 days notice from the receiving Party. See Final Proposed Language at 4 (Cavalier Proposed § 5.6.6.2).

36. Verizon claims that Cavalier's language is unnecessary, because Verizon already includes sufficient information for Cavalier to bill the originating carrier, in accordance with industry guidelines established for all receiving carriers. n129 Verizon contends that Cavalier's language would require Verizon to collect more information than industry standards require, would require Verizon to send codes to Cavalier that Verizon's billing systems do not currently support, n130 and would hold Verizon responsible for termination charges if it failed to pass this information to Cavalier. n131 Verizon claims that it cannot selectively weed out calls that lack sufficient billing information, **[**53]** and that it would not block such calls. n132 Verizon asserts that Cavalier's language would require it to serve as a billing intermediary for Cavalier, a role that Verizon is under no obligation to serve. n133 In fact, Verizon contends that it is not required to **[*25908]** provide transit service, and declares that if the Bureau adopts Cavalier's proposal, Verizon would cease transiting traffic to Cavalier altogether. n134

n129 Verizon Brief at 6; Verizon Rebuttal Testimony of Smith at 1.

n130 Verizon states that Cavalier's language requiring Verizon to send billing information over SS7 signaling streams, rather than billing tapes, would require Verizon to fashion a separate billing system for Cavalier. Verizon Brief at 7-9. Verizon claims that one reason many calls are delivered without the calling number is that some carriers use multi-frequency signaling instead of SS7 signaling, and multi-frequency signaling does not deliver the calling number. Verizon Rebuttal Testimony of Smith at 6. Verizon also maintains that Cavalier's language is ambiguous, specifically its language requiring Verizon to pass "CPN, CIC, LRN, OCN, and/or JIP information on each call." Verizon Rebuttal Testimony of Smith at 3. Verizon asserts that, even though Cavalier contends that this language requires merely "any adequate combination" of call information, the use of the words "and/or" in that sentence indicates that Cavalier wants CIC, LRN, OCN, and JIP information on each call record. Verizon asserts, however, that including the words "any adequate combination" in Cavalier's language would be confusing and vague. *Id.*; see also Final Proposed Language at 2-4 (Cavalier Proposed §§ 5.5.6, 5.6.6.1, 5.6.6.2). **[**54]**

n131 Verizon Brief at 5. We note that Verizon's proposed language also enables Cavalier to bill Verizon for these unidentified calls based on certain identified factors. See Final Proposed Language at 2-3 (Verizon Proposed §§ 5.6.6.1, 5.6.6.2).

n132 Verizon Rebuttal Testimony of Smith at 7.

n133 Verizon Brief at 7-8; Verizon Answer/Response at 6 (citing Virginia Arbitration Order, 17 FCC Rcd at 27102, para. 119).

n134 Verizon Brief at 6; Verizon Rebuttal Testimony of Smith at 1.

37. Verizon asserts that it sends to Cavalier all billing information that originating carriers include on their calls, and that it does not misroute calls. n135 Verizon explains that not all carriers have a CIC and that some carriers do not include the CPN or OCN on their calls, and Verizon has no control over this situation. n136 If this information is missing on a call, Verizon claims that it would be unable to supply that information on the call record it generates for Cavalier. Verizon suggests that Cavalier could solve its billing problems by interconnecting directly with originating carriers, which would diminish Cavalier's need for Verizon's transit **[**55]** service. n137 Verizon also contends that the issues Cavalier raises should be resolved on an industry-wide basis in the Ordering and Billing Forum (OBF). n138 Verizon asserts that its proposed language would require it to send information to Cavalier consistent with industry standards, and that this makes sense because billing is an industry-wide concern. n139 Verizon also contends that its proposal would ensure that Cavalier would receive the same information Verizon uses to bill for its own terminating services. n140

n135 Verizon Brief at 6; Verizon Rebuttal Testimony of Smith at 1. Verizon contends that at least some of the calls Cavalier complains about are likely traffic from wireless carriers, which may appear as access traffic but which is properly routed over local trunks. Verizon Brief at 10; Verizon Rebuttal Testimony of Smith at 2.

n136 Verizon Brief at 6. For example, Verizon explains that interexchange carriers are the only carriers that have CICs, so those local exchange carriers that are not interexchange carriers will not have CICs. Verizon Rebuttal Testimony of Smith at 4. In addition, originating carriers often fail to provide the CPN. Verizon Rebuttal Testimony of Smith at 5-6. Verizon claims that the OBF acknowledges that CIC cannot be passed on each call, and there are guidelines to govern which information should be passed when the CIC is not available. Verizon Rebuttal Testimony of Smith at 4. **[**56]**

n137 Verizon Brief at 9; Verizon Rebuttal Testimony of Smith at 7. Cavalier maintains that it cannot negotiate directly with the originating carrier in instances where minutes are not associated with a carrier. Cavalier Rebuttal Testimony of Whitt at 3.

n138 Verizon Brief at 8, 10. See Verizon Answer/Response at 6 (citing Virginia Arbitration Order, 17 FCC Rcd at 27344-45, para. 628).

n139 Verizon Brief at 6.

n140 Verizon Brief at 6.

c. Discussion

38. We adopt portions of both Parties' language. n141 We find it reasonable, based on the call scenarios addressed above, to require Verizon, at a minimum, to pass to Cavalier the **[*25909]** information Verizon receives from the originating carrier, to enable Cavalier to render an accurate bill to the call's originating carrier. We note that, as with the *Virginia Arbitration Order*, the Commission has not yet had occasion to determine whether incumbent LECs have a duty to provide transit service under the Act or whether incumbent LECs must serve as billing intermediaries for other carriers, nor do we find clear Commission precedent or rules declaring such duties. n142 In the absence of such **[**57]** a precedent or rule, we decline, on delegated authority, to determine for the first time that Verizon has such duties under the Act. Where a Party undertakes to voluntarily provide transit service, however, and proposes to incorporate the terms of such service into a provision of an interconnection agreement which is subject to arbitration by the Bureau, we have determined whether such provisions are reasonable. n143

n141 We adopt Verizon's proposed §§ 5.6.1 and 6.3.9. We adopt Cavalier's proposed §§ 1.12 (b), 1.48, and 1.62(a). Because we are adopting reciprocal obligations in the context of Issue C4, we also adopt Cavalier's proposed §§ 1.87 and 7.2.2, to reflect the reciprocal nature of transit service for purposes of this Agreement. See *infra* Issue C4. We adopt Verizon's proposed § 5.6.6.1 with modifications to reflect our conclusion that Verizon shall pass CPN, CIC, LRN, and OCN information to Cavalier and to reflect our understanding that Cavalier would bill Verizon, as the originating Party, under the circumstances outlined in Verizon's proposal. We adopt portions of both Parties' language with respect to § 5.6.6.2, to make that section consistent with § 5.6.6.1. We also adopt portions of both Parties' language with respect to § 5.6.6, to reflect our conclusion that Verizon shall pass CPN, CIC, LRN, and OCN information to Cavalier, to reflect our understanding that the Parties have resolved their dispute with respect to V/FX traffic, and to reflect our understanding that because transit traffic is included among the traffic dealt with in § 5 of the Agreement generally, it need not be separately identified in § 5.6.6. See Aug. 1 Draft Agreement § 5.1 (prescribing parameters for trunk groups used for interconnection as including Reciprocal Compensation Traffic, Measured Internet Traffic, Transit Traffic, translated LEC IntraLATA 8YY Traffic, InterLATA Toll Traffic and IntraLATA Toll Traffic between the Parties' respective Telephone Exchange Service Customers). **[**58]**

n142 See *Virginia Arbitration Order*, 17 FCC Rcd at 27101-02, paras. 117, 119.

n143 See e.g., *Virginia Arbitration Order*, 17 FCC Rcd at 27100, para. 115 ("Given the absence of Commission rules specifically governing transit service rates, we decline to find that Verizon's additional charges are *unreasonable*. We also find that Verizon's proposed 60-day transition period is *reasonable*, providing AT&T adequate time to arrange to remove its transit traffic from Verizon's tandem switch once the traffic meets the DS1 threshold. We determine, however, that Verizon's language allowing it to terminate tandem transit service after this transition period at its "sole discretion" is not *reasonable*." (italics added).

39. We find that in some circumstances, such as where a Cavalier-bound interexchange call is delivered to Verizon's end office, and Verizon reoriginates it to Cavalier's switch, Verizon passes calls to Cavalier in a manner that makes it difficult for Cavalier to identify the originating carrier or calling party and, therefore, to bill the appropriate originating carrier for the call, at the proper rate. **[**59]** n144 In so doing, we find that Verizon improperly impedes Cavalier's right to share terminating access revenues for that call, as required by

the provisions of Section 6 of the Agreement. n145 There are other ramifications as well. For example, **[*25910]** misidentification of the originating carrier or the calling party can skew Cavalier's traffic factor ratios, which can impact other charges Cavalier pays to Verizon. n146 In addition, as explained more fully in Issue C5, this also affects Cavalier's ability to contact the true originating carrier in question, to work out direct connections based on an understanding of traffic flows between Cavalier and such carrier. n147

n144 See *supra* para. 34.

n145 See Aug. 1 Draft Agreement § 6. See Telephone Number Portability, Fourth Memorandum Opinion and Order on Reconsideration, 16 Comm. Reg. 757, rel. July 16, 1999, paras. 74, 80 (Telephone Number Portability Fourth Memorandum Opinion and Order on Reconsideration) citing Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352, 8424 (1996) (stating that the forwarding carrier must provide "the necessary information to permit the terminating carrier to issue a bill"). Similarly, we find that where an originating carrier populates the call record with zeros, which Verizon inappropriately re-populates with the called party's number -- an essentially fictitious OCN -- Cavalier is unable to identify the calling party and, in some cases, even the jurisdictional nature of the call, and consequently is unable properly to bill for that call. See *supra* para 34. **[**60]**

n146 See, e.g., Aug. 1 Draft Agreement § 5.6.7.

n147 See *infra* Issue C5. In this regard, we reject Verizon's argument that Cavalier could easily resolve this issue by contacting offending originating carriers and forming a direct interconnection arrangement with those carriers.

40. Because Verizon does have control over how it passes calls to Cavalier, we conclude that Verizon must pass to Cavalier information necessary to identify the originating carrier or calling party in order to render accurate bills, to the extent that Verizon has that information in some ascertainable form. n148 Verizon shall pass traffic to Cavalier in a way that does not eliminate critical information from calls and does not add information that misidentifies the calling party or the jurisdictional nature of the call. The language we adopt is intended to address the issue of how Verizon miscategorizes traffic sent to Cavalier, specifically the circumstances under which Verizon routes access traffic over local interconnection trunks. Similarly, the language we adopt is intended to preclude Verizon from populating call record fields with incorrect data and then failing to provide Cavalier information **[**61]** Verizon has regarding the calls' origination. n149 We agree that billing issues such as these are of great interest to the industry as a whole, and acknowledge that the OBF may ultimately be an appropriate body to resolve them in a manner that sets specific new industry standards and guidelines. We find, however, that for purposes of this Agreement, Verizon should not impede Cavalier's ability to bill the appropriate carrier at the appropriate rates for calls Cavalier terminates by failing to provide identifying information it has. We agree that Verizon is unable to pass to Cavalier information that Verizon does not receive and we do not expect Verizon to attempt to obtain information it does not have. Rather, the language we adopt is designed to address instances where Verizon performs actions that have the effect of disguising the nature of certain calls, affecting Cavalier's ability to bill the appropriate carrier at the appropriate rate for those calls. n150

n148 While we decline to require Verizon to pass to Cavalier call information that Verizon does not possess, we note that, to the extent Verizon transports traffic from another carrier, Verizon is likely able to identify that carrier as a result of its physical interconnection with such carrier or call identification information it receives, and thus must provide this information to Cavalier where available. See Tr. at 126. **[**62]**

n149 See *supra* para. 34. In this regard, we disagree with Verizon's assertion that its proposed language would require it to provide Cavalier with "the same information Verizon uses to bill for its own terminating services." Verizon Brief at 6. We note that Verizon has admitted that it has the ability to bill and collect revenue for every call it has a role in completing. Tr. at 126.

n150 In this respect, we disagree with Verizon that its proposed language would ensure Cavalier has all the information Verizon has regarding the identity of the called party or originating carrier. See Verizon Brief at 6. By its own admission, Verizon demonstrates that this is not the case. Tr. at 94-97.

41. We disagree that the language we adopt would require Verizon to serve as a "billing intermediary" between Cavalier and originating carriers, in violation of the Bureau's **[*25911]** finding in the *Virginia Arbitration Order*. n151 Indeed, although there is no requirement that Verizon involve itself in the payment of access charges or reciprocal compensation on traffic it does not originate, the language Verizon itself proposes in 5.6.6.1 and 5.6.6.2 places it in that position.

n151 The language we adopt addresses the manner in which Verizon delivers traffic to Cavalier when Verizon provides transiting services on behalf of other carriers and Cavalier is the receiving/terminating carrier. Verizon's role in this regard is distinct from a billing services provider or billing intermediary. We disagree with Verizon's characterization of the Bureau's *Virginia Arbitration Order*, with regard to Verizon's obligation to provide transit services. See Verizon Brief at 7. There, the Bureau found that Verizon would not be permitted to abruptly terminate transit service "with no transition period or consideration of whether WorldCom has an available alternative," because that would "undermine WorldCom's ability to interconnect indirectly with other carriers in a manner that is inconsistent with" a fundamental purpose of the Act, which is to "promote the interconnection of all telecommunications networks by ensuring that incumbent LECs are not the only carriers that are able to interconnect efficiently with other carriers." *Virginia Arbitration Order*, 17 FCC Rcd at 27101-02, para. 118 (citing *Collocation Remand Order*, 16 FCC Rcd 15435, 15478, para. 84 (2001) (internal quotations omitted)). **[**63]**

42. The language we adopt would not require Verizon to "juggle varying degrees" of call detail for different carriers. n152 We do not require Verizon to modify its billing systems or to provide billing tapes that differ from those currently provided. Rather, we require Verizon to provide, in addition to those billing tapes, whatever information it has about the originating carrier or calling party number to Cavalier for those calls where such information is not readily apparent on the billing tapes sent to Cavalier and Cavalier requests such information. Verizon's reliance on our finding in the *Virginia Arbitration Order* that the Bureau did not require Verizon to provide additional billing information beyond that already agreed to in the contract is misplaced. There, AT&T had not explained why it required additional billing information. In contrast, Cavalier has more than justified in this proceeding why additional information is both required and warranted. We find that establishing a 5 percent threshold

for calls without adequate billing information, above which Cavalier can bill Verizon for such calls at a higher access rate, n153 will discourage Verizon from passing exchange **[**64]** traffic over local interconnection **[*25912]** trunks and discourage Verizon from populating fields of call records with inaccurate and inappropriate data. n154 Because we acknowledge that Verizon need not alter its billing systems to pass on information it has available in some form, we omit reference to the JIP, which Cavalier had proposed to include and which we find Verizon's billing systems do not support. Similarly, we do not adopt Cavalier's proposed sections 6.3.9, which would require Verizon to provide SS7 signaling streams instead of the currently-provided billing tapes. n155

n152 See Verizon Brief at 7-8.

n153 We find that a 5% threshold is a reasonable margin of error for missing call data. We read both Parties' proposals for § 5.6.6.1 to require Verizon (which, in the case of Verizon's proposed language, would be the "originating Party" on all traffic it delivers, including transit traffic, while Cavalier would be the "receiving Party") to pay Cavalier for those calls, up to 5% of all calls passed, for which Verizon fails to provide adequate information to bill the appropriate carriers, at a prorated local/access ratio established by the calls that have adequate billing information. In addition, we understand Cavalier's proposal regarding § 5.6.6.2 to require Verizon to pay Cavalier for those calls, exceeding 5% of all calls passed, for which Verizon fails to provide adequate information to allow proper billing, at the higher of the intrastate or interstate Switched Exchange Access Service rate. Cavalier Brief at 8. This understanding of Cavalier's intent for § 5.6.6.2 is consistent with Verizon's proposed § 5.6.6.2, and we therefore adopt language for §§ 5.6.6.1 and 5.6.6.2 to reflect these assumptions, which we conclude are reasonable. Specifically, we adopt language for § 5.6.6.1 that would permit Cavalier to charge Verizon (as the originating Party), for up to 5% of calls that Verizon passes without adequate information. In addition, to the extent Cavalier's proposed § 5.6.6.2 would require Verizon to pay Cavalier the Switched Exchange Access Service rate for all calls with inadequate billing information if the number of such calls exceeds 5%, instead we adopt language for § 5.6.6.2 that would require Verizon to pay Cavalier, in cases where the amount of calls lacking adequate billing information exceeds 5%, the appropriate Switched Exchange Access Service rate only for those calls that exceed 5%, and the prorated local/access ratio for those calls up to 5%, consistent with treatment given these calls in § 5.6.6.1. **[**65]**

n154 We disagree that it is appropriate to copy the "To Number" to the "From Number" field in order to route the call to Cavalier. Doing so precludes Cavalier from knowing which carrier originated the call, information Verizon necessarily has to bill that carrier for such call. See Verizon Brief at 11. We also disagree that the OBF requires this result. As indicated in Cavalier Hearing Exhibit C-6, the OBF has resolved that the OCN field should be populated with the OCN of the company that originated the call, but that the tandem company may not be able to correctly populate this field if the originating company has ported out numbers. However, we do not read this document as authorizing the tandem company to populate this field with a number of its own choosing. See Cavalier Brief at 14-15.

n155 See Tr. at 127; *Telephone Number Portability Fourth Memorandum Opinion and Order on Reconsideration*, 16 Comm. Reg. 757, para. 80 (citing *Telephone Number Portability, First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, 8424 (1996)). We note that Cavalier has provided no specific justification for requiring SS7 signaling streams, although the record reflects that carriers that do not use SS7 signaling

streams do not pass calling party information. **[**66]**

d. Arbitrator's Adopted Contract Language

43. With respect to Issue C3, and in accordance with the foregoing discussion, the Arbitrator adopts the following language:

1.12(b) -- "Carrier Identification Code" or "CIC" is a numeric code assigned by the North American Numbering Plan (NANP) Administrator for the provisioning of selected switched services. The numeric code is unique to each entity and issued to route the call to the trunk group designated by the entity to which the code is assigned.

1.48 -- "Local Routing Number" or "LRN" is a 10-digit number in the Service Control Point (SCP) database maintained by the Numbering Portability Administration Center (NPAC), used to identify a switch with ported numbers.

1.62(a) -- "Operating Company Number" or "OCN" is a four-place alphanumeric code that uniquely identifies providers of local telecommunications service and is required of all service providers in their submission of utilization and forecast data.

1.87 -- "Tandem Transit Traffic" or "Transit Traffic" means Telephone Exchange Service traffic that originates on either Party's network or the network of another carrier (competitive local exchange carrier, independent **[**67]** telephone company, commercial mobile radio service (CMRS) carrier, or other local exchange carrier) and is transported through either Party's switch that performs a tandem function to **[*25913]** either Party or another carrier that subtends the relevant switch (performing a tandem function), to which such traffic is delivered substantially unchanged. "Transit Traffic" and "Tandem Transit Traffic" do not include or apply to traffic that is subject to an effective Meet-Point Billing Arrangement.

5.6.1 -- Terms and Conditions for Meet Point Billing are addressed in Section 6 only.

5.6.6 -- To facilitate accurate billing to the originating carrier, each Party shall pass sufficient information to allow proper billing, in the form of Calling Party Number ("CPN"), CIC, LRN, and/or OCN information on each call, carried over the Interconnection Trunks. Except as set forth in Sections 4.2.7.15(c) and 5.7.6.9 of this Agreement with respect to the determination of V/FX Traffic (as such traffic is defined in Section 4.2.7.15(c)) and billing of applicable charges in connection with such V/FX traffic, the Parties agree to use appropriate information in the form of CPN, CIC, LRN, and/or OCN information, as **[**68]** set forth below.

5.6.6.1 -- If the originating Party passes sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN information, on ninety-five percent (95%) or more of the calls that it sends to the receiving Party, the receiving Party shall bill the originating carrier the Reciprocal Compensation Traffic termination rates, Measured Internet Traffic rates, intrastate Switched Exchange Access Service rates, intrastate/interstate Transit Traffic rates, or interstate Switched Exchange Access Service rates applicable to each relevant minute of traffic (including Exhibit A and applicable Tariffs), for which sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN information, is passed. For the remaining (up to five percent (5%) of) calls without sufficient information to allow proper billing of

traffic, in the form of CPN, CIC, LRN, and/or OCN information, the receiving Party shall bill the originating Party for such traffic at Reciprocal Compensation Traffic termination rates, Measured Internet Traffic rates, intrastate Switched Exchange Access Service rates, intrastate/interstate Transit Traffic **[**69]** rates, or interstate Switched Exchange Access Service rates applicable to each relevant minute of traffic (including Exhibit A and applicable Tariffs), in direct proportion to the minutes of use of calls passed with sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN information.

5.6.6.2 -- If the originating Party passes sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN, on less than ninety-five percent (95%) of its calls, the receiving Party shall bill the originating Party the higher of its intrastate Switched Exchange Access Service rates or its interstate Switched Exchange Access Service rates for that traffic passed without sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN information, which exceeds five percent (5%), unless the Parties mutually agree that other rates should apply to such traffic. For any remaining (up **[*25914]** to five percent (5%) of) calls, without sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN information, the receiving Party shall bill the originating Party for such **[**70]** traffic at Reciprocal Compensation Traffic termination rates, Measured Internet Traffic rates, intrastate Switched Exchange Access Service rates, intrastate/interstate Transit Traffic rates, or interstate Switched Exchange Access Service rates applicable to each relevant minute of traffic (including Exhibit A and applicable Tariffs), in direct proportion to the minutes of use of calls passed with sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN information. Notwithstanding any other provision of this Agreement, if the receiving Party is not compensated for traffic passed without sufficient information to allow proper billing of traffic, in the form of CPN, CIC, LRN, and/or OCN information, then the originating Party must cease routing such traffic from its switch(es) to the receiving Party upon ten (10) days' written notice to the other Party. If the receiving Party is not compensated for such traffic, and the originating Party does not cease routing such traffic upon ten (10) day's written notice from the receiving Party, then the receiving Party may cease receiving or terminating such traffic immediately, without further notice **[**71]** or any liability whatsoever to the originating Party.

6.3.9 -- Cavalier shall provide Verizon with the Originating Switched Access Detail Usage Data (EMI category 1101XX records), recorded at the Cavalier end office switch, on magnetic tape or via such other media as the Parties may agree, no later than ten (10) business days after the date the usage occurred.

7.2.2 -- Transit Traffic may be routed over the Interconnection Trunks described in Sections 4 and 5. Each Party shall deliver each Transit Traffic call to the other Party with CCS and the appropriate Transactional Capabilities Application Part ("TCAP") message to facilitate full interoperability of those CLASS Features supported by the receiving Party and billing functions. In all cases, each Party shall follow the Exchange Message Interface ("EMI") standard and exchange records between the Parties. For such Transit Traffic, each Party shall also deliver other necessary information consistent with industry guidelines; such information shall be sufficient to allow proper billing of such Transit Traffic, including but not limited to CPN, CIC, LRN, and/or OCN information.

3. Issue C4 (Third-Party Charges)