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Federal Communications Commission

47 CFR Part 54

Universal Service Contribution Methodology; a National Broadband Plan for Our Future; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 06–122; GN Docket No. 09–51; FCC 12–46]

Universal Service Contribution Methodology; a National Broadband Plan for Our Future

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks public comment on approaches to reform and modernize how Universal Service Fund (USF or Fund) contributions are assessed and recovered. The Commission seeks comment on ways to reform the USF contribution system in an effort to promote efficiency, fairness, and sustainability. The Commission seeks comment on proposals in four key areas regarding the contributions system: Who should contribute to the Fund; how contributions should be assessed; how the administration of the contribution system can be improved; and recovery of universal service contributions from consumers.

DATES: Comments are due on or before July 9, 2012 and reply comments are due on or before August 6, 2012. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 06–122; GN Docket No. 09–51, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Vickie Robinson, Wireline Competition Bureau, (202) 418–2732 or Ernesto Beckford, Wireline Competition Bureau, (202) 418–1523 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Further Notice of Proposed Rulemaking (NPRM) in WC Docket No. 06–122, and GN Docket No. 09–51, FCC 12–46, adopted April 27, 2012, and released April 30, 2012. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via the Internet at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS); (2) the Federal Government's eRulemaking Portal; or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs* or the Federal eRulemaking Portal: *http://www.regulations.gov.* Filers should follow the instructions provided on the Web site for submitting comments.
  - For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet email. To get filing instructions, filers should send an email to *ecfs@fcc.gov,* and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.
  - *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
  - U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street SW., Washington, DC 20554.

In addition, one copy of each pleading must be sent to the Commission's duplicating contractor, Best Copy and Printing, Inc, 445 12th Street SW., Room CY–B402, Washington, DC 20554; Web site: *www.bcpiweb.com;* phone: 1–800–378–3160. Furthermore, three copies of each pleading must be sent to Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street SW., Room 5–A452, Washington, DC 20554; email: *Charles.Tyler@fcc.gov.*

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. Copies may also be purchased from the Commission's duplicating contractor, BCPI, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Customers may contact BCPI through its Web site: *www.bcpiweb.com,* by email at *fcc@bcpiweb.com,* by telephone at (202) 488–5300 or (800) 378–3160 (voice), (202) 488–5562 (tty), or by facsimile at (202) 488–5563.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov;* phone: (202) 418–0530 or TTY: (202) 418–0432.

For further information regarding this proceeding, contact Vickie Robinson, Deputy Chief, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-2732, *vickie.robinson@fcc.gov*, or Ernesto Beckford, Attorney Advisor, Wireline Competition Bureau at (202) 418–1523, *ernesto.beckford@fcc.gov.*

I. Summary

A. Who should contribute to Universal Service

1. Statutory Authority To Require Contributions

1. Under section 254(d) of the Act, the Commission has mandatory authority to require contributions to the Fund, ''[E]very telecommunications carrier that provides interstate telecommunications services.'' In addition, the Commission has ''permissive'' authority that extends to ''any * * * provider of interstate telecommunications * * * if the public interest so requires.'' Over time, the Commission has periodically exercised its permissive authority to extend contribution obligations to particular classes of providers on a service-specific basis. We seek comment on the scope of our permissive authority, including how we should interpret the statutory terms that define that authority.

a. ''Provider of Interstate Telecommunications''

2. We seek comment on how we should interpret the terms ''providing'' and ''telecommunications'' and whether it is appropriate to revisit any previous Commission interpretations based on the evolution of the industry and significant marketplace changes over the last decade.

3. In exercising our permissive authority, we must determine whether an entity is a ''provider'' of interstate telecommunications as specified in section 254(d). Although Congress has not defined the terms ''provide,'' ''provider,'' or ''provision,'' the Commission has addressed these terms in several orders. First, the Commission has concluded that ''provide'' is a different term from ''offer.'' The Commission has drawn a distinction between what is ''offered'' from a demand perspective (*i.e.,* what the customer perceives to be the integrated product), and what is ''provided'' from a supply perspective *i.e.,* what the provider is furnishing or supplying to the end user, including not only the integrated product but also the discrete components of the product). Second, the Commission has previously held that ''provide'' is broader than ''offer.'' Under this view, an entity may both ''provide'' and ''offer'' telecommunications, but an entity may also provide telecommunications without offering telecommunications. Many participants in today's marketplace do not separately offer telecommunications to end users, but instead offer integrated services that include both telecommunications (*i.e.,* transmission) and non-telecommunications components. For such integrated services, however, the service provider still ''provides'' telecommunications as part of the ''offering.'' The D.C. Circuit has upheld the Commission's interpretation. In light of the marketplace changes over the last decade, should the Commission revisit its interpretation of what it means to ''provide'' or to be a ''provider of'' telecommunications?

4. *Telecommunications.* The Act defines the term ''telecommunications'' as ''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.'' Here and in Section IV.C below, we seek comment on how we should interpret each component of this definition for purposes of potentially exercising our permissive authority.

b. ''If the Public Interest So Requires''

5. We seek comment on what factors we should consider in deciding whether the public interest warrants exercising our permissive authority. We seek comment generally on whether the public interest would be served, and to what extent exercising our permissive authority would achieve any or all of the goals set forth above—efficiency, fairness, and sustainability. For example, is it in the public interest to exercise permissive authority over a provider of telecommunications if the telecommunications is part of a service that competes with or is used by consumers or businesses in lieu of telecommunications services that are subject to assessment? In the past, the Commission has stated that the principle of competitive neutrality dictates that it should assess contributions from entities that are not mandatory contributors, but benefit from access to the PSTN. Is that consideration relevant in today's marketplace? Should we assess providers of services that are capturing a growing portion of overall communications spending as a means of achieving sustainability? Should we consider whether those services are being used in ways that may replace, partially or wholly, services that are subject to mandatory assessment? Does the public interest analysis differ depending on whether we are considering consumer services or business/enterprise services? What other factors should we take into account?

2. Determining Contribution Obligations on a Case-by-Case Basis With Respect to Providers of Specific Services

6. We seek comment on whether and if so, to what extent, the Commission should exercise its permissive authority contained in section 254(d) of the Act to clarify or modify contribution requirements for providers of several specific services, or if we should otherwise modify or clarify the contribution obligations of such services. As discussed above, the Commission has exercised its permissive authority on several occasions to expand or clarify contribution obligations on a service-specific basis. In the *Universal Service First Report and Order,* 62 FR 32862, June 17, 1997, it required private line service providers and payphone aggregators to contribute to the Fund, reasoning that the services offered by these entities rely on access to the PSTN and compete with services offered by mandatory contributors to the Fund *(i.e.,* common carriers). In 2006, the Commission assessed interconnected VoIP services without reaching the statutory classification of such services. The Commission concluded that deciding the statutory classification was unnecessary, because even if interconnected VoIP services did not fall under the mandatory contribution provision of section 254(d), it was appropriate to assess such services as an exercise of permissive authority. The Commission determined that an immediate extension of contribution obligations to interconnected VoIP service was warranted due to the growth in demand for the Fund, the decline in the contribution base overall, and the ''robust growth in subscribership'' to interconnected VoIP services, from 150,000 subscribers in 2003 to 4.2 million subscribers in 2005.

7. We seek comment on continuing this general approach of addressing the contribution obligations of specific services on a service-by-service basis. First, we seek comment on exercising permissive authority with respect to certain services for which contribution

obligations are currently subject to dispute. To the extent commenters believe that any such services should be non-assessable, we also seek comment on alternative approaches to clarifying contributions, including forbearing from any applicable contribution obligations to the extent these services are telecommunications services, and we seek comment on the effect of such approaches on the contribution base and the sustainability of the Fund. Second, we seek comment on exercising permissive authority with respect to other services that are clearly not currently assessable, but which various commenters have proposed should be assessed.

8. In particular, we seek comment on exercising our permissive authority to require contributions from providers of enterprise communications services that include interstate telecommunications; text messaging; one-way VoIP; and broadband Internet access services. Each of these services has found a significant niche in today's communications marketplace. The question of whether certain enterprise communications services are currently assessable as telecommunications services or non-assessable as information services has led to significant disputes, uncertainty, and incentives for providers to attempt to characterize their services in a particular way in order to avoid contribution requirements, resulting in a pending request for guidance from USAC regarding the treatment of certain services. Likewise, the question of whether text messaging is currently assessable has been disputed, and there is a pending request for guidance from USAC regarding text messaging. In contrast, one-way VoIP services and broadband Internet access services are clearly not in the contribution base today, although various parties have argued they should be assessed. We seek comment on these arguments.

9. We seek comment on addressing the contribution obligations of such services, regardless of their statutory classification as information services or telecommunications services, in order to provide clarity for contributors and greater stability for the Fund. We also seek comment on whether exercising our permissive authority would ensure that competitive services are not unfairly disadvantaged by disparate contribution obligations, while further simplifying the requirements imposed on contributors.

10. We seek comment on adopting the following rule, in whole or in part: *Providers of the following are subject to contributions: * * * Enterprise communications services that include a provision of telecommunications; Text messaging service; One-way VoIP service; and Broadband Internet access services.*

11. *Enterprise Communications Services Providers.* We seek comment on clarifying the contribution obligations of various enterprise communications services that include the provision of telecommunications, without classifying those services as telecommunication services or information services, to advance our proposed goals for contributions reform, namely, creating greater efficiency, fairness, and sustainability of the Fund.

12. We note that, as stated above, the Act defines telecommunications as ''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.'' The Commission has found that transmission is the heart of telecommunications, and has classified data transmission services that have ''traditionally'' and ''typically'' been used for basic transmission purposes, such as ''stand-alone ATM service, frame relay, gigabit Ethernet service, and other high-capacity special access services,'' as telecommunications services.

13. We have not formally addressed enterprise communications services such as Dedicated IP, VPNs, WANs, and other network services that are implemented with various protocols such as Frame Relay/ATM, MPLS and PBB for purposes of determining USF contribution obligations. To the extent that such enterprise communications services would not fall within the definition of telecommunications services, should we exercise our permissive authority with respect to providers of those services? Are such enterprise communications services substitutes for other enterprise communications services that are subject to mandatory contributions, and would such an exercise of permissive authority increase clarity and fairness? If we were to exercise our permissive authority over enterprise communications services that may be information services, should we enumerate the specific services that would be subject to a contribution obligation, or should we attempt to craft a more general definition that would capture future generations of such services that deliver similar functionality, regardless of technology used, in order to promote the sustainability of the Fund? What would be the appropriate transition period for such changes?

14. If we choose to exercise our permissive authority in this fashion, how would that affect the size of the contribution base? To what extent would assessing enterprise communications services bring additional contributors into the system that do not otherwise contribute today directly or indirectly? How would an assessment of additional enterprise communications services affect the distribution of contribution obligations among various industry segments? How would such assessment affect the relative distribution of contribution obligations between services provided to enterprise and residential customers? How would such assessment affect the average contributions of different categories of residential end users, such as low-volume versus high-volume users, or vulnerable populations such as low-income consumers?

15. To the extent we conclude that Dedicated IP, VPNs, WANs, or other communications services for which contribution obligations have been in dispute should not be subject to contribution obligations, should we exercise our forbearance authority under section 10 of the Act to exempt these services from mandatory contribution insofar as they may be viewed as telecommunications services? How would that impact the current contribution base, and the relative distribution of contribution obligations between enterprise and residential consumers? Do these services differ from other explicitly assessed enterprise communications services in a way that makes their exemption from contribution appropriate, and would the section 10 criteria otherwise be met?

16. We note that the Commission has expressly declined to exercise permissive authority over systems integrators for whom telecommunications represents a small fraction (less than five percent) of total revenues derived from systems integration services. To the extent that we explicitly exercise our permissive authority to assess enterprise communications services, should we also eliminate the system integrators exemption, so that systems integrators would contribute even if their telecommunications revenues were under the current threshold? In the alternative, if we determine that we should clarify that certain enterprise communications services are not subject to contributions, should we modify the systems integrators exemption, and if so how? How would our decision to clarify the contribution obligations for any category of these services affect current contributions?

17. We seek comment on the size of the enterprise communications services marketplace, including comment on the Telecommunications Industry Association estimates, and whether this marketplace is likely to grow or shrink in the future. If commenters believe the estimates are too high or too low, they should provide specific data to more accurately size this segment of the communications marketplace. We also seek comment and data submissions on how assessing these services would affect the contribution base under the different methodologies proposed in the Notice. We seek comment and data on the extent to which service providers are currently treating these services as assessable. We seek comment on how revenues from such services should be apportioned into assessable and non-assessable segments if the Commission continues with a revenues-based methodology. We encourage commenters to provide comments and data regarding the structure of typical enterprise communications services contracts. In particular, we seek comment on whether such contracts typically break out costs for different parts of the services provided and, if so, how they generally do so.

18. *Text Messaging Providers.* We seek comment on whether text messaging services should be assessed in light of our proposed goals for contribution reform. To what extent is there a lack of clarity within the industry over whether such services are subject to universal service contributions? Would adopting a clear rule establishing that text messaging is in the contribution base further the Commission's efforts to promote fairness and competitive neutrality? If providers of text messaging services were required to contribute, would that create competitive distortions between text messaging service providers and providers that offer applications that allow users to send messages using a wireless customer's general data plan—applications that consumers may increasingly view as a substitute to text messaging? Given the rapid growth in the text messaging marketplace, a number of stakeholders have suggested in recent years that text messaging revenues should be added to the contribution base to enhance the sustainability of the Fund. To what extent would including these services in the contribution base add to the stability of the Fund? If we modified our rules to explicitly assess text messaging, what would be an appropriate transition period?

19. If we conclude text messaging services should be assessed, should we exercise the Commission's permissive authority under section 254(d) of the Act to assess providers of these services, without determining whether such services are telecommunications services or information services? Alternatively, if we conclude that text messaging services should not be assessed, should the Commission conclude that even if such services are telecommunications services, we should exercise our forbearance authority under section 10 of the Act to exempt text messaging from contribution obligations?

20. We seek comment on the extent to which consumers are substituting text messaging for traditional voice services and other services that are subject to universal service contributions. Are there any reasons to treat short message service (SMS) or multimedia messaging service (MMS) differently for this analysis? Commenters should provide data to support their assertions.

21. We also seek comment on whether wireless providers include revenues generated through the use of common short codes in their text messaging revenues. If common short code revenues are not reported as part of the text messaging revenues, are there any reasons to treat such revenues differently in calculating the universal service contributions?

22. We seek comment on the size of the text messaging marketplace, including the industry revenue figures referenced above, and whether this marketplace is likely to grow or shrink in the future. Commenters who disagree with the estimates above should submit specific revenue data to support their assertions.

23. To the extent commenters advocate a position on whether text messaging providers should be assessed, we view it as highly relevant whether those commenters earn text message revenues themselves and, if so, whether they have reported it as assessable in recent years. We thus ask commenters to include in their comments their estimated recent text messaging revenues, and the extent to which they reported those revenues as assessable. If we explicitly assess text messaging providers, how would that affect the size of the contribution base? How would such assessment affect the distribution of contribution obligations between services for enterprise and residential customers? How would it affect the total average impact of contributions on residential end users? How would it affect the distribution of obligations between low-volume and high-volume users? How would an assessment of text messaging providers affect the distribution of contribution obligations among various industry segments?

24. We also seek comment and data submissions on how assessing these providers of these services would affect the contribution base under the different methodologies proposed in Section V below. We note that to the extent that providers of text messaging also are providers of assessable voice services, explicitly assessing text messaging would not necessarily broaden the base; to the extent we were to adopt a non-revenues-based contribution methodology. We also seek comment and data on the extent to which service providers are currently treating these services as assessable.

25. *One-way VoIP Service Providers.* We seek comment on whether the Commission should exercise its permissive authority under section 254(d) to include in the contribution base providers of ''one-way'' VoIP with respect to such service offerings, regardless of the statutory classification of such services. Such offerings would include all services that provide users with the capability to originate calls to the PSTN *or* terminate calls from the PSTN, but in all other respects meet the definition of ''interconnected VoIP.'' We seek comment below on a potential definition of such services for the purpose of USF contributions: *One-way VoIP service. A service that (1) enables real-time, two-way voice communications; (2) requires a broadband connection from the user's location; (3) requires Internet protocol-compatible customer premises equipment; and (4) permits users generally to receive calls that originate on the public switched telephone network or terminate calls to the public switched telephone network.*

26. To what extent does this rationale apply today to one-way VoIP services? We note that one-way VoIP enables consumers to originate or terminate calls on the PSTN. Would the public interest be served by exercising permissive authority over one-way VoIP to further our proposed goals of efficiency, fairness and sustainability?

27. In particular, we seek comment on whether competitive neutrality concerns now support the inclusion of one-way VoIP services within the contribution base. Some parties argue that the one-way VoIP exemption is ''an enormous loophole'' that creates competitive disparities. We seek comment on the extent of competition between one-way VoIP and other services that are subject to assessment, and how that should affect our analysis. Commenters are encouraged to provide data to support

their analysis. If one-way VoIP providers are brought into the contribution base, what would be the appropriate transition period?

28. We seek comment on the size of the one-way VoIP marketplace in the United States, and whether this marketplace is likely to grow or shrink in the future. How many providers of one-way VoIP are there, and who are other major providers of such services? What are the overall U.S. revenues for this group of providers, and how many customers do they have? Commenters are encouraged to provide specific data to support their assertions. We also seek comment and data submissions on how assessing these services would affect the contribution base under the different methodologies proposed in section V below.

29. If we assess one-way VoIP, how would that affect the size of the contribution base? How would such assessment affect the distribution of contribution obligations between services for enterprise and residential customers? How would it affect the total average impact of contributions on residential end users? How would it affect the distribution of obligations between low-volume and high-volume users, and how would it impact low-income consumers? How would an assessment of one-way VoIP affect the distribution of contribution obligations among various industry segments? We seek comment on the relevance of precedent to the question of whether one-way providers should contribute to universal service.

30. Broadband Internet Access Service Providers. The State Members of the Federal-State Universal Service Joint Board (State Members of the Joint Board) have proposed that the Commission include ''broadband and services closely associated with the delivery of broadband'' in the base, including Digital Subscriber Line (DSL), cable, and wireless broadband Internet access. Other commenters also support extending assessments to broadband Internet access.

31. In 2002, the Commission sought comment on whether and how broadband Internet access service providers should contribute to universal service. In the *Wireline Broadband Internet Service Access Order,* 70 FR 60222, October 17, 2005, the Commission classified wireline broadband Internet access as an information service. The Commission also recognized, however, that wireline broadband Internet access service includes a provision of telecommunications. In the *Wireline Broadband Internet Access Order,* the Commission stated that it intended to address contribution obligations for providers of broadband Internet access in a comprehensive fashion in the future, either in that docket or in this docket.

32. Some commenters have suggested that the Commission should exercise its permissive authority to assess providers of broadband Internet access services. Several parties, however, have expressed concern that assessing broadband Internet access could discourage broadband adoption. We seek comment on those concerns and invite commenters to submit empirical data into the record of this proceeding regarding the potential impact of assessing broadband Internet access services on consumer adoption or usage of services. Would assessing broadband Internet access service in the near term undermine the goals of universal service? Could the Commission address such concerns by phasing in contributions for mass market broadband Internet access services over time?

33. In the *USF/ICC Transformation Order,* 76 FR 76623, December 8, 2011, we adopted new rules to ensure that robust and affordable voice and broadband, both fixed and mobile, are available to Americans throughout the nation. In this proceeding, we are looking to update and modernize the method by which funds are collected to support universal service. Some have expressed concern that assessing broadband Internet access may indirectly raise the price of broadband Internet access for some consumers. To what extent, if any, would assessing broadband services discourage consumers from subscribing? To what extent, if any, would that in turn slow down deployment of broadband infrastructure? We seek comments and economic analyses that address the overall effect on broadband deployment of assessing or not assessing broadband.

34. The State Members of the Joint Board recommend that both telecommunications services and information services (such as broadband Internet access services) should be assessed and suggest that if most of the revenues currently reported on FCC Form 499 Line 418 were assessed, that would reduce the contribution factor to approximately two percent. They also suggest this would simplify billing ''since the new federal USF surcharge rate would generally apply to an end user's total bill.'' We seek comment on this recommendation of the State Members of the Joint Board. Would such an approach make telecommunications more affordable for consumers with lower overall telecommunications expenditures? What is the relationship between household income and the percentage of a household's telecommunications bill subject to assessment under the current system, and what would it be under the State Members' proposed approach? Would such an approach affect consumer adoption of telecommunications services that are not currently assessed? We ask commenters to provide any analysis and data regarding their estimated reduction in the contribution factor, if we were to require contributions based on the total bill. If we were to assess broadband Internet access, to what extent would that reduce the contribution factor if we maintain a revenue-based methodology?

35. If the Commission does assess broadband Internet access service, now or at some point in the future, should the Commission assess all forms of broadband Internet access, including wired (including over cable, telephone, and power-line networks), satellite, and fixed and mobile wireless? Should it assess mass market broadband Internet access as well as enterprise broadband Internet access? As a practical matter, how would the Commission differentiate between mass market broadband Internet access, and other forms of broadband Internet access, and would such a distinction create any distortions in the marketplace?

36. We note that TIA estimates the wired broadband Internet access marketplace to be $38.3 billion in 2011 and $40.3 billion in 2012, and the marketplace for wireless data services to be $73.6 billion in 2011 and $89.8 billion in 2012. TIA also projects wireless data services to be over $140 billion, or double that for wireless voice, by 2015. It is not clear; however, from how TIA presents the data whether its estimates include both enterprise as well as mass market broadband Internet access. To what extent are any of these revenues in the contribution base today? What proportion of those revenues should be considered mass market broadband Internet access, if we were to retain a revenues-based system but adopt an approach that would exempt mass market broadband Internet access services from contribution obligations? Under such an approach, how should we define ''mass market''?

37. We also seek comment on whether exercising our permissive authority with respect to broadband Internet access services would be consistent with the Act and our potential goals for contributions reform, namely, creating greater efficiency, fairness, sustainability, and other goals that

commenters identify. If we assess broadband Internet access services, how would that affect the size of the contribution base? How would such assessment affect the distribution of contribution obligations between enterprise and mass market customers if we assess only enterprise broadband Internet access services, only mass market broadband Internet access services, or all broadband Internet access services? How would these different approaches to assessing broadband Internet access services affect the total average contribution impact for mass market end users? How would they affect the distribution of contribution obligations between services offered to low-volume and high-volume users, or between low-income and higher-income users? How would an assessment of broadband Internet access services affect the distribution of contributions among various industry segments? Would assessing retail broadband Internet access service eliminate the current competitive disparity that exists today between providers that contribute on their broadband transmission (small rate of return companies) and their competitors, who do not?

38. *Listing of Services Subject to Universal Service Contribution Assessment.* Section 54.706 of our rules sets forth a non-exhaustive list of services that are currently included in the contribution base. Should we continue to specify in our codified regulations specific services that are subject to assessment? Should that list be updated to reflect marketplace changes over the last decade? Does it advance our potential goals for reform of providing predictability and simplifying compliance and administration to maintain a non-exhaustive list of services that are subject to contributions, which by definition does not provide clarity as to whether services not on the list are subject to contribution obligations? Could we adopt a simpler approach that is flexible enough to be applied to services that exist today and ones that will emerge in the future, without a need to continually update our codified rules? Should the Commission periodically set forth a list of assessable services, similar to the eligible services list used for the schools and libraries universal service support mechanism?

3. Determining Contribution Obligations Through a Broader Definitional Approach

39. In the previous section, we inquired about using our section 254(d) permissive authority or other tools to modify or clarify the contribution obligations of providers of specific services. In this section, we seek comment on an alternative approach: exercising our permissive authority to craft a general rule that would specify which ''providers of interstate telecommunications'' must contribute, without enumerating the specific services subject to assessment. Like the approach discussed above, such a rule would not require us to resolve the statutory classification of specific services as information services or telecommunications services in order to conclude that contributions should be assessed. Such a rule could potentially produce a more sustainable contribution system by avoiding the need to continually update a list of specific services subject to assessment. At the same time, such an approach leaves open the possibility of carving out or excluding a specifically defined list of providers or services, if inclusion of those providers or services is not in the public interest.

40. For example, we seek comment on exercising our permissive authority to adopt a rule such as the following: *Any interstate information service or interstate telecommunications is assessable if the provider also provides the transmission (wired or wireless), directly or indirectly through an affiliate, to end users.*

41. This rule is intended to encompass only entities that provide transmission to their users, whether using their own facilities or by utilizing transmission service purchased from other entities. As discussed above, the provision of ''telecommunications'' means, in part, the provision of transmission capability. Under the approach historically taken by the Commission, some, but not all, providers of information services ''provide'' telecommunications. By statutory definition, an information service provider offers the ''capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications.'' In the past, the Commission has found that the telecommunications component may be provided by the information services provider *or* the customer. In other words, some information service providers ''provide'' the telecommunications required to utilize the information service, but others require their customers to ''bring their own telecommunications'' (in other words, to ''bring their own transmission capability''). The rule set forth above is intended to include entities that provide transmission capability to their users, whether through their own facilities or through incorporation of services purchased from others, but not to include entities that require their users to ''bring their own'' transmission capability in order to use a service. This is consistent with Commission precedent where the Commission has exercised its permissive authority to extend USF contribution requirements to providers of telecommunications that are competing directly with common carriers. We seek comment on whether the rule would achieve this intended result. To the extent the rule above would not achieve this intended result; we seek comment on how the rule could be altered to achieve this result.

42. We seek comment on whether a rule such as the one above would further our proposed goals of contributions reform by improving efficiency, fairness, and the sustainability of the Fund. Would adopting such a rule provide sufficient guidance to potential contributors regarding their contribution obligation? Would such a rule be simple to administer, monitor, and enforce? Would it create market distortions or impede innovation?

43. The National Broadband Plan recommended that however the Commission chooses to reform contribution methodology, it should take steps to minimize opportunities for arbitrage as new products and services are developed, so that there is no need to continuously update regulations to catch up with changes in the market. Would a rule like the one discussed above achieve these goals, minimizing opportunities for arbitrage and eliminating the need to continuously update regulations? Or, alternatively, would it result in new definitional disputes and potential uncertainty?

44. Could the above rule be read to make content fees assessable when content is provided by the provider of the interstate telecommunications? For example, could an IP-based video-on-demand service be assessable? We note that cable services are regulated under Title VI of the Act, and that video service providers are currently only required to contribute to the extent they provide interstate telecommunications services or other assessable telecommunications. We also note that many video-on-demand services are being provided through Internet web sites, and thus are services that require the viewer to bring their own ''telecommunications'' (*i.e.,* Internet access). Could the above definition lead to the assessment of any other services that compete largely or primarily against services that remain non-assessable? If

so, would this lead to competitive distortions? How could the definition be altered to avoid this result?

45. As noted above, the Commission has determined that ''over-the-top'' interconnected VoIP providers provide transmission to or from the PSTN to end users, and has subjected these services to contribution obligations. Even where a user obtains Internet access from an independent third party to use an interconnected VoIP service, an over-the-top interconnected VoIP provider must still supply termination to the PSTN for outgoing calls (which is not covered by the Internet access service), and origination from the PSTN for incoming calls (which again is not covered by the Internet access service). Over-the-top VoIP providers generally purchase this access to the PSTN from a telecommunications carrier who accepts outgoing traffic from and delivers incoming traffic to the interconnected VoIP provider's media gateway. The Commission held that origination or termination of a communication via the PSTN is ''telecommunications,'' and over-the-top interconnected VoIP providers, like other resellers, are providing telecommunications when they provide their users with the ability to originate or terminate a communication via the PSTN, regardless of whether they do so via their own facilities or obtain transmission from third parties. Are there legal or policy considerations that would warrant revisiting those rationales, if we were to exercise our permissive authority as set forth above? Are there reasons to extend or not extend the rationale above to other services that provide origination or termination of a communication via the PSTN? Would interconnected VoIP providers fall under the definition of an assessable service set forth in this section? If the objective is to include only entities that provide a physical connection (wired or wireless), should we consider entities that provide PSTN origination or termination to be included within that group? If not, should we alter the proposed definition, or should we add some additional provisions specifically including additional services, like interconnected VoIP or other services that are substitutable for assessable services, for assessment?

46. The State Members of the Joint Board have proposed an alternative broad definition, recommending that the Commission exercise its permissive authority to broaden the contributions base to include ''all services that touch the public communications network.'' The State Members conclude, however, that contributions should not be required for ''pure content delivered by non-telecommunications over broadband facilities.'' They acknowledge that their proposed rule could result in difficult line drawing problems when the same company sells both broadband services and content. We seek comment on the State Members' proposal.

47. *Potential Exclusions.* If we were to adopt a rule such as the one above, we seek comment on whether we should adopt any additional limitations.

48. *Non-Facilities-Based Providers:* The rule discussed above would assess providers of interstate telecommunications whether or not they own the physical facility, or hold license to the spectrum, that is used to provide interstate telecommunications. In the alternative, should we limit contribution obligations to facilities-based providers, and if so, how should we define ''facilities-based''? For example, would a provider be considered ''facilities-based'' for contributions purposes if it provides service only partially over its own facilities? Should we define ''facilities-based'' services for contributions purposes as those provided over unbundled network elements, special access lines, and other leased lines and wireless channels that the provider obtains from another communications services provider? For example, EarthLink has suggested that non-facilities-based providers of Internet access service do not provide the ''transmission service.'' We seek comment on this viewpoint. The Commission's contribution methodology has never exempted non-facilities-based telecommunications providers from their obligation to contribute, and the Act does not itself distinguish between facilities-based and non-facilities-based telecommunications providers for purposes of contribution obligations. We note that the Commission has previously found resellers to be telecommunications carriers supplying telecommunications services to their customers even though they do not own or operate the transmission facilities. Carriers that incorporate transmission obtained from other providers into their own telecommunications services are currently subject to contribution requirements under the mandatory contribution requirement in section 254(d). Likewise, firms contribute today when they resell private line service provided by other carriers. Are there policy or administrative reasons not to exercise permissive authority over entities that incorporate telecommunications purchased from others into their own service offerings?

49. *Broadband Internet Access:* If we were to adopt a rule such as the one above, should we exclude broadband Internet access service? Several parties have expressed concern that assessing broadband Internet access could discourage broadband adoption. As described above, we seek comment on those concerns and invite commenters to submit empirical data into the record of this proceeding regarding the impact of assessing broadband Internet access services on consumer or business adoption or usage of services. To what extent would assessment of universal service contribution obligations potentially deter adoption of such services? Is there less likelihood that assessment of USF contributions would deter adoption of business broadband Internet access services?

50. To the extent commenters believe that assessing mass market broadband Internet access service in particular could discourage broadband adoption or harm other Commission goals, we seek comment on a specific exemption for mass market broadband Internet access services (both fixed and mobile). If we were to take such an approach, how should we define enterprise versus mass market services, and from an administrative standpoint, how would carriers and USAC be able to distinguish between the two? To what extent would such an exemption potentially distort how business and residential broadband Internet access is provided, as carriers may seek to characterize their offerings as ''mass market'' to avoid contribution obligations?

51. *Free or Advertising-Supported Services:* If we were to adopt a rule such as the one above, should we do so only with respect to providers that offer service for a subscription fee? Given the broad meaning of ''fee'' in other contexts, how would we frame an exclusion for free or advertising-supported services? Would such an exclusion potentially cause marketplace distortions vis-à-vis firms that have business models that derive revenues from other sources, such as advertising revenues? Would imposing contribution obligations on free or advertising-supported services from contribution obligations discourage innovative offerings? Commenters should provide specific examples and supporting data regarding the business models of relevant services.

52. *Machine-to-Machine Connections:* If we were to adopt a rule such as the one above, should we exclude machine-to-machine services? Machine-to-machine connections have grown

rapidly in recent years. Would it be consistent with our statutory authority to exercise permissive authority over machine-to-machine communications, such as smart meter/smart grids, remote health monitoring, or remote home security systems? Should machine-to-machine connections be treated the same as connections between or among people? As discussed above, the Act defines the term ''telecommunications'' as ''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.'' In the case of machine-to-machine communications, who is the ''user'' that is specifying where the information should go? Is there any precedent outside the contribution methodology context that should inform our interpretation of the statutory term here? Should we conclude that all machine-to-machine connections that transmit information over the Internet include interstate telecommunications? How would assessing machine-to-machine communications impact marketplace innovation in this arena?

53. *Statutory Interpretation.* Above, we asked whether a general rule like that described in this section would provide sufficient guidance to potential contributors regarding their contribution obligation. The rule described in this section would not require us to resolve the statutory classification of specific services as information services or telecommunications services in order to conclude that contributions should be assessed. The Commission would, however, still be required to determine whether services involved the provision of interstate ''telecommunications.'' We seek comment on additional issues that may arise in interpreting the definition of ''telecommunications'' for contributions purposes as the communications marketplace evolves. We also ask how resolution of these questions in the context of USF contributions would impact other regulatory obligations, such as regulatory fees or other assessments that utilize the Telecommunications Reporting Worksheets.

54. First, we seek comment on how to interpret the statutory requirement that a telecommunications transmission must be ''between or among points specified by the user.'' In particular, we seek comment on whether we should interpret ''the user'' to be a subscriber to the service in question. For example, suppose that Bookseller A sells an electronic reading device to Ms. Smith. The price of the device includes a 3G wireless connection that allows Ms. Smith to connect to Bookseller A's servers at any time and purchase e-books. Bookseller A, in turn, purchases the wireless bandwidth for the connection from Carrier B. In this instance, should we consider Ms. Smith to be the ''user'' of the service provided by Bookseller A? Alternatively, is Bookseller A the ''user'' of the service provided by Carrier B? Under the former view, would Bookseller A be viewed as ''providing telecommunications'' to Ms. Smith, and therefore a contributor on that service? Or should Carrier B be viewed as the entity that is providing telecommunications to Bookseller A, and therefore the contributor? What would be the potential effects in other regulatory contexts if the Commission were to interpret the term ''user'' in a new way here?

55. We seek comment on what it means for the user to ''specify'' the ''points'' of transmission. Many communications services today allow the user to specify the points of transmission—for example, telephone and text messaging services generally allow a user to reach any other user on the PSTN, and broadband Internet access services generally allow users to access any location on the Internet. Certain services, however, arguably do not allow the ''user'' to specify the endpoints of the communication. To return to the e-books example above, suppose that the free wireless connectivity on the reading device can *only* be used to communicate between the device and Bookseller A's server, and not to reach any other destination on the PSTN or the Internet. In that case, is Ms. Smith, Bookseller A's customer, ''specifying'' the ''points'' of the transmission, or is Bookseller A?

56. We also seek comment on how to interpret the statutory requirement in the definition of ''telecommunications'' that the information transmitted must also be ''of the user's choosing.'' How should we interpret this phrase? For example, suppose a doctor provides a remote monitoring device to a patient that can send information back to the doctor's office. The monitoring device is pre-programmed to transmit only certain types of relevant medical data. Assuming that the other statutory components of ''telecommunications'' are present, is this an instance where the patient should be deemed the ''user'' that is transmitting information ''of his or her choosing,'' or would the fact that only information specified by the doctor or manufacturer that provides the device to the patient is transmitted mean that this communication does not meet the statutory definition of ''telecommunications''?

57. We also seek comment on whether, under a rule such as the one described in this section, the Commission would have to interpret the statutory requirement that the transmission must be ''without change in the form or content of the information as sent and received.'' Although information services often include a component that ''processes'' information in some way, the Commission has in the past recognized that an information service can also include a separate ''telecommunications'' component. Furthermore, the Commission has previously found that while all information services require the transmission of information between customers and ''computers or other processors,'' the form or content of the information is not altered during these transmissions, and such transmissions constitute ''telecommunications.'' Would we be required to revisit any aspect of these interpretations in light of changing technology and marketplace developments?

58. *Impact on the Contribution Base.* We seek comment on the number of additional contributors and impact on the contribution base if we were to adopt the general definitional approach discussed in this section, and whether those figures are likely to grow or shrink in the future. How would the answer to this question differ if we were to assess based on revenues, connections, numbers or some other alternative? For each contribution methodology scenario, what services and providers would contribute under such a rule that do not contribute today? To what extent are they contributing today? What other services, not already discussed above, might be included if we were to adopt the general definitional approach discussed in this section? How would the answer to these questions differ under the definitional approach discussed in this section, as opposed to the service-by-service approach discussed in the preceding section?

59. Finally, to the extent not already covered by the questions above, we request clear and specific comments on the Commission's legal authority and the type and magnitude of likely benefits and costs of each of these variants of the suggested rule, and request that parties claiming significant costs or benefits provide supporting analysis and facts, including an explanation of how they were calculated and an identification of all underlying assumptions.

B. How Contributions Should Be Assessed

60. We seek comment on how to simplify our contributions system, consistent with the Act and our proposed goals for reform. Over the last decade, the Commission has sought comment on a number of proposals for alternative methodologies to the current revenues-based system, including methodologies based on connections, numbers, and various hybrid solutions. The record is mixed on whether we should make modifications to our existing revenues-based system, or move to an alternative system such as connections or numbers. Here, we seek comment on reforming the current revenues-based system as well as ask parties to update the record on these alternative methodologies. We seek comment on how each option would further our proposed goals and ask about potential implementation issues that are associated with specific methodologies. We ask commenters to provide data to quantify how potential rule changes would impact the Fund and reduce compliance costs and burdens.

61. We request specific comments on the type and magnitude of likely benefits and costs of each of the possible rules discussed in this section, and request that parties claiming significant costs or benefits provide supporting analysis and facts, including an explanation of how any data were calculated and an identification of all underlying assumptions.

1. Reforming the Current Revenues-Based System

62. We seek comment on whether we should retain the existing revenues-based system, and if so, how we can reform the current system to provide greater clarity to contributors, thereby promoting efficiency, fairness, and sustainability. Specifically, we seek comment on the pros and cons of retaining a revenues-based system. We ask parties claiming significant costs or benefits of a revenues-based system to provide supporting analysis and facts for such assertions, including an explanation of how they were calculated and all underlying assumptions.

63. What are the benefits or disadvantages of retaining a revenues-based system for a transitional or indefinite period? Are there market distortions caused by the existing revenues-based system? We solicit comment on whether the modifications discussed below would sufficiently address problems with the current revenues system. If we adopt any of the potential reforms discussed in this section to modify the revenues system, would such a system better serve our proposed reform goals than a connections-based, numbers-based, or other alternative contribution system? Would any of the potential reforms suggested in this section also make sense for a connections-based, numbers-based, or other alternative contribution system?

64. To the extent that we retain the current system, we seek comment on rules to simplify how revenues are apportioned for assessment, including the allocation of telecommunications service revenues between the intrastate and interstate jurisdictions, and the reporting of assessable revenues when a customer purchases a bundle of services only some of which are assessable. We also seek comment on how to assess revenues from information services and services that have not been classified as information or telecommunications services. Such adjustments could address some shortcomings in the current system that stakeholders have raised and could reduce administrative burdens on providers and USAC. We also seek comment on alternative approaches to provide greater clarity regarding the respective obligations of wholesalers and their customers, which has been subject to much dispute. We seek comment on adopting a value-added revenues system that would require contributions from each provider in the value chain, or, in the alternative, substantially revising the reseller certification process. Adopting a value-added revenues system or revising the certification process could eliminate the complications and loopholes associated with the current carrier's carrier reporting requirements. In addition, we seek comment on measures to clarify our prepaid calling card reporting requirements to ensure that competitors are contributing in a consistent manner. Finally, we seek comment on eliminating the international-only and the limited international revenues exemptions and on modifying the *de minimis* exemption to reduce compliance burdens.

a. Apportioning Revenues From Bundled Services

65. We seek comment on modifying our bundled offering apportionment rules to adopt more specific standards for determining what apportionment methods are deemed reasonable for allocating revenues from bundled offerings, or to eliminate carrier discretion in determining how to apportion revenues from bundled offerings. We ask whether doing so will further our proposed goals of making the contributions system more efficient and fair, minimizing compliance burdens, and reducing competitive distortions in the marketplace.

66. We are concerned that the lack of bright-line rules may encourage providers to minimize their allocation of revenues in a bundle to assessable services to reduce their contribution obligations in order to gain a competitive edge. A number of commenters have suggested, for instance, that this is a concern in the enterprise market, where there is fierce competition to win contracts from large corporate clients. We seek data from commenters regarding what are common industry practices regarding the allocation of revenues from bundled offerings. To what extent do contributors rely on market studies of stand-alone services offered by other providers? To what extent do contributors allocate revenues based on the allocated cost of the underlying individual services? To what extent do contributors allocate revenues based on revenue reporting requirements imposed by other regulatory jurisdictions, such as cable franchising authorities or state sales tax authorities?

67. We seek comment on adopting a revised apportionment rule that would codify a modified version of the two safe harbors provided under the *CPE Bundling Order,* 66 FR 19398, April 16, 2001, for apportioning revenues from bundled service offerings and eliminate providers' discretion on how to apportion revenues derived from bundled services. Specifically, we seek comment on the following rule for USF contributions purposes: *If an entity bundles non-assessable services or products (such as customer-premises equipment) with one or more assessable services, it must either treat all revenues for that bundled offering as assessable telecommunications revenues or allocate revenues associated with the bundle consistent with the price it charges for stand-alone offerings of equivalent services or products (with any discounts from bundling assumed to be discounts in non-assessable revenues).*

68. We seek comment on whether this rule would simplify the process of apportioning bundled revenues in a way that is transparent, enforceable, and easily administrable. How would such a rule be enforceable if the provider does not offer stand-alone equivalent services? Would we need a separate rule to address such circumstances? If so, how should that rule be structured? Would the benefits of limiting the method by which providers determine

assessable revenues for bundled services outweigh any potential benefits of allowing providers to present individualized showing, as permitted under the current rule? We seek comment and examples of instances where some providers of bundled services may be allocating assessable revenues differently than their competitors, creating a competitive disadvantage. Would eliminating the open-ended apportionment option in favor of the rule above minimize competitive disparities? Would the rule change incentives to offer (or not offer) assessable services on an unbundled basis?

69. We seek comment on the technical aspects of such a rule. For example, if we were to adopt such a rule, how much discretion should carriers have in determining what constitutes a ''stand-alone offering of equivalent service''? How could we prevent contributors from gaming a stand-alone option to minimize their assessable revenues? Should there be a requirement, for instance, that such a stand-alone offering be generally available and actually subscribed to by a minimum number of end users? If so, how and how many end users? Are there any alternative ways to ensure that contributors are not creating a sham stand-alone offering to minimize contribution obligations?

70. We also seek comment on whether such a rule would create competitive disparities between providers that offer stand-alone offerings of assessable services, and those that only sell bundled services in the marketplace. Should we require carriers that do not offer a stand-alone service themselves to rely on a market analysis of services offered by other carriers in the marketplace or a tariffed rate of another provider? If so, should we require such carriers to submit any such market analyses used for imputation purposes or third party tariffed rate to the Commission and to USAC? Should we require that the stand-alone offering price be objectively verifiable by the Commission or USAC, such as by reference to a public Web site or tariffed offering? What measures would need to be in place for USAC to be able to verify stand-alone pricing for business services, which are often individually negotiated for individual customers? Is there any reason to implement such a rule only for certain types of bundled offerings and not others, or certain classes of customers and not others? What is the least burdensome mechanism to ensure allocations are objectively verifiable?

71. We seek comment on how the rule would impact the overall contributions base, as well as the individual burden on consumers. What would be the impact of the rule on providers serving consumers with lower telecommunications expenditures (such as a voice only subscriber with limited long distance calling) compared to providers serving consumers with higher expenditures (such as a triple-play subscriber)? How would such a rule affect consumers with lower telecommunications expenditures compared to consumers with higher expenditures? What would be the impact of such a rule on mobile providers, who increasingly are deriving revenues from bundled voice-data packages, and their consumers?

72. We also seek comment on alternative rule language as well as alternative means of determining contribution obligations for bundled service offerings. Parties that submit alternative proposals should explain how such proposals further our proposed goals of reform and are consistent with our legal authority. We ask commenters to quantify, where possible, how their proposed rule would impact the contribution base and total assessable revenues.

73. For each of these alternatives, we seek comment on how the approach would impact the overall contribution base, as well as the individual burden on contributors and consumers. We also seek comment on what steps would need to be taken to implement the proposals above or alternative proposals for apportioning revenues from bundled service offerings for USF contribution purposes. How much time would parties need to transition to a new method of apportioning revenues from bundled offerings?

74. As discussed above, the Commission has the authority to assess all providers of interstate telecommunications, if the public interest warrants. Would a contribution methodology that assesses the full retail revenues of bundled services that contain ''telecommunications,'' as that term is defined in the Act, without safe harbors or the ability to present individualized showings, conform to the statutory requirements? Given the growth in bundled service offerings over the last decade, would adopting such a bright-line rule make the contribution base more stable and thereby serve the public interest? Would it further the principle of ''equitable and non-discriminatory'' contributions by reducing potential competitive distortions among providers and service offerings that apportion revenues using different methodologies? Would a simplified approach that assesses the total bill for bundled services promote administrative efficiency and reduce compliance and enforcement expenditures? Would it be appropriate to adopt such an approach even if the Commission chose not to make every component of a bundled service individually assessable, or would that create market distortions and discourage bundled offerings?

b. Contributions for Services With an Interstate Telecommunications Component

75. We seek comment on what revenues should be assessed to the extent we choose to exercise our permissive authority over services that provide interstate telecommunications. For example, to the extent enterprise communications services that are implemented with MPLS protocols are information services that provide interstate telecommunications, we seek comment on whether we could and should assess the full retail revenues of such enterprise communications services, or instead should adopt a bright-line that would assess only a fraction or percentage of the retail revenues.

76. Would it be consistent with our statutory authority under section 254(d) to require contributions on the full retail revenues of an information service that provides interstate telecommunications? Is there a potential for competitive disparity, to the extent a non-facilities-based provider of such services is assessed on its retail revenues, and also may bear indirectly the cost of a universal service contribution on underlying transmission that it purchases from a wholesale provider? To what extent should the retail revenues derived from information services have some nexus with the underlying transmission component, in order for the full retail revenues to be assessed? What are the advantages and disadvantages of assessing retail information service revenues, if we were to exercise our permissive authority?

77. Alternatively, should we assess only the telecommunications (*i.e.,* the transmission) component, and if so, how would we determine what portion of the integrated service revenues should be associated with the transmission component? For example, the MPLS Industry Group proposes that revenues associated with the access transmission components of all MPLS-enabled services be imputed on a uniform basis and made subject to USF contributions obligations through Commission-established ''MPLS

Assessable Revenue Component'' proxies. In other cases, the underlying transmission is separately offered on a Title II basis, which could provide a basis for assessing only the revenues associated with the transmission component. We seek comment on the MPLS Industry Group proposal. Is such a proposal workable for other similar services?

78. We seek comment on the following rule: *If an entity offers an assessable information service with an interstate telecommunications component, it must treat all revenues for that information service as assessable revenues, unless it offers the transmission underlying the information service separately on a stand-alone basis. If it offers the transmission on a stand-alone basis, it may treat as assessable revenues an amount consistent with the price it charges for stand-alone offerings of equivalent transmission.*

79. We seek comment on whether this rule would simplify the process of determining assessable revenues for information services in a way that is transparent, enforceable, and easily administrable. How would such a rule be enforceable if the provider did not offer the underlying transmission on a stand-alone basis? In such circumstances, should we craft a rule that looks at the general retail price of such transmission services when offered on a stand-alone basis by other providers? Would the proposed rule change incentives to offer (or not offer) telecommunications transmission on an unbundled basis? Would such a rule create competitive disparities between providers that choose to offer transmission on a stand-alone basis (such as small rate-of-return carriers that offer broadband Internet access) and providers that do not offer transmission separately (such as cable operators in the same geographic area as those rate-of-return carriers)?

80. In the alternative, should we craft a rule, or a safe harbor, that provides for assessment of a certain percentage of the retail revenues of information services with a telecommunications (transmission) component? Would it be legally permissible for the Commission to assess a set percentage of the retail revenues, even when such percentage might exceed the allocated revenues associated with the underlying transmission in that information service? Would a set percentage be easier to administer, reduce compliance costs, and otherwise be in the public interest? Would it create competitive distortions? Should the percentage vary depending on the type of information service at issue? Is some other formula for determining the assessable percentage of retail revenues of an information service appropriate?

81. For each of these alternatives, we seek comment on how the approach would impact the overall contributions base, as well as the individual burden on contributors and consumers. We also seek comment on what steps would need to be taken to implement the proposals above or alternative proposals for apportioning revenues from information services for USF contribution purposes. How much time would parties need to transition to a new method of apportioning revenues from information services with an interstate telecommunications component?

c. Allocating Revenues Between Inter- and Intrastate Jurisdiction

82. We seek comment on modifying or eliminating the requirement that carriers are assessed based on interstate and international revenues. While that requirement may have made sense when the Commission initially implemented the Act, the marketplace has changed dramatically since 1996 and will evolve with the continued deployment of IP-based networks.

83. As a general matter, we seek comment on whether the Act compels us to only assess a portion of revenues associated with services that operate interstate, intrastate, and internationally. We also seek comment on whether as a policy matter we should require that revenues be allocated based on the jurisdiction that regulates the associated service. Does this construct make sense in an environment where many contributors are not rate regulated, and many of the services they offer are only lightly regulated?

84. One approach would be to adopt a rule that requires all providers that are subject to contributions to report and contribute on all of the revenues derived from assessable services rather than require providers to allocate revenues between the interstate and intrastate jurisdictions. Since many services offered today are not priced and sold separately as intrastate or interstate service, any designated allocation between jurisdictions may be arbitrary to some extent. In the *TOPUC* decision, the court found that the Commission did not have jurisdiction to assess federal universal service contribution on intrastate revenues. Given the changes in the marketplace, would the *TOPUC* decision prohibit assessing a federal universal service fee on the entire service?

85. The State Members of the Joint Board argue that the regulatory jurisdiction over a service should not determine whether that service contributes to universal service. They note that the states may constitutionally impose sales taxes on both interstate and intrastate telecommunications, and they suggest that the U.S. Constitution does not prohibit there being both a federal universal service surcharge and a state universal service surcharge on all services delivered over the public communications network. They acknowledge that the 1999 *TOPUC* decision limited the Commission from imposing universal service surcharges on intrastate services, but they contend that *TOPUC* was wrongly decided. We seek comment on the State Members' analysis and ask commenters to address whether it would be consistent with section 254(d) for the Commission to require contributions on all revenues derived from services delivered over a public network.

86. Would a rule that assesses all revenues from services that operate interstate, intrastate, and internationally without allocation for intrastate operations advance our proposed goals for reform? How would such a rule impact the contribution base, today and in the future? We note that the sum of interstate, international, and intrastate revenues for all filers was $210 billion in 2010, while the contribution base (the total of reported assessable revenues) for 2010 was $67 billion. If such a rule had been in place in 2010, *i.e.,* a rule that assesses all interstate, intrastate, and international revenues, the contribution factor would have been roughly four percent, instead of 14 percent on an annualized basis. Would such a system be significantly simpler to administer, reducing the costs of complying with our contribution rules? How would such a system affect states? How would such an approach affect the allocation of the contribution burden, especially between residential consumers and enterprise consumers? For example, would residential consumers end up paying (in USF pass through charges) a substantially higher portion of the USF burden than they do today, compared to enterprise customers? If so, are there ways to offset or limit this effect? Commenters are encouraged to provide additional data and analysis regarding the impact of such a rule change.

87. Another alternative would be to adopt bright-line rules for how companies should allocate revenues between jurisdictions for broad categories of services. If we were to adopt such rules, how narrowly or broadly should we define the relevant

services? As shown in Chart 5 below, the percentage of end user revenues that are reported as interstate/international have remained relatively stable for the major subcategories of revenue that have been reported on FCC Form 499 between 2004 and 2011. Should we adopt a separate allocator for each major category of service presently reported on Form 499 (fixed local services, mobile services, toll services), or should we follow a simpler approach, for instance, with just two allocation rules: one for voice and one for data services? For instance, we could adopt a standard allocator for all voice revenues, regardless of technology (fixed or mobile, traditional telephony or interconnected VoIP). Under such an approach, we could specify that voice revenues should be allocated according to a specified ratio, such as 20 percent interstate and 80 percent intrastate. Should the interstate allocation be higher or lower? Is there any policy justification for setting a different percentage for voice based on the type of carrier or technology used?

88. In other contexts, the Commission has recognized that Internet access services are jurisdictionally interstate because end users access Web sites across state lines. We seek comment whether a similar finding should be made for USF contribution purposes. Specifically, if we use our permissive authority to expand or clarify USF contribution requirements to include enterprise communications services, text messaging services, and broadband Internet access services (both fixed and mobile), should we find that for USF contribution purposes, revenues from such services should be reported as 100 percent interstate? Alternatively, should we use an allocator lower than 100 percent interstate for contribution purposes, to preserve a revenue base that could be assessed for state universal service funds?

89. What data should be considered when developing that fixed percentage of interstate and intrastate revenues for services? Appendix C presents in more detail the percentage of end user revenues that are reported as interstate/international for each individual subcategory of end user revenue reported on FCC Form 499 for the periods of 2004 through 2011. For 2011, filers reported $73.5B in total revenues for fixed local revenues, with 30 percent allocated to the interstate category and 0.6 percent allocated to the international category. For mobile services, filers reported $106.6 billion in total revenues in 2011, with 22.8 percent allocated to the interstate category and 0.4 percent allocated to the international category. For toll services in 2011, filers reported $34.3 billion in total revenues, with 50.3 percent allocated to the interstate category, and 21.4 percent allocated to the international category. We note that there is significant variation in some of the individual subcategories of revenues as currently reported on FCC Form 499. How should our decision be informed by the interstate percentages reported for individual subcategories of service as reported on the current Form 499, such as fixed local exchange (line 404) and mobile services monthly and activation charges (line 409)?

90. To what extent should we take into account ratios reported by wireless carriers and interconnected VoIP providers in their traffic studies? If we were to adopt a ratio applicable to the broad category of ''mobile services,'' for instance, should we base the percentage for mobile services, on the average (23 percent) or median (19 percent) ratio that carriers have reported in their most recent traffic studies? Commenters that support a different percentage should explain why adoption of that alternative is preferable.

91. If we were to adopt such a rule specifying that a set percentage of revenues should be reported as interstate for a category of service, should carriers still be permitted to make a particularized showing that a higher percentage of their traffic is intrastate? Should the Commission adopt a mechanism to periodically update the percentage and, if so, what would be the basis for updating the fixed percentage factor? How would such a rule impact the contribution base, today and in the future? Commenters are encouraged to provide additional data and analysis regarding the impact of such a rule change.

92. Would adopting a fixed allocation method for categories of services, or an across the board fixed allocation method, further our proposed goals for contribution reform? Using a single allocation factor for contribution purposes could potentially minimize competitive distortions among providers offering similar services. Would a single allocation factor help stabilize the contribution base by eliminating incentives for providers to underreport their interstate telecommunications revenues? Would a single allocation factor lessen providers' compliance burdens by eliminating the need to perform traffic studies or to maintain and update the methodology used to establish their good-faith estimates? Would using a single allocation factor potentially provide greater predictability?

93. We seek comment on whether, if we were to adopt a rule imposing a fixed interstate allocator, we would be legally required to adopt a procedure by which a provider could ''opt-out'' of using the single allocation factor and instead make an individualized showing. We seek comment on whether allowing any telecommunications provider to opt-out would negate the administrative simplicity of adopting a single allocator for purposes of universal service contributions. To the extent that any commenter believes there should be a mechanism to ''opt-out'' of the fixed allocation factor, it should explain what showing should be required to opt out, and what steps the Commission should take to minimize competitive distortions that may arise if alternative allocations are used for certain types of providers or for certain types of traffic. For example, should a provider that opts out of the fixed allocation factor be required to allocate revenues on a customer-by-customer basis, given that each customer actually uses the purchased telecommunications differently?

94. We also seek to develop a factual record on the regulatory compliance costs stemming from the current requirement to allocate revenue between the intrastate and interstate jurisdictions. We seek comment and data submissions regarding the costs imposed on companies today to separate their revenues in this fashion, and the costs associated with performing a traffic study on an annual basis. We encourage companies to provide estimates not only of the costs associated with their legal and regulatory personnel, but also to include any other costs that compliance with such requirements may pose on other personnel, including accounting, billing, sales, network, IT, and marketing staff, and any costs associated with hiring outside resources, such as attorneys or consultants, to assist in implementing such requirements or responding to any audits or investigations relating to this aspect of our contribution rules.

95. To the extent commenters have concerns about any of these proposals; they should present alternative methods for simplifying the allocation of revenues between the interstate and intrastate jurisdictions and explain how their proposals would meet the proposed contribution reform goals set forth in this Notice. If we do not adopt a fixed factor or factors to allocate telecommunications revenues, what modifications should we consider making to the current rules?

96. If we continue to allow use of traffic studies to estimate the allocation of interstate revenues, should we codify specific requirements or provide greater detail in the Form 499 instructions for how traffic is categorized in traffic studies to ensure that reporting entities are conducting the studies in a competitively neutral manner? We seek comment on current practices for classifying traffic for traffic studies. We have some concerns that contributors may be using different methodologies in conducting traffic studies, given the broad variation in reported ratios. It is surprising, for instance, that nine wireless providers report no interstate or international revenues at all. Similarly, the fact that 47 VoIP filers report no interstate/international revenues, while some others report ratios relatively close (but slightly under) the current 64.9 percent safe harbor, also suggests that VoIP providers may be classifying their traffic in significantly different ways, and there may be a need to provide more standardized guidance regarding how to perform a traffic study. We seek comment on this analysis.

97. We seek comment on what steps would need to be taken to implement the approaches above or alternative approaches to simplify the allocation of interstate and intrastate revenues for federal USF contribution purposes. We also seek comment on how much time, if any, parties would need to transition to any new allocation method.

d. Contribution Obligations of Wholesalers and Their Customers

98. *Value-Added Approach to Assessing Contributions.* We seek comment on whether we should modify the existing universal service contribution methodology to assess ''value-added'' revenues rather than ''end-user'' revenues. Under this value-added approach, each telecommunications provider in a service value chain (including both wholesalers and resellers) would contribute based on the value the provider adds to the service. Thus, in a revenue-based system, a wholesaler would contribute on its wholesale revenues, and a reseller of those services would contribute based on its retail mark-up.

99. Under this value-added revenues approach each provider in a distribution or value chain would contribute based on the provider's total interstate and international revenues, less a credit for any telecommunications services or telecommunications purchased from other contributors in the distribution or value chain. Contributors would not, therefore, need to distinguish between revenues from end users and revenues from other telecommunications providers.

100. We seek comment on the following potential rule change, which could implement a value-added revenues system: *A contributor must contribute based on its projected assessable revenue less a credit for telecommunications services or telecommunications purchased from other contributors. Contributors shall report such revenues on the FCC Form 499–A and 499–Q Telecommunications Reporting Worksheets or such other forms or filings as the Commission may prescribe from time to time. Projected revenue information shall be subject to an annual true up, as prescribed from time to time by the Commission in its Telecommunications Reporting Worksheet instructions.*

101. We ask whether the proposed value-added revenues approach would meet the proposed goals of improving administrative efficiency, while ensuring sustainability of the Fund. For example, how would a value-added system further our proposed goals of simplifying administration and oversight of the contribution system? Would a value-added system reduce incentives to structure transactions to avoid contribution obligations? Would adoption of a value-added system have unintended consequences that undermine our proposed goals in reforming the system? What records should contributors be required to retain to demonstrate compliance with a value-added system? For example, if we adopted the rule proposed above, should contributors be required to retain (and/or report) back-up for the ''credit for telecommunications services or telecommunications purchased from other contributors''?

102. As an alternative to reporting on the revenues earned minus any amounts paid for telecommunications service inputs, should we implement a value-added methodology in which carriers instead subtract from their final contribution liability any pass-through charges paid to other contributors? If so, should we require or permit telecommunications providers to pass through an explicit universal service line-item charge to customers that are also telecommunications providers? Would a pass-through charge in these limited circumstances enable telecommunications providers and USAC to verify the universal service charges paid by one contributor to another for purposes of calculating the credit the contributor should receive against its own contribution obligation? Would mandated pass-through charges benefit competition by eliminating the ability of wholesale providers to distinguish service offerings based on whether or how they pass through universal service charges to their reseller customers? Would allowing providers to retain discretion over whether to recover their contributions implicitly or via an explicit line-item charge further our proposed goals of ensuring competitive neutrality and simplicity in the USF contribution system? Under a value-added assessment system, how should we treat transactions between wholesale providers and non-carriers (*e.g.,* retailers or distributors of prepaid calling cards), or transactions between wholesale providers and entities that are currently exempt from directly contributing to the Fund (*e.g.,* non-profit schools, non-profit libraries, non-profit colleges, non-profit universities, and non-profit health care providers)?

103. If we adopt a value-added system based on credits for pass through charges paid to other providers, we seek comment on whether we should scale or otherwise limit the credit a telecommunications provider receives to account for the fact that this system may exclude some telecommunications revenues from assessment. We also seek comment on the implementation of a value-added system. What would be an appropriate time frame for implementing such a rule? For example, to what extent would the existence of long-term contracts warrant delaying implementation of a value-added revenues system? If we delay implementation, what would be a reasonable period of time to transition to this system?

104. We request clear and specific comments on the type and magnitude of likely benefits and costs of the suggested rule, and request that parties claiming significant costs or benefits provide supporting analysis and facts, including an explanation of how data were calculated and identification all underlying assumptions.

105. *Value-Added Approach for Alternative Contribution Methodologies.* The value-added revenues system discussed above assumes retaining a revenues-based contribution system. We seek comment below on moving from a revenues-based contribution system to a system based on assessing connections or numbers. Commenters should indicate whether a value-added system could and should be developed for a connections-based or numbers-based contribution system. If value-added is needed or advisable for such other contribution systems, commenters

should explain the basis for such analysis, and should indicate how a value-added system would work in such instances.

106. We note that one of the considerations in crafting the current revenue-based system focused on end users was to avoid ''double counting'' revenue. We ask commenters whether a connections or numbers-based system may also raise concerns of double counting, and if so, how a value-added proposal could be crafted to address this issue. More generally, we seek comment on whether avoiding double counting remains a significant policy concern, and if it should inform the structure of a contributions methodology system.

107. In particular, we seek comment here on whether a value-added system similar in concept to the value-added revenues proposal set forth above for a revenues-based system may be desirable for connections, and if so, how such a system would operate. If we were to adopt a service-based definition of connections, there could be situations in which a wholesaler sells a ''connection'' to a reseller who adds value by separately selling more than one service over that connection. For instance, to the extent Carrier A sells a connection to Carrier B, and then Carrier B sells two connections to the retail customer, would it simplify administration of a connections-based system if both Carrier A and B are assessed based on the connections provided to their respective customers, with Carrier B receiving a credit for the number of connections it has purchased from a wholesale provider so that, in this example, Carrier A and B would each be assessed for one connection?

108. We also seek comment on how one might adopt a value-added approach for a numbers-based methodology. Would a value-added approach work in which each provider of interstate telecommunications in a service value chain (including both wholesalers providers and their customers) that provides a number to a customer would contribute on that number, with a credit provided to the extent a carrier obtains lines with numbers from another provider? Alternatively, would it make sense to adopt a system in which a wholesaler could contribute on its wholesale numbers at a lesser adjusted rate, and its customer could contribute based on a higher per-unit rate for numbers associated with services provided to retail customers, with an adjustment made for any pass-through charges paid to the wholesale provider?

109. *Reasonable Expectation Standard.* We seek comment on potential bright line rules that we could adopt that would provide greater clarity to contributors as to what steps they must take to properly report their assessable revenues and lessen the need to engage in such fact-intensive inquiries, if we maintain a revenue-based contribution methodology.

110. We seek comment and data submissions regarding the costs imposed on companies today to separate their wholesale from their retail revenues, and the costs associated with complying with the requirement that they demonstrate a reasonable expectation that their customers are contributing to USF. We encourage companies to provide estimates not only of the costs associated with their legal and regulatory personnel, but also to include any other costs that compliance with such requirements may pose on other personnel, including accounting, billing, sales, IT, and marketing staff, and any costs associated with hiring outside resources, such as attorneys or consultants, to assist in implementing such requirements or responding to any audits or investigations relating to this aspect of our contribution rules.

111. We seek comment on whether we should adopt a rule mandating greater specificity in contributor certifications regarding the services on which the certifying entity is contributing, so that wholesalers are in a better position to determine which of their revenues should be classified as carrier's carrier revenues. Many contributors may obtain such certifications from their customers only on an entity-wide basis, rather than on a service-specific basis, because the model certification language provided in the instructions beginning in 2007 does not specify service-specific certifications.

112. We seek comment on adopting a rule that would establish the following language for customer certifications:

I certify under penalty of perjury that the company is purchasing service which is incorporated into the company's offerings. I also certify under penalty of perjury that either my company contributes directly to the federal universal support mechanisms for those offerings that incorporate this wholesale service, or that each entity to which the company, in turn, sells those offerings has provided the company with a certificate in the form specified by Commission rules.

OR I certify under penalty of perjury that the company is purchasing service for which is incorporated into the company's offerings. I also certify under penalty of perjury that:

(check one)

The company contributes directly to the federal universal service support mechanisms for those service offerings that incorporate the wholesale service, or if the company resells the service to another contributor, that the company has received a certification from each customer in a form specified by Commission rules that the customer will contribute directly based on revenues from each such service.

The company contributes on [number] percent of the revenues for services that incorporate the wholesale service, or has received a certification from its customer stating that the customer will contribute directly based on revenues from the service. On the remaining [number] percent of the revenues of the service that incorporates the wholesale service, the company does not directly contribute, and it does not sell that service to another contributor.

I also certify under penalty of perjury that the company will notify [name of wholesale provider] within [30 or 60 days] if the information provided in this certification changes.

113. *Specificity as to Incorporation of Wholesale Services into a Finished Service.* It appears that under our current requirements, certain revenues may be escaping assessment altogether, in situations where a wholesaler does not contribute on revenues derived from customers that it believes to be contributing when in fact the customer is not contributing on those revenues. We seek comment on the magnitude and prevalence of this problem. In these and other analogous situations, should there be an affirmative obligation on the part of the entity that purchases the wholesale telecommunications to specify in its certification the extent to which the wholesale input is incorporated into assessable services versus non-assessable services? For instance, should we adopt the following rule: *To the extent a company purchases services that are incorporated into its own offerings, with some of the offerings subject to universal service contributions and some of the offerings not subject to universal service contributions, the purchaser has an affirmative obligation to provide information to its wholesale provider sufficient for the wholesaler to allocate the revenues associated with its service as carrier's carrier revenue or end-user revenue.*

114. What burdens would such a rule impose on entities that purchase wholesale telecommunications to incorporate into their finished offerings, and what measures could be implemented to minimize such burdens? If we were to adopt such a rule, what metric should the purchasing entity use in developing the relevant allocations? For instance, should it base the percentage on the number of circuits, the revenues associated with individual circuits (to the extent that can be determined), the average usage of a circuit, or something else?

115. We seek comment on whether to adopt a rule imposing an affirmative obligation on entities purchasing wholesale telecommunications that sign certifications to notify their wholesale carrier within a specified period of time, such as 30 or 60 days, if their contribution status changes over the course of the year. For instance, we seek comment on the following rule: *Providers who provide contributor certifications to their wholesale carriers must notify their wholesale carrier within [30 or 60] days if the contribution status provided in the certifications changes.*

116. Today, there may be situations where an entity certifies in good faith at the beginning of the year that it is a contributor with respect to the services provided to its retail customers, but subsequently it ceases to be a contributor. This could occur, for instance, if the entity purchases a special access circuit from a wholesaler, and initially expects to provide special access to a retail customer, but ultimately uses that circuit to provide broadband Internet access service, which is not assessable under our current rules. Or an entity purchasing wholesale telecommunications may expect to contribute, but ultimately it turns out to be a de minimis contributor due to lower than expected revenues. In both situations, the wholesaler would not contribute on the services (because it has a contributor certificate from its customer), but its customer ultimately does not contribute, resulting in revenues not being subject to contributions at any point in the value chain. Commenters should address the time frame in which such notification should occur, and what specific procedures should be followed. To the extent that parties support elimination of certifications in favor of an alternative system or a bright line, we ask them to provide specific details on how any such alternatives would be implemented, administered, and enforced.

117. Another alternative on which we seek comment is whether we should assess wholesalers at their point of sale, but not their customers, so long as the wholesaler certifies that the contribution has been or will be paid. Would such an approach be easier to administer? Are there disadvantages to such an approach? Commenters should indicate, to the extent possible, the reduction to the contribution base if we were to adopt such an approach and how such an approach would impact contribution burdens.

118. *Improved Certification Requirements Compared to Value Added Revenues System.* Commenters are encouraged to compare and comment on both the improved certification system and the value-added system discussed immediately above in this Notice. Is there a particular advantage over one approach over the other? Do aspects of both approaches need to be adopted? If we adopt a value-added revenues system, should we adopt modifications to our contributor certification rules on an interim or transitional basis while we implement the value-added approach?

119. *Improved Certification Requirements for Alternative Contribution Methodologies.* We also seek comment on moving from a revenues-based contribution system to a system based on assessing connections or numbers. Commenters should indicate whether similar contributor certification requirements as discussed above should be developed for a connections-based or numbers-based contribution system. If improved certification requirements are needed or advisable for such other contribution systems, commenters should explain the basis for such analysis, and should indicate how the contributor certifications would work in such instances.

120. We ask commenters whether a connections or numbers-based system may also raise concerns of double counting, and if so, how a contributor certification could be crafted to address this issue. More generally, we seek comment on whether avoiding double counting remains a significant policy concern, and if it should inform the structure of a contributions methodology system.

In particular, we seek comment here on whether improved contributor certifications similar in concept to the proposals discussed above might be desirable for connections, and if so, how such a system would operate. If we were to adopt a service-based definition of connections, there could be situations in which a wholesaler sells a ''connection'' to a customer who adds value by separately selling more than one service over that connection. We also seek comment on how one might adopt contributor certifications for a numbers-based system.

e. Contribution Obligations of Wholesalers and Their Customers

121. *Reporting Prepaid Calling Card Revenues.* Our rules require prepaid calling card providers to contribute to the Fund based on their end-user revenues. We seek comment on modifying existing rules to provide clarity to the industry in response to requests from USAC and record evidence suggesting different prepaid calling card providers may be interpreting our rules in different ways, which may result in an unlevel playing field for competitors of these services. We seek comment on adopting a rule to require prepaid calling card providers to report and contribute on all end-user revenues, and who should be deemed the end user for purposes of such a rule. We ask whether prepaid calling card providers should only report amounts paid by the entity to which the provider directly sells the prepaid service. Alternatively, we seek comment on adopting a rule to require prepaid calling card providers to contribute based on the amounts paid by end users for prepaid cards, whether the prepaid calling card is purchased by the end user directly from the prepaid calling card provider or from a marketing agent, distributor, or retailer. We also ask about the application of the value-added contribution paradigm, discussed above, to assessment of prepaid calling card service. In addition, we seek comment on measures to standardize how providers report prepaid calling card revenues, eliminating incentives or opportunities for providers to avoid their USF contribution obligations. We also solicit comment on whether adopting these reforms would further our proposed goals for reform and the potential impact on the Fund if we were to adopt the measures described below.

122. *Defined Terms.* We first seek comment on modifying the definition of prepaid calling cards as explained below. The terms ''prepaid calling cards,'' and ''prepaid calling card providers'' are defined in § 64.5000 of our rules, as adopted by the Commission in the *Prepaid Calling Card Services Order,* 71 FR 43667, August 2, 2006. The definition of a prepaid calling card is fairly expansive, encompassing not just physical cards that require the input of a personal identification number (PIN) but also any ''device'' that provides end users with the same or similar functionality. Although we propose retaining these definitions, we seek comment on whether we should add the phrase ''or service'' to the definition to make clear that our prepaid calling card rules will encompass new ways to market prepaid telecommunications services that do not involve using a PIN or a device. Such a modification could read as follows (new language underlined): (a) Prepaid calling card. The term ''prepaid calling card'' means a card or similar device or service that allows users to pay in advance for a specified amount of

calling, without regard to additional features, functions, or capabilities available in conjunction with the calling service; (b) Prepaid calling card provider. The term ''prepaid calling card provider'' means any entity that provides telecommunications service to consumers through the use of a prepaid calling card.

123. We also seek comment on whether we should define, for purposes of prepaid calling cards, the term ''prepaid calling card distributor'' as we use it in the context of reporting prepaid calling card revenues. The use of such term would acknowledge that prepaid calling cards are often sold by means of marketing agents, distributors or retailers. We seek comment on the following proposed definition: *Prepaid calling card distributor. A marketing agent, distributor, retailer, or other third party that sells or resells prepaid calling cards on behalf of a prepaid calling card provider*.

f. Reporting Prepaid Calling Card Revenues

124. We also seek comment on alternative methods prepaid calling card providers should use to report revenues from prepaid calling card services. Today, prepaid calling card providers are required to report and contribute on the end-user revenues from the sale of prepaid calling card services. The current version of the Telecommunications Reporting Worksheet instructions calls for reporting of such revenues by the prepaid calling card provider, whether the end user purchases the card from the prepaid calling card service provider or a marketing agent, distributor, or retailer. Some stakeholders contend that this method, which requires providers to report the ''face value'' of a card as assessable revenue—not the amount actually paid by the provider's end-user customer—is unrealistic considering that many cards do not have a face value, and contributing providers often do not know and have no control over the ultimate retail price of a calling card.

125. We first seek comment on limiting the contribution and reporting requirements of prepaid calling card providers to report amounts paid only by the person or firm to whom the provider directly sells the prepaid card. Prepaid calling card providers that sell directly to an end-user customer would, as now, easily identify and report the assessable revenue amount. However, in situations where the provider sells the card to an intermediate distributor or retailer, rather than an end-user customer, under this paradigm we would require the provider to report revenue actually received from the intermediate distributor. This concept presumably would make it simpler for prepaid providers to report accurate revenues because they would recognize actual assessable revenue amounts from the sale to the end-user customer or the intermediate distributor and would not be required to estimate the amount paid by an end-user customer with whom the provider has no retail relationship. This approach could benefit providers and the Fund by permitting providers to report the revenue realized in a more timely fashion. We seek comment on this alternative and ask whether including an intermediate distributor or retailer in the definition of an end user for the purpose of reporting prepaid calling card revenue would create any competitive distortions or create disparities among different types of contributors.

126. In the alternative, we seek comment on codifying in greater detail the approach reflected in the existing Form 499 instructions. We first specifically inquire how prepaid calling card providers should report revenues from sales of prepaid calling card services to marketing agents, distributors, or retailers. The Form 499 instructions state that the revenue to be included in a provider's contribution calculation is the amount actually paid by the end-user customer, not the price paid to the prepaid calling card provider by intermediate marketing agents, distributors, or retailers, even when the distributor pays a different amount than the end user.

127. Should there be symmetry in the way that prepaid calling card service transactions and other transactions are treated for USF contribution purposes? For example, the Form 499 instructions also state that payphone providers should not deduct from reported revenues commission payments to owners of premises where payphones are located. Should we also adopt a rule that payphone providers may deduct from reported revenues discounts provided to intermediate distributors? We seek comment on potential bright lines that would simplify administration of contributions reporting for prepaid calling providers.

128. Adopting a bright-line standard for reporting end-user revenues could reduce or eliminate competitive disparities among providers of similar services. We seek comment generally on adopting a bright-line standard that contributors must use to report prepaid calling card revenues. Would a bright-line standard create an incentive for prepaid calling card providers to establish a process with their marketing agents, distributors, and retailers to specifically identify and report the *actual* prices paid by end users? Should we also consider implementing a safe harbor for providers to estimate end-user revenues when the price paid by the end-user customer cannot readily be determined by the prepaid calling card provider?

129. If we adopt a bright-line standard, we seek comment on what mark-up would be appropriate for prepaid calling card providers to use in determining end-user revenues. Given this wide range of estimated mark-ups, we seek comment on whether a standard mark-up of 50 percent would be a reasonable mid-point between the various estimates that have previously been suggested by commenters. We also seek comment on whether a higher or lower standard mark-up would be more representative of industry practice or would better serve in creating an incentive for providers to work with their marketing agents, distributors and retailers to identify the actual price paid by end-users. Adopting a standard mark-up that falls at the higher end of the scale, for example, may provide a greater incentive for prepaid calling card providers to determine and report the actual prices paid by end users. Parties should provide specific data to support their arguments.

130. To further ensure that all reporting entities are reporting prepaid calling card revenues in a consistent manner under the current system, we seek comment on requiring prepaid calling card providers to report revenues derived from the sale of prepaid calling cards not later than 60 days after the date the cards are sold by the prepaid calling card provider to a prepaid calling card distributor. Adopting a rule that creates an appropriate time limit for recognizing revenue derived from the sale of prepaid calling cards could serve to further reduce competitive distortions that arise from disparate interpretations and application of our rules. We seek comment on this analysis. We also seek comment on whether it is reasonable to expect that most cards are sold within sixty days of the date the provider bills the prepaid calling card distributor for the cards, taking into account a 30-day billing cycle and an additional 30 days for the end user to purchase the card.

131. We seek comment on whether these alternative ideas further our proposed goal of ensuring that contribution assessments are fair. Would such a rule be simple to administer? Are there policy reasons prepaid calling card providers should be allowed to reduce or adjust reported

revenues based on discounts provided to prepaid calling card distributors?

132. We also ask about the relationship between assessment of prepaid calling card providers and the ''value-added'' approach to assessing revenues discussed above. Under this approach, each telecommunications provider in a service value chain (including wholesalers, distributors, and reselling retailers) would contribute based on the value the provider adds to the service. As applied to the prepaid calling card marketplace, any firm that derives revenue from the sale of prepaid calling card services would report and contribute based on that revenue and would be permitted to take a credit based on contributions made by other contributors in the chain. We seek comment generally on this approach and inquire about the potential impact on firms that are not already reporting revenue or contributing to the Fund, such as retailers and other non-contributors. Should we consider an exemption from any reporting and contribution obligations for certain categories of retailers or distributors? If so, what would be the basis for such an exemption? What would be the impact on other contributors in the prepaid card chain, such as the service provider? Should we also consider a more limited exemption such that we require these companies only to report revenue derived from the card in order to ensure the Fund is fully compensated? Finally, we seek comment on what steps would need to be taken to implement any of the ideas discussed above or any alternative proposals to modify the contribution reporting requirements for prepaid calling card revenues. We also seek comment on how much time parties would need to transition to any such new rules.

g. International Telecommunications Providers

133. We seek comment on whether we should eliminate the limited exemption for providers whose revenues are exclusively or predominantly international. We seek comment on modifications to our current rules regarding the contribution obligations of international providers.

134. *Eliminating the ''International Only'' and the ''Limited International Revenues'' Exemptions.* We seek comment on whether the Commission should eliminate the exemption for international-only providers and Limited International Revenues Exemption (LIRE)-qualifying providers, and our legal authority for doing so. In 1997, the Commission interpreted section 254 of the Act, and specifically our authority to assess all ''providers of interstate telecommunications,'' as drawing a three-way distinction between intrastate, interstate, and international telecommunications. We seek comment on whether, in light of the changes in the industry and telecommunications marketplace, section 254's reference to interstate telecommunications in the context of universal service contributions is better viewed as drawing a jurisdictional line between the authority of the states (which have authority over providers of intrastate telecommunications under section 254(f)) and the authority of the Commission (which has authority over providers of interstate telecommunications under section 254(d)). Such a reading of section 254 would parallel the Commission's reading of other sections of that Act that divide responsibility between the state and federal jurisdictions and include international services within the Commission's jurisdiction. Alternatively, we seek comment on whether we could rely on section 254(b)(4)'s principle of ''equitable and nondiscriminatory contributions'' to require international-only and LIRE-qualifying providers to contribute because these providers also benefit from being able to originate or terminate traffic in the United States. We note that the Act distinguishes ''foreign communication'' from both interstate and intrastate. Does that distinction affect the Commission's authority to treat interstate and foreign telecommunications in the same manner?

135. We also seek comment on whether the *TOPUC* decision limits our ability to re-examine the international-only and LIRE exemptions today. The Fifth Circuit in *TOPUC* held that the Commission's previous rule, which had required providers with limited interstate telecommunications revenues to contribute based on both their interstate and international revenues but exempted providers without interstate telecommunications revenues, was not ''equitable and nondiscriminatory.'' The court held that the previous rule ''damage[d] some international carriers [*i.e.,* limited-interstate-revenue providers] more than it harm[ed] others [*i.e.,* no-interstate-revenue providers].'' The court also found the rule inequitable because it required limited-interstate-revenue providers ''to incur a loss to participate in interstate service.'' The court did not, however, make any findings or opine about the Commission's jurisdiction to assess international revenues. Thus the Commission should have significant discretion to revise its rules regarding contributions on international revenues, consistent with the Fifth Circuit decisions, so long as the new rule is equitable and nondiscriminatory. We seek comment on this analysis and our ability to eliminate the LIRE and to assess one hundred percent of a contributor's interstate and international revenues, without a LIRE exemption.

136. Commenters that oppose the elimination of the ''international only'' and the ''limited international revenues'' exemptions should provide specific alternative rules and explain how their proposals will support the proposed goals set forth in this Notice. We ask commenters to provide data to quantify how our proposals or alternatives will impact the Fund and reduce compliance costs and burdens.

137. *Modifying the Limited International Revenues Exemption.* If we were to assess all international telecommunications revenues, as suggested above, should we also eliminate the LIRE? In the alternative, if we maintain an exemption for international-only providers, we seek comment on whether modifying the LIRE and the contribution obligations of LIRE-qualifying contributors may be appropriate.

138. Specifically, if we do not require LIRE-qualifying providers to contribute on *all* of their end-user international telecommunications revenues, we propose to require LIRE-qualifying providers to contribute on at least a portion of those revenues. Moreover, the LIRE-qualifying factor codified in our current rules (12 percent) may no longer provide the ''adequate margin of safety'' it once did for providers that primarily offer international services, given that the contribution factor has remained above 12 percent over the past two years. We therefore seek comment on ways to modify the LIRE-qualifying factor.

139. If we retain the LIRE, we seek comment on whether we should modify the LIRE as follows: If the ratio of an entity's collected interstate end-user telecommunications revenues to its combined collected interstate and international end-user telecommunications revenues is less than that year's LIRE-qualifying factor, that entity's assessable revenues shall be its collected interstate end-user telecommunications revenues plus an equal amount of its collected international end-user telecommunications revenues, net of contributions. (1) The LIRE-qualifying factor for a given year shall be equal to the highest contribution factor

established for any quarter of the previous year plus three percent. (2) For purposes of this subsection, an ''entity'' shall refer to the entity that is subject to the universal service reporting requirements and shall include all of that *entity's affiliated providers of interstate and international telecommunications and telecommunications services.*

140. We seek comment and (if appropriate) examples of how the LIRE results in a competitive advantage for some providers. Providers that qualify for the LIRE compete against non-qualifying providers that must include *all* of their international revenues in calculating their contribution base. LIRE-qualifying providers benefit from being able to originate and terminate both interstate and international calls in the United States. Further, we seek comment on whether the proposed modification of the LIRE would advance the goal of fairness by treating competitive providers in a like manner. Would it advance other of our proposed goals for contribution reform, such as ensuring a stable contribution base? Would requiring LIRE-qualifying providers to contribute based on an amount of their international revenues equal to their interstate revenues be a more equitable approach in today's marketplace? Would the modification proposed above reduce the potential regulatory advantage that LIRE-qualifying providers have over their competitors? What impact would such a modification have on the Fund?

141. We also seek comment on whether we should set the LIRE-qualifying factor based upon a formula rather than fixed percentage. A fixed percentage assumes that the Commission can easily forecast changes in the contribution base as well as changes in the demand for universal service support. Neither of these assumptions has been valid in recent years. The Commission has already had to increase the LIRE-qualifying factor once to respond to the rising contribution factor. Using a formula to establish the LIRE-qualifying factor should eliminate the need for us to periodically rewrite our rules. Moreover, a formula tied to the current contribution factor would also respond to changes in the contribution factor. If, for example, future events bring the contribution factor down, the LIRE-qualifying factor would automatically decrease in future years, which should increase the contribution base. Should we set the LIRE-qualifying factor one year at a time to provide regulatory certainty for contributors? A three percent increase tied to the current or anticipated contribution factor is generally in line with previous increases to the LIRE. Would a three percent increase, for example, over the previous year's highest contribution factor, be sufficient to address unexpected events in the future?

142. We seek comment on what steps would need to be taken to implement the potential modifications outlined above or alternative proposals to modify the contribution requirements for international-only and predominantly international providers. We also seek comment on how much time parties would need to transition to any modified or new reporting requirements.

h. Reforming the De Minimis Exemption

143. We seek comment on streamlining the *de minimis* exemption to ease administrative burdens. In particular, we seek comment on whether we should modify the *de minimis* exemption to base the threshold on a provider's assessable revenues rather than on the amount of its contributions. We also seek comment on how we could potentially reform our rules to minimize the filing requirements for companies that may be subject to the exemption.

144. We seek comment on whether we should modify the Commission's *de minimis* rules in an effort to reduce administrative burdens. Specifically, we seek comment on revising the rule as follows to base the *de minimis* threshold on a provider's assessable revenues rather than on the amount of its contributions: *If a potential contributor's annual assessable revenues in any given year is $50,000 or less, that contributor will not be required to submit a contribution or Telecommunications Reporting Worksheet for that year unless it is required to do so by our rules governing TRS, numbering administration, or shared costs of local number portability.* * * * *A potential contributor may—but need not—file the quarterly Telecommunications Reporting Worksheet for the year after it qualifies as a de minimis telecommunications provider.*

145. Such a rule would set the *de minimis* threshold based on a telecommunications provider's assessable revenues rather than what it would have contributed. A potentially qualifying telecommunications provider (and its underlying providers) should know with increased certainty whether it will actually qualify as a *de minimis* telecommunications provider as the exemption will no longer depend on each year's quarterly contribution factors. We seek comment on this analysis.

146. If we adopt this approach, is $50,000 the right cutoff for assessable revenues to qualify for the *de minimis* exemption, or should we adopt some other cutoff? We use $50,000 as a potential cut off because today the *de minimis* exemption applies when the contribution would be less than $10,000. If a contributor (under the existing *de minimis* rule) has $50,000 in annual assessable revenues, and we assume an average contribution factor for the year of 17 percent, that contributor would qualify for the *de minimis* exception. We believe that adopting a $50,000 revenues threshold would not change the number of contributors that would qualify for the *de minimis* exemption, but would simplify the application of the *de minimis* rule. Modifying the *de minimis* exemption in this manner could be more equitable, could have a smaller marginal impact, and may better align our requirements for reporting and contributing without affecting those whose ''telecommunications activities are limited to such an extent that the level of such carrier's contribution to the preservation and advancement of universal service would be *de minimis.''* We seek comment on this analysis.

147. We also seek comment on whether such a rule would also reduce the reporting obligations and regulatory uncertainty for *de minimis* telecommunications providers with growing revenues. If so, we ask commenters to quantify the savings. Should we make it optional for contributors to file quarterly Telecommunications Reporting Worksheets for a year after which a contributor qualified as *de minimis*? We seek comment on whether we should adopt a rule that allows telecommunications providers in that position to avoid filing quarterly Telecommunications Reporting Worksheet in the first year for which they are no longer a *de minimis* filer. Such a rule could strike a reasonable balance between providing certainty to small (and growing) businesses in the telecommunications marketplace and the need for all telecommunications providers with a substantial presence to contribute to universal service in an equitable manner. We note that such a rule would not alter the obligation of telecommunications providers to file the *annual* Telecommunications Reporting Worksheet.

148. We also seek comment on other reforms the Commission could make to all of its *de minimis* rules—in the context of funding universal service,

Telecommunications Relay Services (Interstate TRS), North American Numbering Plan, Local Number Portability, and regulatory fees administration programs—to relieve *de minimis* companies of the burden of filing the annual Telecommunications Reporting Worksheet. We seek comment on whether we should reform our rules for filing the annual Telecommunications Reporting Worksheet and set the *de minimis* threshold based on a metric that does not require completing the entire worksheet. For example, should we establish an abbreviated form for telecommunications providers with less than some cutoff value in gross revenues? What metric should the Commission use for determining *de minimis* status? We ask commenters to discuss whether and how alternative metrics would be consistent with the language of section 254(d). What threshold should the Commission establish to permit filing of the abbreviated form? How could we ensure that any revisions to these *de minimis* rules will not undermine the stability of funding for various federal regulatory programs or allow telecommunications providers to evade contribution obligations? Commenters that oppose such suggested rules should provide specific alternative rules and explain how their proposals will support the goals of universal service. We also seek comment on what changes, if any, may be needed in our *de minimis* rules if we were to assess the international telecommunications revenues of all telecommunications providers.

149. We seek comment on what steps would need to be taken to implement any of the potential modifications detailed above or alternative proposals to improve the contribution reporting requirements for *de minimis* providers. We also seek comment on how much time, if any, parties would need to transition to any new rules.

2. Assessing Contributions Based on Connections

150. We seek comment on moving from a revenues-based contribution assessment system to a system based on connections. Nothing in the Act requires contributions to be based on revenues, and the Commission has explored a connections-based methodology in the past. We ask whether a connections-based approach would better meet our proposed goals of promoting efficiency, fairness, and sustainability in the Fund, as well as other goals identified by commenters.

151. Under a connections-based system, providers would be assessed based on the number of connections to a communications network provided to customers. Providers would contribute a set amount per connection, regardless of the revenues derived from that connection. Under various proposals, there would be one standard monthly assessment for certain kinds of connections, typically provided to individuals, and a higher standard monthly assessment for higher speed or capacity connections, typically provided to enterprise customers. There might be several tiers for assessment based on speed or capacity. The standard assessment and higher assessment levels for higher speed or capacity connections would be calculated by applying a formula based on the USF demand requirement and the number of connections, however that term is defined. This contribution factor would apply equally for all connections that fall into the same category, such that assessments would no longer be based on revenues.

152. In 2001, the Commission first sought comment on replacing the existing revenues-based methodology with one that assesses contributions on the basis of a flat fee ''per unit'' charge. In early 2002, the Commission proposed an assessment mechanism based on the number or speed of connections a contributor provides to a public network. The Commission subsequently sought comment on various iterations of a connections-based system, including hybrid systems that would include a connections and revenues component.

153. Proponents of connections-based methodologies have argued that a connections-based system may provide a more stable contribution base than a revenue-based system because the number of connections has historically been more stable than end-user interstate telecommunications revenues. In addition, proponents have suggested that connections-based assessments may mitigate the need to differentiate between revenues from interstate and intrastate jurisdictions and from telecommunications and non-telecommunications services. Others have raised concerns that a connections-based system would impose new costs on both industry and USAC in the form of new data collection and reporting requirements, necessitating changes to billing and reporting systems. Some have argued that a connections-based system may be at least as complex to implement and administer as a revenue-based system, with many operational details that would need to be resolved. Despite several rounds of comment, the industry as a whole has not reached consensus about whether connections-based assessments are the best way to reform the contribution system: Some providers have strongly opposed a connections system, others have been agnostic about whether a connections-based system is the optimal reform, and still others who once supported a move to a system that includes a connections-based component appear to be re-evaluating their position on this issue. In light of the varied connections-based proposals, the evolution of the communications ecosystem, and the comments received over the past decade, we now seek to refresh the record on the operation of a connections-based system, as well as the costs and benefits of such a system, as discussed below. We ask parties claiming significant costs or benefits of a connections-based system to provide supporting analysis and facts for such assertions, including an explanation of how data were calculated and all underlying assumptions.

a. Legal Authority

154. Section 254(d) of the Act requires that ''[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.'' It also gives the Commission broad permissive authority to require contributions from a variety of providers. We seek to refresh the record on whether a connections-based assessment would satisfy the requirements of section 254(d). In responding to the specific questions below, we invite commenters to address how a connections-based system should be structured to fulfill the statutory requirement that telecommunications service providers contribute on an equitable and nondiscriminatory basis. If we were to adopt a connections-based contribution methodology, should we also explicitly exercise our permissive authority over specified providers to make clear that connections provided by those providers would be assessed? How would we ensure that all entities that contribute under a connections-based system are providers of interstate telecommunications?

155. In 2002, the Commission proposed a hybrid revenues/connections-based system that would require a mandatory minimum contribution based on interstate telecommunications revenues for all providers of interstate telecommunications. Under this proposal, all non-*de minimis*

telecommunications carriers would contribute a mandatory minimum, either based on a percentage of total interstate revenue, or based on increasing percentages of telecommunications revenues or increasing flat-fee amounts tied to their telecommunications revenues. Providers with end-user customers would also be assessed on a flat fee basis for residential, single line business, and mobile connections, and on a tiered basis based on speed or capacity for multi-line businesses. Providers with end-user assessments could offset their connections-based assessment against their minimum contribution. In crafting this proposal, the Commission was specifically addressing concerns that a connections-based proposal would be inconsistent with section 254(d)'s requirement that every provider of interstate telecommunications service contribute. We seek to refresh the record on this proposal and seek comment on whether, in fact, a mandatory contribution from every interstate telecommunications carrier is required to satisfy the requirements of section 254(d) that contributions be equitable and nondiscriminatory.

156. We also seek specific comment on whether a connections-based methodology is consistent with the Fifth Circuit's *TOPUC* decision, which held that section 2(b) of the Act prohibits the Commission from assessing revenues associated with intrastate telecommunications service. The Fifth Circuit also interpreted the Act as limiting the Commission's authority to assess international revenues, finding that the Commission's contribution system may not inequitably and discriminatorily assess providers more in universal service contributions than the provider generates in interstate revenues. We seek comment on the Commission's authority under a connections-based system to assess international connections that either originate or terminate in the United States and whether *TOPUC* would apply under such a system. We also seek comment on whether, if we were to adopt a connections-based system, we should adopt an exemption similar to the LIRE under the current revenues-based system for connections that are primarily international in nature, and if so, how to craft such an exemption.

b. Defining ''Connections''

157. We seek comment on the definition of an assessable connection that best meets our proposed goals of promoting efficiency, fairness, and the sustainability of the Fund, as well as other goals identified by commenters. As described below, the question of the appropriate definition of an assessable connection is related to, but may be distinct from, the questions raised in this Notice regarding what providers and services should contribute to universal service.

158. *Facilities-Based Definition.* A facilities-based definition focuses on the physical facility—either wired line or wireless channel—that is provided by the contributor. Under a facilities-based definition, the connection itself, and not the services that are provided over the connection, would be assessed. For example, a physical line to a residential home would be assessed as one ''assessable connection'' even if it provided multiple assessable services to the customer. A multi-line business connection would likewise be assessed based on speed or capacity of the facility and not the services provided over the facility. A facilities-based approach raises complexities, however, to the extent that the assessment varies based on the speed of the facility, in circumstances where the physical connection provides variable speed on demand.

159. If we were to adopt a facilities-based definition, would it be appropriate to build on the definition that was suggested in late 2002: a facility that provides end users with ''access to an interstate public or private network, regardless of whether the connection is circuit-switched, packet-switched, wireline or wireless, or leased line''? For example, we seek comment on the following potential definition of connection: *Connection. A facility that provides end users with access to any assessable service, whether circuit-switched, packet-switched, wireline or wireless, leased line or provisioned wireless channel.* Alternatively, we seek comment on the following potential definition of connection, building on the FCC Form 477: *Connection. A wired line or wireless channel used to provide end users with access to any assessable service.* Are there any significant differences in what would qualify as ''connections'' under these definitions?

160. We believe either definition could be used with either of the two general approaches to defining assessable services described in Section IV of this Notice. That is, either definition could be used either if, as described in Section IV.B, we were to continue defining assessable services as telecommunications services plus certain enumerated other services, or if, as described in Section IV.C, we were to adopt a more general definition of assessable services. We seek comment on this analysis.

161. We also seek comment on the impact of adopting a facilities-based definition of connection. How would adopting such a definition affect the distribution of contribution obligations among different industry sectors, or the relative contribution burden borne by mass market versus enterprise customers? Would such a definition provide predictability for contributors, while retaining sufficient flexibility to accommodate the evolution of the telecommunications marketplace? Are there variations on the definitions, or alternate definitions, that would better meet our proposed goals for contribution reform?

162. Service-Based Definition. Under a service-based definition, the definition of the connection ''unit'' would focus on the service or services that are delivered over the facility. Under such a definition, each interstate telecommunications service using the connection would be assessed as one ''unit,'' as could any service that had an interstate telecommunications component. For example, in contrast to the facilities-based definition, if a customer purchases two services that we have determined are assessable and that are delivered over the same facility, the provider would be assessed for two connections. Multi-line business services could likewise be assessed based on the services that are provided over the connection. For example, we seek comment on the following potential service-based definition of connection: *Connection. An assessable service provided to an end user.*

163. As above, we seek comment on the impact of adopting this definition of connection. How many total connections would there be under this definition, given the different approaches to defining assessable services in this Notice? Would this definition raise questions regarding whether particular offerings were one ''service'' or multiple bundled services? For example, under such a definition, should a subscriber purchasing both text messaging service and voice service be counted as two connections or one? How would family plans or other multi-user or multi-device scenarios be treated?

164. How would adopting this definition affect the distribution of contribution obligations among different industry sectors, or the relative contribution burden borne by mass market versus enterprise customers? Would this definition provide predictability for contributors, while retaining sufficient flexibility to accommodate the evolution of the telecommunications marketplace? Are

there variations on this definition, or alternate definitions, which would better meet our proposed goals for contribution reform?

165. We also seek comment on alternative service-based definition that would focus on *usage* (*i.e.,* how much throughput actually traverses the connection in a given period).

166. *Defining ''End User.''* We also seek comment on whether a definition of connection should be limited to connections provided to ''end users.'' In prior years, the Commission sought comment on whether to apply the same definition of end user that is used under the current revenue-based system. As discussed above, under the existing system, ''end users'' include purchasers of retail interstate telecommunications or telecommunications services that do not contribute on their finished offerings. End users do not include entities that purchase wholesale inputs and contribute on the services they provide to other customers. Would including the use of the term ''end user'' in the definition of a connection perpetuate some of the challenges we see under the current revenue-based system discussed above, such as, for example, the difficulty of determining whether a customer is an end user or reseller of specific services for purposes of USF contribution obligations? How should we define end user if we adopt a connections-based approach? Should we, for instance, define an end user as a residential, business, institutional, or governmental entity who uses the services provided for its own purposes, and does not sell the service to other entities, or incorporate the service into another service sold to other entities?

167. Would a system that requires each provider to ''pay its own way''—that is, each provider would contribute based on the connection it provides to another entity—be simpler from a compliance and administrative perspective? In 2002, the Commission sought comment on a proposal that would split connections-based contribution obligations between switched access and interstate transport providers. Under such an approach, a provider of both local and interexchange services to the end user would be assessed two units per connection (one for access and one for transport), while a provider that provided only local service would be assessed one unit and the interexchange carrier would be assessed one unit. We invite comment on whether a more general system of this type that requires each provider of connections to contribute would be simpler from a compliance and administration perspective than a system that requires only the provider with the relationship to the end user customer to contribute. For instance, as discussed above, if we were to adopt a service definition of connection, and Carrier A sells a private line to Carrier B, and Carrier B in turn uses that circuit to provide both an enterprise communications service and VoIP to its retail customer, should Carrier A be assessed one unit for that high-speed line, while Carrier B is assessed one unit for the communications service and a second unit for the VoIP service?

168. *Connections Provided to Lifeline Subscribers.* Today there are approximately 14.8 million Lifeline subscribers. We seek comment on whether the Commission has statutory authority to exclude from assessment connections provided to Lifeline subscribers. Would it be consistent with section 10 to forbear from imposing contribution obligations on such connections? How would the exclusion of such connections impact a connections-based regime? What would be the policy justifications for excluding these connections from contribution obligations? Alternatively, should such connections associated with Lifeline services be assessed at a pro-rated or reduced rate, and if so, what would be an appropriate amount?

c. Trends in Connections

169. We seek comment regarding trends in connections over time. We seek data to project the number of connections that exist today under the facilities-based definitions discussed above. If we were to adopt a service-based definition, the number of connections would largely depend on how narrowly or broadly we were to define the relevant assessable services. We invite commenters to present data and their underlying assumptions regarding the number of connections under the alternative connection definitions discussed above.

170. The FCC Form 477 data collection provides some information that may be useful in projecting the number of connections. As discussed above, FCC Form 477 counts broadband connections separately from connections that are used for local telephone service, which provides some basis for estimating the number of connections if we were to exercise our permissive authority over broadband Internet access services and also adopted a definition of connections that counted broadband separately from voice. Notably, because the form is designed mainly to track residential connections, it does not capture many connections provided to businesses, governmental entities, and other large institutions.

171. There were 616 million connections reported under the FCC Form 477 connection categories in 2010: 117 million local landlines (switched access lines), 32 million interconnected VoIP subscriptions, 285 million mobile telephone subscriptions, and 182 million broadband connections. If one assumes continued growth in mobile subscriptions, interconnected VoIP and broadband connections, the total number of connections could grow to approximately 800 million connections under the FCC Form 477 connection categories by 2015.

172. We seek comment on our analysis of the 477 data and invite commenters to present their own analysis and underlying assumptions. In particular, how many enterprise connections are there under different definitions of connections and of assessable enterprise services? And if we were to adopt a facilities-based definition of connections, rather than the service-based approach used in Form 477, how many connections are there, and what is the likely trend in the number of connections over time? To what extent are the landlines or mobile subscriptions reported in FCC Form 477 also providing broadband?

d. Assessment and Use of Speed or Capacity Tiers

173. Another key question is whether a connections-based assessment should be based on speed or capacity tiers and how to define any such tiers. In the past, the Commission's proposals have assumed a connections-based methodology would classify connections into various tiers, and each connection within a tier would be assessed the same flat fee. We seek comment on how assessment based on speed or capacity tiers would operate under a service or facilities-based definition of ''connection,'' and whether such an assessment structure would further our proposed reform goals of promoting efficiency, fairness, and sustainability of the Fund.

174. *Determining the Per-Unit Assessment.* In the past, the Commission has sought comment on grouping residential, single-line business, and mobile wireless connections together in a separate category from multi-line business connections, and assessing each based on a flat fee. Under such a system, the initial proposed amount for the residential, single-line business, and mobile wireless connections has been in the range of $1 per month. The residual USF demand would then be met

through assessments on multi-line business connections based on the number and capacity of the connections. We seek comment to refresh the record on such an approach. How would the contribution amount for a typical consumer vary under such an approach compared to the revenues-based approach in place today?

175. If we were to adopt a connections-based approach, should certain providers be eligible for special consideration or exemption? We seek comment on whether a connections-based system that provides special treatment for a myriad of services would meet our proposed goals of ensuring sustainability of the Fund, while simplifying compliance and administration. As noted above, a recent development is the growth in machine-to-machine connections, enabling such innovations as smart meter/smart grids, remote health monitoring, or supply chain tracking. To the extent we were to exercise permissive authority over some or all machine-to-machine connections, should they be assessed at the same level, or flat rate, as other connections? If not, how should they be assessed?

176. Another question that would need to be resolved under a connections-based approach with tiers is whether and how to update the tiers and/or assessment amounts as business and residential users move to higher bandwidth services and new technologies and services develop. In previous Notices, the Commission recognized that, to ensure an appropriate amount of funds for universal service, it would need to revisit and adjust the assessment amount periodically. Recently, the Commission has taken significant strides to minimize future growth of the Fund by adopting a budget in the recent *USF Transformation Order* and a savings target in the *Lifeline and Link-Up Reform and Modernization Order.* These measures to instill fiscal responsibility in these programs are in addition to the caps on other universal service support mechanisms (*i.e.,* the schools and libraries and rural health care mechanisms). We seek comment on how often we should revisit any per-unit amount, if we were to adopt a connections-based proposal, in light of these reforms. Would a semi-annual or annual review be sufficient to meet the needs of the Fund? We also seek comment on whether any re-evaluation of the assessment should happen on a set schedule or an ad hoc basis, either on our own motion or at the request of industry participants or USAC. What factors should we consider in determining whether to adjust the assessment? When periodically readjusting the unit amounts, should we aim to maintain the relative proportion of contribution burdens between residential and business consumers? How could that proportion be accurately determined?

177. *Tiers.* In 2002, the Commission proposed that contributions from providers of multi-line business connections be a residual amount calculated to meet the remaining universal service funding needs not met by contributions for residential, single-line business, and mobile connections. The Commission reasoned that this proposal would make contribution obligations more predictable and understandable for residential, single-line business, and mobile customers, and that multi-line businesses may be better equipped to understand the fluctuations in assessments from quarter to quarter. We seek comment on whether this reasoning remains valid in today's marketplace.

178. In the past, the Commission sought comment on defining a connection as either a residential/single-line business or a multi-line business connection based on whether the residential/single-line business or multi-line business subscriber line charge (SLC) is assigned to the connection. We seek to update the record on whether this delineation is an effective way to identify residential and single-line business connections in today's market, particularly given the growth in wireless and VoIP connections—which typically do not charge SLCs or their equivalent. Not only is such a method for distinguishing residential connections from business connections possibly outdated today, but we are concerned it will become increasingly more so as users move to alternative providers that do not charge SLCs. We seek comment on whether, if we adopt a connections-based approach, we should distinguish between residential/mass market connections and business/enterprise connections. And, if so, we seek comment on other objective measures aside from the SLC that we could use to distinguish between these two categories of connections.

179. We understand anecdotally that many companies are moving away from purchasing mobile service directly for employees in favor of providing employees with reimbursements for their personal mobile monthly plans. To the extent we were to make a distinction between residential and business connections, how should such connections be classified as residential or multi-line business connections? How would contributors distinguish such connections absent a corporate identifier on the account? We seek comment on these issues and whether such a distinction serves our proposed policy goals of administrative efficiency, fairness, and sustainability.

180. *Tier Structures.* Over the years, the Commission and the industry have proposed various tiers to calculate assessments for multi-line business connections, with no one approach emerging as the preferred alternative. In 2002, the Commission proposed a structure of three tiers of up to 1.544 Mbps, 1.544 to 45 Mbps, and 45 Mbps or higher for multi-line business connections. Later in 2002, the Commission updated the proposed tiers to four tiers of up to 725 kbps, 726 kbps to 5 Mbps, 5.01 Mbps to 90 Mbps, and greater than 90 Mbps for multi-line business connections. At that time, the Commission sought to set the speed ranges so that then-common service offerings would fall well within each tier in order to minimize market distortion. Subsequently in 2008, the Commission proposed just two tiers of up to 64 kbps and over 64 kbps for business services. Commenters have also proposed different sets of tiers. AT&T, for example, proposed three tiers of up to 25 Mbps, over 25 Mbps up to and including 100 Mbps, and over 100 Mbps for dedicated business connections.

181. In today's ever evolving marketplace, there is increased demand for multi-line business connections to have more bandwidth. One of the proposed goals of our reformed contribution system is to simplify administration and reporting. Is there a way to structure the speed tiers in a future-proof manner? Or, would a system based on available speed tiers inevitably become outdated as the communications industry continues to evolve? Is there a reasonable way to have tiers automatically adjusted, for example by setting tiers based on percentile, such that the slowest quartile of connections would fall into one tier, the next quartile in another tier, etc.?

182. We seek comment on whether any of the previously proposed tier structures would be appropriate in today's marketplace, and whether any such tiers should be limited to business customers or whether they should extend to residential or mass market connections as well. We seek to refresh the record in light of recent actions taken in the *USF–ICC Transformation Order and FNPRM* and other pending proceedings. For instance, in establishing tiers, to what extent, if at all, should we take into account the Commission's decision to establish 4

Mbps down/1 Mbps up as the minimum speed for fixed broadband connections under the Connect America Fund? Should speed tiers for universal service contribution purposes be based on actual speeds or advertised speeds? Is one approach preferable to another for purposes of auditing and enforcing compliance with our contributions rules?

183. To the extent commenters believe one of the previously proposed tier structures is appropriate for today's market, we seek detailed comments to support such a position. Additionally, we encourage commenters to propose a tier structure that accounts for the qualities of connections in the marketplace today. In the past, the Commission sought comment on a tier structure based on speed. Should tiers also be set based upon capacity, or the total volume of data that can be sent and/or received over the connection by the end user over a period of time? Commenters should explain why they propose tiers at the particular capacity range and propose the appropriate assessment amount for each tier. Commenters should also discuss how we can structure the tiers so that they will accommodate future evolution. We seek to minimize the potential for market distortion based on the tier structure; commenters should address how their proposal addresses this concern in their responses. Commenters proposing new tier structures should also provide an analysis of the impact on the Fund and the relevant burdens to residential and business consumers.

184. Would the current FCC Form 477 tier structure work in the context of a USF connections-based assessment? For example, FCC Form 477 tracks facility-based broadband connections in ten different technology categories (*e.g.,* asymmetrical and symmetrical xDSL, cable modem, fiber-to-the-home, mobile wireless) based on transfer rates ranging from 200 kbps to greater than 100 mbps. We seek comment on whether this categorization and tier structure as well as the other data collection requirements in the FCC Form 477 could work for universal service contribution purposes, or whether they could be easily modified to satisfy the requirements of both the FCC Form 477 and any established USF contribution rules and requirements. If we were to modify our FCC Form 477 data collection, should we also make corresponding modifications to the tiers for purposes of USF contributions?

185. While multi-line business connections may provide a specific maximum level of speed or capacity, other connections provide customers, through contractual agreements, with the option of utilizing additional speed or capacity on a short-term basis. One of the challenges of a tiered connections-based approach is how it would address connections that provide varying speed at different points in time. For example, should we consider how ''burstable'' bandwidth would be assessed under a connections-based system? Burstable bandwidth allows a connection to exceed its stated speed, usually up to a pre-chosen maximum capacity for a period of time, such as during periods of heavy network activity or peak network usage. We seek comment on what rules should be adopted to address such situations, if we were to adopt a connections-based system.

186. Some commenters argue that there is little correlation between connection speed and telecommunications usage. These commenters ask whether it is more appropriate to base the tiers on usage rather than speed. Under prior connections-based proposals, contributors would be assessed for multi-line business connections based on the maximum amount of bandwidth they allocate to the connection, not the actual amount of bandwidth used. Because customers often purchase excess bandwidth for backup or future growth, some commenters argue that assessing a connection at the maximum available speed taxes spare bandwidth and could lead to poor network management practices. We seek comment on this position. We also seek comment on how a provider would measure the actual usage of a customer's connection and the burdens associated with such reporting. Finally, we seek comment on how we would audit actual usage.

e. Policy Arguments Related to Connections-Based Assessment

187. In 2002, the Commission outlined a number of potential benefits of a connections-based assessment methodology: the number of connections has been more stable than interstate revenues and therefore connections-based assessment may provide a more predictable and sufficient funding source for universal service; under a connections-based approach, providers would not have to allocate revenues between interstate and intrastate jurisdictions or between telecommunications and non-telecommunications services; and under a connections-based end-user approach, only one entity—the one with the direct relationship with the end user—would be responsible for contributing, thereby potentially reducing the complexities associated with collecting and reporting USF fees. We seek comment to refresh the record on these issues given the changes that have occurred in the telecommunications marketplace since 2002 and the potential rule changes discussed in this Notice. Is a connections-based contribution methodology consistent with the proposed goals of having a contribution methodology that is efficient, fair, and sustainable?

188. *Distinguishing Telecommunications from Non-Telecommunications.* In 2002, the Commission and commenters suggested as a potential benefit that a connections-based methodology might not require carriers to distinguish between telecommunications and non-telecommunications services, distinctions that may be increasingly difficult as the marketplace evolves. We seek comment above on approaches to provide clarity to contributors with respect to specific services, without the need to classify those services as either information services or telecommunications services. We also seek comment on assessing revenues associated with information services. In light of those potential approaches, is this potential advantage of a connections-based methodology still relevant? If we were to adopt a facilities-based connections approach, should we make an affirmative finding that each connection within the scope of our definition ''provides interstate telecommunications'' in order to subject that connection to assessment?

189. *Jurisdictional Considerations.* The Commission and industry participants have suggested in the past that a connections-based system might mitigate the need to differentiate between interstate and intrastate jurisdictions. We seek comment on whether this remains a relevant consideration.

190. In the connections-based methodology proposed in 2002, the Commission stated that international-only and intrastate-only connections would be exempt because they do not have an interstate component. We seek comment on how specifically we would determine whether a particular connection should be deemed to be intrastate-only for contribution purposes, if we were to adopt a connections-based methodology, and how such a rule could be applied. We note that today, private lines with less than ten percent interstate traffic are deemed to be jurisdictionally intrastate. For contribution purposes, the Form 499 instructions specify that if over ten percent of the traffic is interstate, all of

the revenues for that line are classified as interstate. We seek comment above in this Notice on a revenues-based approach that would be simpler to administer, which would allocate revenues to the different jurisdictions according to a set percentage. If we were to adopt a connections-based approach, should we adopt a rule that any connection that provides the capability to originate or terminate communications that may cross state lines is subject to assessment, regardless of the physical end points of the facility or the actual traffic carried on a particular circuit?

191. To the extent we exercise our permissive authority to assess broadband Internet access connections, we seek comment on whether such connections should be presumed interstate for purposes of universal service contributions. Should we conclude that any connection that connects to an Internet point of presence should be deemed interstate for federal USF contribution purposes? Would such a rule allow states to assess connections (or revenues associated with connections) to support state universal service funds? Would a connections-based system increase compliance burdens if states continue to employ a revenues-based assessment for state-based funds? What is a simple way to determine jurisdiction for connections in a manner that is fair and competitively neutral, and could such an approach reduce compliance burdens on contributors?

192. *Consumer Impact.* In the past, certain contributors have argued that a connections- or numbers-based contribution methodology would disproportionately impact vulnerable populations, such as low-income consumers and the elderly. How would moving to a connections-based approach change the relative distribution of the contribution burden between enterprise users and consumers, as well as among different types of enterprise users and consumers? Is moving to a connections-based approach where connections are assessed a flat rate (or a flat rate within a tier) fair to low-income consumers and other users on low-cost service plans? Are there modifications that could be made to a connections-based methodology to make the level of assessment fairer to consumers on low-cost service plans? If we were to adopt a connections-based approach, would low-income households be likely to see a contribution pass-through charge for a larger percentage of their monthly telecommunications bill than higher-income households? Would low-volume customers bear an assessment that constitutes a larger percentage of their bill than high-volume users?

f. Implementation

193. Implementing a connections-based system would presumably require new data collection and reporting requirements and, at least in the near term, impose additional costs on both filers and USAC to implement new reporting systems. A connections-based system could also present complexities related to compliance and auditing, particularly because connections are not generally reported for other governmental purposes. Further, a move to a connections-based system may affect other programs that currently report on the FCC Form 499, including Interstate TRS, North American Numbering Plan, Local Number Portability, and regulatory fees administration. Finally, a new system would require some period of transition. We seek comment on all these issues below.

194. *Reporting.* We seek comment on how to implement reporting requirements under a connections-based contributions system. Under the existing revenue-based contribution methodology, contributors report to USAC their historical gross-billed, projected gross-billed, and projected collected end-user interstate and international revenues quarterly on the FCC Form 499–Q and their gross-billed and actual collected end-user interstate and international revenues annually on the FCC Form 499–A. USAC then bills contributors for their universal service contribution obligations on a monthly basis based on the contributors' quarterly projected collected revenue. Contributors report actual revenues on the FCC Form 499–A, which USAC uses to perform true-ups to the quarterly projected revenue data.

195. How should a connections-based system be implemented? In particular, we seek comment on the specific changes necessary to enable USAC to administer the Fund under a connections-based system. How would contributors report the number and speed or capacity of their connections under a connections-based assessment methodology? For a service-based connections methodology, how should providers report the service type? Should we continue to use a FCC Form 499 or use a different system, and why? What would be the administrative impact of a new reporting system on providers and on USAC as the administrator of the Fund? Could we modify the FCC Form 477 to capture the data necessary for a connections-based system, thus eliminating the need to file separately for contribution purposes? What measures should we take to ensure that providers would not be able to avoid their contribution obligation? To what extent do connections fluctuate due to churn or other factors, and, as a result, how often should providers report their data to ensure the stability and sufficiency of the Fund? Should we limit reporting requirements to twice a year, to coincide with the requirement to report connections data on the FCC Form 477? We seek comment on whether reporting only twice a year would satisfy our proposed goal of a more simplified contribution system. We also seek comment on the potential impact of a six-month reporting interval on periodic adjustments to the per-connection assessment. Would such a reporting schedule provide USAC and the Commission with the data necessary to effectively administer the universal service programs? We specifically seek comment and data on whether it is necessary to monitor individual provider fluctuations through frequent reporting or whether less frequent reporting would suffice.

196. Alternatively, we seek comment on the costs and benefits of reporting at monthly or quarterly intervals. Since a more frequent interval would likely provide a larger number of ''snapshots'' of a contributor's connection counts over a year, would a more frequent interval provide more accurate data and lead to more stability in the Fund than would a six-month interval? Would a more frequent reporting period make adjustments to the contributions requirements more incremental? Would longer or shorter reporting intervals advantage or disadvantage some types of providers more than others? In 2002, the Commission sought comment on a monthly reporting system under which the contributor would report the number and speed or capacity of their connections at the end of each month on a new FCC Form 499–M. Under that approach the new form would also serve as a contributor's monthly bill. We seek comment on the costs and benefits of such an approach.

197. *Costs Associated with Implementing a Connections System.* We seek comment on contributors' out-of-pocket costs for implementing a new connections-based contribution methodology. Would contributors be able to use their current billing and operating systems to report connections for universal service contributions? If not, what would be the incremental costs associated with modifying billing systems and internal controls and processes to collect and track

connections for purposes of reporting and contributing to the Fund? Would contributors have to implement entirely new systems to track the type of data needed to report connections? Does the answer to this question depend on whether the Commission adopts the FCC Form 477 connection categories as opposed to other categories of providers or services whose connections are assessable? Are there cost savings that could be realized by moving away from the current system, which requires contributors to report revenues quarterly (projected) and annually (actual) for USF purposes? Would those costs vary depending on the definition of connections we adopt? We also seek comment on whether the cost of updating billing and internal systems for this regulatory purpose would outweigh any benefit achieved. What would be the implications for reporting for other regulatory programs such as regulatory fees, Interstate TRS, and the North American Numbering Plan? Would increased operational costs negatively impact certain carriers more as compared to other carriers (for example, smaller rate of return companies that recover some of these costs from high-cost loop support, which is capped)?

198. We specifically seek comment on any implementation costs associated with other programs that rely on the data reported on the FCC Form 499–A. For example, if we were to move to a connections-based system for contributions, would there be additional costs associated with reporting for the Interstate TRS Fund, North American Numbering Plan, Local Number Portability, and regulatory fees administration programs which currently rely on the FCC Form 499–A data? Would a change in the contribution system to a connections-based approach only be feasible and cost-effective if these other programs also changed to a connections-based approach? We also ask whether adopting a connections-based system would increase compliance burdens if states continue to employ a revenues-based assessment.

199. We also seek to refresh the record on whether there are other costs associated with a connections system, and in particular ask providers if there are any new costs that were not foreseen when we last asked for comments on this methodology. Would the cost of a new assessment methodology increase for certain classes of customers or certain industry segments? To what extent would this analysis change depending on how a connection is defined and assessed? Do the additional costs associated with implementation and reporting requirements outlined below outweigh the benefits of moving to a connections-based methodology?

200. *Auditing.* Audits are an essential tool for the Commission and USAC to ensure program integrity and to detect and deter waste, fraud, and abuse. Any new connections methodology must be auditable in order to ensure that contributors are reporting accurately, and that the system operates in an equitable and nondiscriminatory manner, maintains stability in the contribution base, and minimizes market distortions and gamesmanship. Auditing a connections-based system could be difficult, however, if the manner in which providers track their connections for business reasons does not overlap with the Commission's definitions of ''connections'' and ''tiers.'' As previously noted, unlike revenues, connections are not universally tracked, and thus there are no standards or regular means of auditing a ''connection.'' In addition, unlike revenues, ''connections'' are not reported to other federal agencies, such as the SEC, nor are connections routinely tracked on a company's books. Because companies would be tracking connections solely or primarily for the Commission, we seek comment on how to structure a connections-based system to be auditable and enforceable. How, in fact, would companies track their connections for USF contribution reporting purposes? Would companies need to create internal records solely for this purpose? How would an auditor verify the accuracy of the internal records, especially in light of customer churn and customer change orders? Because revenue is reported for other governmental purposes there are, to some extent, inherent checks and balances built into a revenues-based system. We seek comment on whether any potential lack of checks and balances under a connections system is a fatal flaw, or if it could be remediated. Proponents of a connections-based system should provide specific details about how contributors would report their data and how auditors could verify the accuracy of connections data reported. In addition to audits, what other steps should be taken under a connections-based system to detect and deter waste, fraud, and abuse?

201. We seek comment on how, under a connections-based system, we could create the proper incentives for providers to accurately report connections data. What types of procedures are necessary to verify the accuracy of the number of connections reported by a provider? How would USAC measure the accuracy of the data, especially given customer churn that may occur between reporting periods?

202. *Effect on Other Programs.* As in previous comment cycles, we ask parties to provide comment on the impact of moving to a connections-based approach on the Interstate TRS, North American Numbering Plan, Local Number Portability, and regulatory fees administration programs. The revenue information currently reported on an annual basis in FCC Form 499–A is also used to calculate assessments for these programs. We ask parties to provide comment on the best approach for ensuring proper funding of these programs were we to move to a connections-based methodology. Should contributors continue reporting gross billed end-user revenues for purposes of these programs, and if so, should they continue to report on an annual basis? Could we dramatically simplify the FCC Form 499 for purposes of revenue reporting in that instance, such as by eliminating the multi-line breakout of reported revenues into sub-categories? We specifically seek comment on whether to maintain revenue-based reporting for the regulatory fee program if we move to a connections-based approach for USF contributions and/or the other programs.

203. If we were to adopt a connections-based approach for the USF, should we also move to a connections-based approach for Interstate TRS, North American Numbering Plan, Local Number Portability, and regulatory fees administration programs? If so, would a connections-based approach for these programs vary, if at all, from a connections-based approach for the USF? We specifically seek comment on how a connections-based system could be implemented to satisfy the requirements of section 715 of the Act. This section requires that each interconnected VoIP service provider and each provider of non-interconnected VoIP service shall participate in and contribute to the Interstate Telecommunications Relay Services Fund in a manner ''consistent with and comparable to the obligations of other contributors to such Fund.'' Finally, are there alternative ways to calculate contributions for the Interstate TRS, North American Numbering Plan, Local Number Portability, and regulatory fees programs?

204. *Transition.* A connections-based methodology would constitute a substantial change from the current *revenue*-based system and would likely require a transition period, especially if reporting entities need to implement

new billing and accounting systems and a process for recording connection counts in a manner that is auditable. We seek comment on what steps would need to be taken to transition between the current revenues-based system and a connections-based system and how much time would be needed to ensure that the new process is applied in an equitable manner.

205. If we were to adopt a connections-based methodology, the Commission and USAC would likely need to go through multiple reporting cycles to determine whether information is being reported consistently and to determine whether contributors understand what information they are being asked to report. In addition, contributors and USAC would need time to update their billing and tracking systems to accommodate the new methodology. Is a one-year transition period sufficient to ensure that all affected parties would have adequate time to address any implementation issues that arise? How much time would be necessary for contributors, including new contributors, to adjust their record-keeping and reporting systems in order to comply with new reporting procedures? Are there new considerations that would favor a longer or shorter transition period? Would there be a benefit in adopting different transition periods for residential and business markets?

206. We also seek comment on the value of requiring dual reporting during all or some of the transition time—where reporting entities would continue to report and pay under the current revenues-based system, while they also begin reporting under the new system. Would having providers report under both systems for a specified amount of time during the transition provide the opportunity for both providers and USAC to address unforeseen implementation issues that are likely to arise under the new reporting system? Should new filers begin reporting sooner since USAC does not have any historical data on their revenues and services?

3. Assessing Contributions Based on Numbers

207. We seek comment on moving away from the current revenues-based contribution system and adopting a numbers-based contribution methodology. The Commission has explored a numbers-based methodology in the past, including as recently as 2008, when it sought comment on using telephone numbers as the basis for a new contributions system. We seek to refresh the record given developments in technology and communications.

208. Under a numbers-based system, in its simplest form, providers would be assessed based on their count of North American Numbering Plan (NANP) phone numbers. There would be a standard monthly assessment per phone number, such as $1 per month, with potentially higher and lower tiers for certain categories of numbers based on how these numbers are assigned or used. The monthly assessment per number would be calculated by applying a formula based on the USF demand requirement and the relevant count of numbers, however that term is defined. This contribution factor would no longer be based on revenues.

209. In 2002, the Commission first sought comment on replacing the existing revenues-based methodology with a system that would assess providers on the basis of telephone numbers assigned to end users (assigned numbers), while assessing special access and private lines that do not have assigned numbers based on their speed. The Commission also sought comment on how to treat multi-line switched business services, such as Centrex and private branch exchange, and other types of services, such as electronic fax services under a telephone-number based approach. Thereafter, in the *2008 Comprehensive Reform FNPRM,* 73 FR 66821, December 12, 2008, the Commission sought comment on a series of proposals to adopt a new contribution methodology based on assessing telephone numbers. The FNPRM contained three proposals, each with a numbers-based assessment component. Two of the proposals (2008 Appendix A Proposal and 2008 Appendix C Proposal) would have assessed USF contributions based on telephone numbers used for residential services, at a flat $1.00 per month charge for each number, and would have assessed business services based on connections. The third proposal (2008 Appendix B Proposal) would have assessed USF contributions based on telephone numbers used for consumer and business services, at a flat $.85 per month charge for each number.

210. We seek comment on whether a numbers-based methodology would further our proposed reform goals of greater administrative efficiency, fairness, and sustainability of the Fund. We also seek comment on the costs and benefits of a numbers-based contribution methodology. We ask parties claiming significant costs or benefits of a numbers-based system to provide supporting analysis and facts for such assertions, including an explanation of how data were calculated and all underlying assumptions.

a. Legal Authority

211. We seek comment on our legal authority to adopt a numbers-based contributions methodology. Section 254(d) of the Act requires that ''[e]very telecommunications carrier that provides interstate telecommunications services shall contribute on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.'' Section 254(d) also provides the Commission with permissive authority to require ''providers of interstate telecommunications'' to contribute to the Fund. Title I of the Act gives the Commission ancillary jurisdiction over matters reasonably related to ''the effective performance of [its] various responsibilities'' where the Commission has subject matter jurisdiction over the service.

212. The Commission previously has sought comment on whether the Commission's ''plenary authority'' over numbering in section 251(e) provides additional authority to adopt a numbers-based methodology. The Commission has ''exclusive jurisdiction over those portions of the NANP that pertain to the United States.'' In the *VoIP 911 Order,* the Commission relied on its section 251(e) authority to require interconnected VoIP providers to provide E911 services. In so doing, the Commission noted that it exercised its authority under section 251(e) because, among other reasons, ''interconnected VoIP providers use NANP numbers to provide their services.''

213. We seek to refresh the record on the Commission's authority pursuant to sections 254(d), 251(e), and Title I of the Act to establish a numbers-based contributions methodology. Under a numbers-based approach, some providers could be required to contribute directly to the Fund that historically may have contributed indirectly or not at all. We seek comment on whether the public interest would be served if the Commission were to exercise its permissive authority to require these providers to contribute to the Fund. What is the extent of the Commission's ancillary authority under Title I of the Act? Does the provision of a service that relies on the assignment of an assessable number to an end user bring such a service offering under the Commission's broad subject matter jurisdiction because it involves, in some manner, ''interstate * * * communication by wire or radio?'' Does

the Commission's plenary authority over numbering under section 251 of the Act support use of a numbers-based contribution methodology?

214. We invite commenters to address how a numbers-based system should be structured to fulfill the statutory requirement that telecommunications service providers contribute on an equitable and nondiscriminatory basis. If we were to adopt a numbers-based contribution methodology, should we also explicitly exercise our permissive authority over providers of telecommunications or specified services to make clear that providers of those services would be assessed? How would we ensure that all entities that contribute under a numbers-based system are providers of interstate telecommunications?

b. Defining Assessable Numbers for Contribution Purposes

215. We seek comment on *which* numbers should be assessed under a numbers-based contribution methodology. We also seek comment on whether defining assessable numbers or alternatives that commenters may suggest would best further our proposed goals for contribution reform. We specifically ask commenters to estimate the per-number assessment under their preferred definition of assessable numbers and the scope of any exemptions that they propose. We also ask parties to address the impact of differing definitions of assessable numbers on who would contribute in the future, compared to today.

216. *Definition of Assessable Numbers.* We seek comment on how the Commission should define an ''assessable'' number for purposes of a numbers-based contributions methodology. In other contexts, the Commission has defined ''numbers'' for purposes of Commission reporting requirements. For example, the Commission requires that each telecommunications carrier that receives numbering resources from the North American Numbering Plan Administrator (NANPA), the Pooling Administrator, or another telecommunications carrier, report its numbering resources in each of six defined categories of numbers set forth in § 52.15(f) of our rules. In the regulatory fee context, the Commission has adopted the category of ''assigned numbers'' as the starting point for determining how to assess fees on certain providers, but found it necessary to modify that definition to account for different regulatory contexts. Specifically, in assessing regulatory fees for commercial mobile radio service (CMRS) providers that report number utilization to NANPA based on the reported assigned number count in their Numbering Resource Utilization and Forecast (NRUF) data, the Commission requires these providers to adjust their assigned number count to account for number porting. The Commission found that adjusting the NRUF data to account for porting was necessary for the data to be sufficiently accurate and reliable for purposes of regulatory fee assessment. We seek comment on whether we should adopt any of these definitions of numbers for purposes of defining an ''assessable number'' for USF contributions.

217. Specifically, we seek comment on the following definition of assessable numbers: *An ''Assessable Number'' is a NANP telephone number that is in use by an end user and that enables the end user to receive communications from or terminate communications to (1) an interstate public telecommunications network or (2) a network that traverses (in any manner) an interstate public telecommunications network in the United States and its Territories and possessions. Assessable Numbers include geographic as well as non-geographic telephone numbers (such as toll-free numbers and 500–NXX numbers) as long as they meet the other criteria described in this part for Assessable Numbers.*

218. We seek comment on whether this definition furthers our overall proposed goals of reform. Is the above definition sufficiently broad to capture all types of numbers, including those associated with services aimed primarily at international calls that either commence or end in the United States and its Territories? Should we include in the above definition of numbers toll-free numbers that are also part of the North American Numbering Plan, but are governed by §§ 52.101 through 52.111?

219. We also seek comment on alternatives. For instance, should we define assessable numbers consistent with the definition of ''Assigned numbers'' in Part 52: ''Assessable numbers are numbers working in the Public Switched Telephone Network under an agreement such as a contract or tariff at the request of specific end users or customers for their use, or numbers not yet working but having a customer service order pending. Numbers that are not yet working and have a service order pending for more than five days shall not be classified as assessable numbers.'' Would such a definition include NANP numbers assigned to mobile broadband-only devices, such as 3G tablets or laptop cards? If not, should we modify this definition, or would it be appropriate to exclude numbers associated with such devices and services associated with them? Commenters proposing alternative definitions of ''assessable numbers'' should explain how their proposal satisfies our proposed goals for contributions reform.

220. We note that any definition of assessable numbers may exclude special access services and possibly other services that are clearly assessed today, but that do not include a telephone number. In addition, such a definition may exclude some of the services mentioned in Section IV.B of this Notice. We seek comment on how such services should be treated under a pure numbers-based approach.

221. *Cyclical Numbers.* We seek comment below on whether contributors should report numbers on a monthly basis. If we were to adopt such a rule, should numbers used for intermittent or cyclical purposes (and that may not be fully in use at the time of a monthly reporting obligation) be excluded or included from the definition of Assessable Numbers?

222. We define numbers used for cyclical purposes as numbers designated for use that are typically ''working'' or in use by the end user for regular intervals of time. These numbers include, for example, an end-user's summer home telephone number that is in service for six months out of the year. In the *NRO III Order,* 67 FR 6431, February 12, 2002, the Commission clarified that these types of numbers should generally be categorized as ''assigned'' numbers if they meet certain thresholds and that, if they do not meet these thresholds, they ''must be made available for use by other customers'' (*i.e.,* they are ''available'' numbers). Is there a bright-line way for providers to determine, and for the Commission or USAC to verify and audit, which numbers are cyclical versus which numbers are not cyclical? If not, would excluding such numbers be consistent with our proposed goals for contribution reform? What are the implications of excluding such numbers in the contribution base? Would excluding these numbers be consistent with the requirements of section 254(d)? What would be the policy justifications for excluding or including these numbers in the contribution base? For example, one policy reason for assessing cyclical numbers would be that each cyclical number obtains the full benefits of accessing the public network. If cyclical numbers are not excluded from the definition of assessable numbers, should such numbers be assessed at a pro-rated

or reduced rate? We ask commenters to provide data as to the count of numbers that would fall into the category of cyclical numbers, and explain how the Commission and USAC would verify and audit the use of such numbers.

223. *Assigned but Not Operational Numbers.* Section 52.15 of our rules define ''assigned numbers'' as numbers that have been assigned to a customer (within a period of five days or less) but have not yet been put into service. Since providers generally do not bill for services that have yet to be provisioned and therefore are not compensated for services during the pendency of the service order, should such numbers be excluded from the definition of Assessable Numbers? We seek comment on whether our definition of assessable numbers should include numbers that are not yet operational to send or receive calls. Would it be consistent with the ''equitable and non-discriminatory'' language in section 254(d) to exclude these numbers? Would the exclusion of assigned but not operational numbers have a material impact on the contribution base and associated per month charge for assessable numbers? What would be the policy justifications for excluding these numbers from contribution obligations? In the alternative, should such numbers be assessed at a pro-rated or reduced rate? We ask commenters to provide data as to the volume of numbers that would fall into the category of ''assigned but not operational numbers.''

224. *Available but Not Assigned Numbers.* We seek comment on whether the definition of assessable numbers should include or exclude other numbers that are held by service providers from the definition of Assessable Numbers. In particular, should we exclude from the definition of Assessable Numbers those numbers that meet the definition of an Available Number, an Administrative Number, an Aging Number, or an Intermediate Number as those terms are defined in § 52.15(f) of the Commission's rules? Carriers will not have an end user associated with a number in any of these categories of numbers. For example, an intermediate number is a number that is ''made available for use by another telecommunications carrier or non-carrier entity for the purpose of providing telecommunications service to an end user or customer.'' Should the receiving provider be responsible for including the number as an Assessable Number only when it provides the number to an end user? We seek comment on whether a numbers-based approach should assess Reserved Numbers. Would it be consistent with the ''equitable and non-discriminatory'' language in section 254(d) to exclude these numbers? Would the exclusion of available but not assigned numbers have a material impact on the contribution base and associated per month charge for assessable numbers? What would be the policy justifications for excluding these numbers from contribution obligations? Should such numbers be assessed at a pro-rated or reduced rate? We ask commenters to provide data as to the volume of numbers that would fall into the category of ''reserved numbers.''

225. *Assigned but Non-Working Numbers.* The 2008 proposals sought comment on excluding non-working telephone numbers from the definition of Assessable Number. Several commenters supported the Commission's proposal that assigned but non-working numbers should be excluded from contributions. Carriers report as assigned numbers for NRUF purposes entire codes or blocks of numbers dedicated to specific end-user customers if at least fifty percent of the numbers in the code or block are working in the PSTN. Would it be consistent with the definition of an Assessable Numbers above for carriers to exclude the non-working numbers in these blocks in their Assessable Number counts, because the non-working numbers portion of these blocks are not ''in use by an end user''? We seek to update the record on whether a numbers-based approach, if adopted, should assess non-working numbers. Would it be consistent with the ''equitable and non-discriminatory'' language in section 254(d) to exclude these numbers? Would the exclusion of non-working numbers have a material impact on the contribution base and associated per month charge for assessable numbers? What would be the policy justifications for excluding these numbers from contribution obligations? Would this create loopholes and make it difficult for the Commission or USAC to audit a provider to determine if non-working numbers were properly counted? In the alternative, should such numbers be assessed at a pro-rated or reduced rate? We also seek comment on the count of non-working numbers, as well as the trend for this category.

226. *Numbers Used for Routing Purposes.* We seek to update the record on whether a NANP number used solely to route or forward calls should be excluded from the definition of Assessable Number in a numbers-based approach, if such routing number were provided for free, and such number routes calls only to Assessable Numbers. Should these numbers be assessed on a different basis, if such routing or forwarding were provided for a fee, such as with remote call forward service or foreign exchange service? We seek comment on whether such numbers should be excluded under a numbers-based contribution system. Would it be consistent with the ''equitable and non-discriminatory'' language in section 254(d) to exclude these numbers? Would the exclusion of numbers used for routing purposes have a material impact on the contribution base and associated per month charge for assessable numbers? How would the exclusion of routing numbers impact a numbers-based regime? What would be the policy justifications for excluding these numbers from contribution obligations? Should such numbers be assessed at a pro-rated or reduced rate? We also seek data on numbers used for routing purposes, including trend information for this category of numbers.

227. *Toll-Free Numbers.* We seek comment on whether a numbers-based methodology should make special accommodations for toll-free numbers. We seek comment on whether the proposed definition for assessable number should exclude from assessment toll-free numbers. Would it be consistent with the ''equitable and discriminatory language'' in section 254(d) to exclude these numbers? How would the exclusion of toll-free numbers impact a numbers-based regime? What would be the policy justifications for excluding these numbers from contribution obligations? Should such numbers be assessed at a pro-rated or reduced rate? We also seek data on toll-free numbers, including trend information for this category of numbers.

228. *All Public or Private Interstate Networks.* As more services migrate to alternative networks that only partially traverse the PSTN, we seek comment on whether there is a danger that a NANP numbers-based contributions methodology in time could result in declines in the base, and may conflict with our proposed reform goals of ensuring sustainability in the Fund and promoting fairness in the USF contribution assessment system? Or are NANP numbers being used in association with new technologies that do not originate or terminate on the PSTN? If so, do commenters expect that growth in these alternative usages will outpace other declines? We seek comment generally on whether a contribution system based on NANP numbers would be sustainable as the marketplace evolves in the future.

229. *Numbers Provided to End Users.* We seek comment on which providers should contribute to the Fund under a numbers-based contribution methodology. We seek comment on whether the provider with the retail relationship with the end user should have the contribution obligation under a numbers-based approach. Would such a provider have the most accurate and up-to-date information about how many Assessable Numbers it currently has assigned to end users and how many are in use? If we adopt a different approach for numbers used for consumer versus enterprise services, would the provider with the retail relationship be in the best position to distinguish consumer users from business users?

230. We seek comment on how a numbers-based approach should be implemented with respect to wholesalers, resellers, and other providers incorporating NANP numbers into retail services. Would a system that assesses only numbers provided to end-users invite problems similar to those that exist today under the current revenues-based system, whereby some providers do not contribute for services provided? We note that in some instances wholesalers may provide telecommunications services to customers with numbers. For example, would a numbers-based system create wholesale/reseller/retailer problems of the type discussed earlier in this Notice?

c. Trends in Numbers

231. We seek comment and data on the count of numbers that would be assessable under a number-based USF contribution assessment system. Neustar, the administrator of the NANP, estimates that there are currently 770 million numbers in active use in the United States. As shown in Chart 7 below, one projection suggests there could be over 832 million numbers in active use by 2015. We seek comment on this estimate and the underlying assumptions, and invite commenters to present their own estimates for the growth or decline in the count of actively-used numbers as well as any additional data regarding their own estimates and the key drivers for such growth or decline. To what extent is the growth in the volume of numbers due to new services and applications, and to what extent is it due to greater penetration of phone service, such as cell phone family plans and usage by younger children? Do commenters believe the volume of numbers will increase in the foreseeable future? Is the growth trend sustainable given anticipated technology changes? What other factors will impact the continued growth in the volume of numbers? What impact would the growth in numbers have on future contribution assessments? To the extent commenters predict the volume of numbers in use will decline over time rather than grow, they should similarly identify the basis for their assumptions and describe in detail their projections for the foreseeable future. What challenges would a numbers-based contribution system face if the volume of numbers were to shrink?

232. We seek to update the record on what the per-number charge would be, given current and projected trends in numbers and overall universal service demand. Commenters also should provide revised estimates of the impact on different industry contributors, and residential and business consumers, in light of current marketplace developments. Commenters should indicate which definition of ''assessable numbers'' (and exclusions from assessable numbers) they use in their projections.

d. Differential Treatment of Certain Types of Numbers

233. We seek comment on whether to provide differential treatment or exclude altogether certain types of numbers from the definition of Assessable Numbers under a numbers-based contribution methodology, and whether doing so would further or undermine our proposed goals for contributions reform. To the extent commenters contend certain types of numbers should be assessed at a different rate, *i.e.* a percentage of the basic per number assessment per month, we ask commenters to include a policy rationale for their proposal. Is there a reason why certain types of numbers should be assessed at some fraction, such as 33 or 50 percent, of other numbers based on usage? Would assessing numbers used for certain types of services promote or discourage innovation?

234. *Family Plan Numbers.* Parties have argued in the past that telephone numbers assigned to the additional handsets in family wireless plans should be assessed at a reduced rate, either permanently or for a transitional period. These commenters suggested that assessing contributions at the full per-number rate would cause family plan customers to experience ''rate shock.'' We seek to refresh the record on this issue. We seek comment on whether a numbers-based approach should count equally all numbers that are used for family plans. If we were to adopt a differentiated approach for family plans, how would we define a ''family plan'' that would be subject to such differential treatment? Would this create incentives for service providers to consolidate accounts and take other measures to characterize service offerings as ''family plans''? Would such a rule be limited to mass market consumers, and if so, how should we distinguish between mass market plans and enterprise plans? Would differential treatment of such numbers satisfy the statutory requirements that contributions by telecommunications service providers be equitable and non-discriminatory? What would be the policy justifications for assessing such numbers at a pro-rated or reduced rate? We ask commenters to provide data with underlying assumptions as to the count of numbers that would fall into this category, specifically, how many phone numbers are associated with a primary phone number in a family plan.

235. *Services-Based Exceptions.* Prior commenters have proposed that we should exempt from any numbers-based contribution methodology services provided by telematics providers, one-way service providers, two-way paging services, and alarm companies. We seek to update the record on these proposals, noting that since 2008, additional marketplace developments have emerged that may similarly not fit neatly into the numbers paradigm, including numbers assigned to devices reliant on mobile broadband, such as data cards, e-readers, and tablet computers. Should these types of numbers be assessed at a different rate, *e.g.,* a percentage of the basic per number monthly assessment? Should a number assigned to a telematics device, where the customer is not paying a monthly fee and the device can only make a ''call'' in an emergency situation be assessed differently from a number assigned to a consumer cell phone or a business landline? Would exclusion of numbers associated with such services be consistent with the statutory requirement that all carriers providing interstate telecommunications services shall contribute on an equitable and non-discriminatory basis? How would the exclusion of such numbers impact a numbers-based regime? What would be the policy justifications for excluding these numbers altogether from contribution obligations? We ask commenters to provide data as to the volume of numbers that would fall into this category.

236. *Numbers Provided to Lifeline Subscribers.* We seek comment on whether the Commission has statutory authority to exclude numbers associated with service offerings provided to Lifeline subscribers, given the

mandatory contribution obligation for telecommunications service providers. To the extent such numbers are provided with telecommunications services, would it be consistent with our section 10 authority to forebear from imposing contribution obligations on such numbers?

237. We seek to update the record on whether it is appropriate to not assess numbers for Lifeline subscribers, if we were to adopt a numbers-based contribution methodology. We note that today there are approximately 14.8 million Lifeline subscribers. How would the exclusion of such numbers impact a numbers-based regime? What would be the policy justifications for excluding these numbers from contribution obligations? Alternatively, should such numbers associated with Lifeline services be assessed at a pro-rated or reduced rate, and if so, what would be an appropriate amount?

238. *Free Services.* We seek to refresh the record on whether services offered on a free, or nearly-free basis should be excluded in a numbers-based system. Since commercial providers of free or nearly-free services generate revenue in other ways, such as through advertising or through more sophisticated paid service offerings or product offerings, should they be exempt from contribution obligations? We ask commenters to provide estimates with supporting data regarding the number of numbers that would fall into this category.

239. *Community Voice Mail.* We seek comment on whether a numbers-based approach should assess numbers associated with services such as community voicemail. Would exclusion of these numbers satisfy the statutory requirements for universal service contributions from providers of telecommunications services? How would the exclusion of such numbers impact a numbers-based regime? What would be the policy justifications for excluding these numbers from contribution obligations? Should such numbers be assessed at a pro-rated or reduced rate? We ask commenters to provide data as to the volume of numbers that would fall into this category.

240. *TRS and VRS Numbers.* We seek to update the record on whether we should exempt Internet-based telecommunications relay services (TRS), including video relay services (VRS) and IP Relay services. Such services are provided for free to people with hearing and speech disabilities, under Congressional mandate. Would inclusion of these numbers satisfy the statutory requirements for universal service contributions? How would the exclusion of such numbers impact a numbers-based regime? What would be the policy justifications for excluding these numbers from contribution obligations? Should such numbers be assessed at a pro-rated or reduced rate? We ask commenters to provide data as to the volume of numbers that would fall into this category.

241. *Other Exemptions.* Are there other types of numbers or services that should be excluded from a numbers-based contribution mechanism, if we were to adopt such an approach? For instance, should we adopt exemptions for numbers used by non-profit health care providers, libraries, colleges and universities, entities that typically administer their own numbers? Would inclusion of these numbers satisfy the statutory requirements for universal service contributions? How would the exclusion of such numbers impact a numbers-based regime? What would be the policy justifications for excluding these numbers from contribution obligations? Should such numbers be assessed at a pro-rated or reduced rate? We ask commenters to provide data as to the volume of numbers that would fall into each category of proposed exemptions.

e. Use of a Hybrid System With a Numbers-Component

242. We seek specific comment on adopting a hybrid numbers-connections based methodology. The Commission sought comment in 2008 proposals on two hybrid approaches in which consumer numbers would be assessed on a numbers-based methodology, and business lines would be assessed on a connections-based methodology. The Commission has also sought comment on a hybrid numbers-connections methodology that would assess providers a flat fee for each assessable NANP telephone number and assess services not associated with a telephone number as connections. A hybrid numbers and connections system may have advantages over a numbers-only system insofar as it captures services that are provided without numbers. In other respects, however, such a system might incorporate all of the potential disadvantages of both numbers-based and connections-based systems. Moreover, regardless of the particular methodologies used, hybrid systems may be more complex and expensive to administer than a single system. Should carriers that do not have working numbers or end-user connections continue to contribute based on their interstate telecommunications revenues? We ask parties to refresh the record and seek comment on this analysis.

243. To what extent would a hybrid system create competitive distortions in the marketplace? Any system that would make distinctions between mass market and enterprise users would require an ability for contributors in the first instance, and USAC and this Commission, to distinguish between the two, in order to ensure that contributions are appropriately made. Would such a system advance our proposed reform goals of administrative efficiency, fairness and sustainability? Would a hybrid system satisfy the statutory requirements that contributions be equitable and non-discriminatory? Would using a different methodology for contributions for the provision of service to businesses dissuade investment in higher speed and robust communications facilities? Recognizing that the answer may depend on the specific tiers that are adopted, and the assessment levels for each tier, would such a system, potentially, unfairly advantage or disadvantage purchasers of higher speed connections?

244. Commenters who support a numbers-connections methodology should address the feasibility of the methodology in light of recent industry developments and the continuing evolution of telecommunications technology. Commenters should also address the advantages and disadvantages of such a system. Are there any entities that would be contributing for the first time, if we were to adopt a hybrid approach? We specifically seek comment on whether a hybrid numbers-connections methodology would better meet our goals for reform in comparison to the options discussed above, including an improved revenues system, a connections-based approach, and a numbers-based contribution assessment system. We ask parties claiming significant costs or benefits of a hybrid approach to provide supporting analysis and facts for such assertions, including an explanation of how data were calculated and all underlying assumptions.

f. Policy Arguments Related to Numbers-Based Assessment

245. We seek to refresh the record on the potential benefits of a numbers-based contribution methodology. We also seek comment on whether a numbers-based system (compared to a connections-based system or the current revenues-based system) would be simpler to understand. Would it be competitively neutral? Would a

numbers methodology be inequitable or discriminatory for low volume users? Would a numbers-based system, be easier to audit for compliance? Could such a system reduce compliance costs for contributors? Could it also reduce marketplace distortions that may be present in either the consumer or enterprise markets? We ask parties claiming significant costs or benefits of a numbers-based system to provide supporting analysis and facts for such assertions, including an explanation of how data were calculated and all underlying assumptions.

246. Are there modifications that could be made to a numbers-based methodology to make assessment fairer to consumers on low-cost service plans? Would a numbers-based system shift the universal service contributions from higher-volume users of communications services to lower-volume users? Overall, would low-income households pay a larger percentage of communications bills in contribution assessments than higher income households compared to today?

247. Would adoption of a numbers-based contribution approach discourage the emergence of innovative new functions and services, such as ''follow-me'' services or unified communications applications? If the Commission were to adopt a numbers-based contribution methodology, how could it structure such a system so as not to inhibit innovation? For example, should the Commission exempt numbers associated with certain services to be exempt for a defined period of time, analogous to the Commission's pioneer's preference rules?

248. *Distinguishing Telecommunications from Non-Telecommunications.* Would a numbers-based methodology more easily accommodate new services and technologies without requiring service providers or the Commission to make service classification judgments? We seek comment on approaches to provide clarity to contributors with respect to specific services, without the need to classify those services as either information services or telecommunications services. We also seek comment on assessing revenues associated with information services. In light of those potential approaches to determining who should contribute, would a numbers-based methodology continue to offer advantages as a relatively simple basis for assessing those providers' contributions? To what extent have numbers become increasingly associated with information services? Would a numbers-based assessment mechanism ensure that contribution obligations are applied in a fair and predictable manner to all interstate telecommunications providers?

249. *Jurisdictional Considerations.* The current revenues-based system requires contributors to separately report revenues derived from interstate, intrastate, and international services. We seek comment on whether a numbers-based system might mitigate the need to differentiate between interstate and intrastate jurisdiction.

250. Given that NANP numbers enable users to connect with other users across state lines, is it reasonable to conclude that a numbers-based methodology would be directed at interstate providers and therefore consistent with the statutory requirements of section 254? We seek specific comment on the implications of the Fifth Circuit's *TOPUC* decision, which held that section 2(b) of the Act prohibits the Commission from assessing revenues associated with intrastate telecommunications service. Does *TOPUC* impose any limitations on a numbers-based contribution system, particularly in light of the Commission's authority over numbering in section 251? We also seek comment on whether *TOPUC* raises any concerns related to assessing international services. If so, we seek comment on whether a numbers-based system should include an exemption similar to the limited international revenues exemption under the current revenues-based system for providers that are primarily international in nature, and if so, how such an exemption should be crafted.

g. Implementation

251. Implementing a numbers-based system would require revised data collection and reporting requirements. In this section, we seek comment on how the Commission would transition to a numbers-based system. We also ask whether adopting a numbers-based system would increase compliance burdens if states that administer their own universal service programs continue to employ revenues-based assessments.

252. *Reporting of Numbers.* We seek comment on how a numbers-based system should be implemented and the transition process, should we adopt such a system. In particular, we seek comment on the specific changes necessary to enable USAC to collect contributions under a numbers-based system. How would contributors report the assessable numbers (and potentially speed or capacity under a numbers-connection hybrid system) under a numbers-based assessment methodology? Should we continue to use a FCC Form 499 (with changes), leverage the existing NRUF reporting requirements, or develop a completely new data collection? What would be the administrative impact of a new reporting system on providers and on USAC as the administrator of the Fund? If the Commission were to adopt a numbers-based methodology, should contributors be required to report assessable numbers on a monthly basis, quarterly basis, or some other period? Should we retain the same quarterly and annual true up reporting periods for a numbers-based system? Would a monthly reporting requirement create a burden that is not outweighed by the simplification posed by a numbers-based system? Should the information be reported as actual numbers, forecasted numbers, or historical numbers? Would historical reporting unnecessarily complicate the numbers reporting system? Is there any information that would be particularly difficult to report on a monthly basis? Would a more frequent reporting period be less likely to require adjustments to the contributions requirements? Would longer or shorter reporting intervals advantage or disadvantage some types of providers more than others?

253. *Costs Associated With Implementing a Numbers System.* We seek comment on what out-of-pocket costs contributors would incur to implement a new numbers-based contribution methodology, both in the short term to transition to a new system and on an annual basis once a new system is in place. Commenters should explain the categories of costs that would be incurred. To the extent possible, commenters should quantify these costs and indicate how they compare to the costs of complying with the existing revenues-based system. Would contributors be able to use their current billing and operating systems to report numbers for universal service contributions? If not, what would be the incremental costs associated with modifying billing systems and internal controls and processes to collect and track numbers for purposes of reporting and contributing to the Fund? Would contributors have to implement entirely new systems to track the type of data needed to report assessable numbers? Are there cost savings that could be realized by moving away from the current revenues-based system, which requires contributors to report revenues quarterly (projected) and annually (actual) for USF purposes, and potential efficiencies based on other existing number reporting requirements for other

regulatory requirements? Would those costs vary depending on the definition of assessable numbers? We also seek comment on whether the cost of updating billing and internal systems for this narrow regulatory purpose would outweigh any benefit achieved. Would increased operational costs of moving to a numbers system negatively impact certain carriers as compared to other carriers? Commenters should provide data on any such increased costs.

254. We also seek comment and data on other costs associated with a numbers-based system, and in particular ask providers if there are any costs that are not discussed above. Would the cost of moving to a new numbers system be relatively greater for certain classes of customers or certain industry segments? To what extent would this analysis change depending on how ''assessable numbers'' is defined and assessed? Do the additional costs associated with implementation and the reporting requirements outlined below outweigh the benefits of moving to a numbers-based methodology?

255. *Auditing.* We seek comment on how to define an ''Assessable Number'' to make it easier to audit to ensure that contributors are reporting accurately, and that the system operates in an equitable and nondiscriminatory manner, maintains stability in the contribution base, and minimizes market distortions and gamesmanship. We seek comment on whether we should allow carriers to self-certify which numbers are assessable numbers for contributions purposes. We also seek comment on whether we should modify the current recordkeeping requirements to further improve the auditing process for both contributors and auditors. Should we adopt additional rules or provide further guidance regarding the types of records and supporting documentation that should be maintained? Proponents of a numbers-based system should provide specific details about how contributors would report their data and how auditors could verify the accuracy of assessable numbers reported.

256. *Effect on Other Programs.* We ask parties to provide comment on the impact of moving to a numbers-based approach on the Interstate TRS, North American Numbering Plan, Local Number Portability, and regulatory fees administration programs. We ask parties to provide comment on the best approach for ensuring proper funding of these programs were we to move to a numbers-based methodology. Should contributors continue reporting gross billed end-user revenues for purposes of these programs, and if so, should they continue to report on an annual basis? Should we simplify the Form 499 for purposes of revenue reporting in that instance? Are there alternative ways to calculate contributions for these programs?

257. *Transition.* A numbers-based methodology would constitute a change from the current revenue-based system and would likely require a transition period, especially if reporting entities need to implement new billing and accounting systems and a process for recording number counts in a manner that is auditable. We seek to refresh the record on whether a 12-month period would give contributors sufficient time to adjust their record-keeping and reporting systems so that they may comply with modified reporting procedures. Could such a transition be implemented within a given calendar year, and if so, should it be tied in some fashion to the current quarterly filing of Form 499–Q? We seek comment on what steps would need to be taken to transition between the current revenues-based system and a numbers-based system and how much time would be needed to ensure that the new process is applied in an equitable manner. Commenters should indicate whether the other changes discussed in this Notice would require less or more time to implement.

258. Is a 12-month transition period sufficient to ensure that all affected parties would have adequate time to address any implementation issues that arise? How much time would be necessary for contributors, including new contributors, to adjust their record-keeping and reporting systems in order to comply with new reporting procedures? Are there considerations that would favor a longer or shorter transition period? Would there be a benefit in adopting different transitional periods for residential and business markets?

259. We also seek comment on requiring dual reporting during all or some of the transition time—where reporting entities would continue to report and pay under the current revenues-based system, while they also begin reporting under the new system. Would having providers report under both systems for a specified amount of time during the transition provide the opportunity for both providers and USAC to address unforeseen implementation issues that are likely to arise under the new reporting system? Should new filers begin reporting sooner since USAC does not have any historical data on their revenues and services?

C. Improving the Administration of the Contribution System

260. We seek comment on potential rule changes that could be implemented to provide greater transparency and clarity regarding contribution obligations, reduce costs associated with administering the contribution system, and improve the operation and administration of the contributions system. For each issue, we seek comment on whether and how the potential rule change could or should be implemented on an accelerated timetable, in advance of other reforms under consideration in this proceeding, as well as the potential reduction in compliance costs associated with adopting each proposal.

261. We request clear and specific comments on the type and magnitude of likely benefits and costs of each of the rules discussed in this section, and request that parties claiming significant costs or benefits provide supporting analysis and facts, including an explanation of how data were calculated and identification all underlying assumptions.

1. Updating the Telecommunications Reporting Worksheet

262. We seek comment on whether we should modify the process by which the Telecommunications Reporting Worksheets (FCC Forms 499–A and 499–Q) are revised by soliciting public comment from interested parties prior to adopting revisions to the Telecommunications Reporting Worksheet and instructions. We also seek comment on whether to adopt a rule specifying that the worksheets and instructions constitute binding agency requirements.

263. We propose to adopt a formalized annual process for the Bureau to update and adopt the Telecommunications Reporting Worksheets and their accompanying instructions. We propose to amend § 54.711 to include the following proposed rule: *Telecommunications Reporting Worksheet Revisions. The Wireline Competition Bureau shall annually issue a Public Notice seeking comment on the Telecommunications Reporting Worksheets and accompanying instructions. No later than 60 days prior to the annual filing deadline, the Wireline Competition Bureau shall issue a Public Notice attaching the finalized Telecommunications Reporting Worksheet and instructions.* Adopting such a rule would respond to requests in the record asking that parties be given prior notice of any proposed revisions to

the worksheet instructions, and an opportunity to comment on such revisions. If the Bureau were to put instructions out for public comment before they are adopted, at what point in the calendar year should the Bureau place the proposed form and instructions on public notice, and when should it be required to issue the revised form and instructions? Would this proposed rule change support our proposed reform goals of fairness and simplifying compliance and administration? Parties are encouraged to provide information and data addressing how such a rule would simplify compliance and administration.

264. In particular, we seek comment on whether releasing the form after the calendar year is over makes it more difficult for contributors to track the information that must be reported for the prior year in a manner consistent with the prescribed format. If so, commenters should provide specific examples of such burden, and quantify such examples with data.

265. Should the Commission specify that contributors are required to comply with the Form 499 instructions adopted pursuant to such a process? Should the Bureau have delegated authority to make changes to the Form and related instructions to the extent that they constitute binding requirements, and if so, what should be the scope of its authority?

266. If we do not adopt an annual process for publicizing the updated form, should we require the Bureau to set out for comment the proposed revisions to the Telecommunications Reporting Worksheets and accompanying instructions before implementation of any significant changes resulting from the reforms identified in this Notice? What is the most efficient way to seek public input on how to implement these changes in a straightforward and readable manner so that all reporting entities can know their obligations and comply with our rules?

2. Revising the Frequency of Adjustments to the Contribution Factor

267. If the Commission continues a revenues-based system or alternative system that will use a contribution factor, we seek comment on modifying the frequency of changes to the contribution factor. Presently, the contribution factor is revised on a quarterly basis. We seek comment on revising the contribution factor less frequently, such as annually. We seek comment on whether we should revise our rules, for example, to use reserves, to the extent necessary, to meet any quarterly fluctuation in demand. Would such a method better serve our proposed reform goals of increasing efficiency, fairness, and sustainability of the Fund? If we were to adopt a rule requiring annual adjustments to the contribution factor, should we wait to implement such a rule until 2013, when the Commission expects to have the information needed to be in the position to determine an appropriate budget for the Lifeline program?

268. Would adjusting the contribution factor on an annual basis advance our proposed reform goals of increasing administrative efficiency, fairness and sustainability? Does the fluctuation in the contribution factor create revenue reporting difficulties for stakeholders? Does it cause difficulties in marketing services to consumers? Does the fluctuation from one quarter to the next in the contribution factor make it difficult for contributors to anticipate their likely contribution obligations for the year, or for end-user customers to forecast the total cost of their communications packages, including any universal service pass through charges? To the extent there are reasons to adjust the factor more often than annually, would it be an improvement to the current system to make such adjustments every six months?

269. Another option to reduce fluctuations in the contribution factor caused by prior period adjustments is to extend the period of time during which such prior period adjustments are taken into account for subsequent adjustments to the contribution factor. For example, we could require that prior period adjustments be leveled out over a period of two subsequent quarters under a rule that provides as follows: *If the contributions received by the Administrator in a quarter exceed or are inadequate to meet the actual expenses for that quarter, the Administrator shall adjust its projected expenses for the following two quarters to account for the excess or inadequate payments (and any associated costs) unless instructed to do otherwise by the Commission. The contribution factor for the following two quarters will take into consideration the projected costs of the support mechanism for those two quarters, and the excess or insufficient contributions carried over from the previous quarter.*

270. We seek comment on whether accounting for prior-period adjustments over a longer period, such as two quarters rather than one, could reduce the amount and severity of the fluctuation in the contribution factor from one period to the next. By providing USAC with more than one quarter to account for these adjustments, the increases and decreases may help to offset each other, and thereby reduce the period to period fluctuations in the contribution factor.

271. We seek comment on the merits and technical aspects of a rule change to address quarter to quarter fluctuations in the contribution factor. What would be the benefits of modifying our rules as discussed above, and would such a change have any negative or positive impact on administration of the Fund? What are the potential unintended consequences of extending the period of time during which prior period adjustments are taken into account? Would authorizing USAC to make prior period adjustments over an even longer period be appropriate, and if so, over how many quarters? If we were to move to an alternative to the current revenue-based system, should we similarly direct USAC to account for any fluctuations in demand over a period of time longer than one quarter in order to minimize quarterly variation in the contribution obligation associated with the assessable unit of measure?

3. Pay-and-Dispute Policy

272. We propose to adopt either as Commission policy or a codified rule the current USAC practice commonly referred to as the ''pay-and-dispute'' policy. This policy requires contributors that wish to challenge a USAC invoice to keep their accounts current while disputing the amounts billed in order to avoid late fees, interest, and penalties. We seek comment on whether adopting ''pay-and–dispute'' as a policy or rule supports our proposed reform goals, including ensuring predictability and sustainability of the Fund, simplifying compliance and administration, and fairness.

273. We propose to amend § 54.713 of our rules to adopt a pay-and-dispute rule as follows: *If a universal service fund contributor fails to make full payment of the monthly amount established by the contributor's applicable Form 499–A or Form 499–Q, or the monthly invoice provided by the Administrator, on or before the date due, the payment is delinquent. Late fees, interest charges, and penalties for failure to remit any payment by the date due shall apply regardless of whether the obligation to pay that amount is appealed or otherwise disputed unless the Administrator or the Commission (pursuant to § 54.719) finds the disputed charges are the result of clear error by the Administrator.*

274. Although the Bureau has consistently upheld USAC's

implementation of the pay-and-dispute requirement, contributors continue to challenge USAC's use of the pay-and-dispute requirement in specific instances by withholding payment pending resolution of a disputed charge. Adopting as a Commission policy or rule or, at a minimum, affirming the pay-and-dispute requirement could lessen administrative burdens for both USAC and Commission staff, while also putting all contributors on notice of the procedures for appealing contested invoices. We seek comment on whether adopting the pay-and-dispute requirement serves our proposed reform goals. We specifically seek other proposals that create the proper incentive for contributors to pay their invoices in a timely manner. We seek comment on whether adopting USAC's pay-and-dispute requirement is consistent with the Commission's DCIA rules. We also seek comment on any other changes to our rules that would ensure better compliance with our rules and the Debt Collection Improvement Act.

4. Oversight and Accountability

275. We seek comment on various issues relating to oversight and accountability for the contributions system. To ensure that data actually reported closely approaches our best estimate of industry-wide assessable services, should we establish a performance goal of reducing the number of contributors that do not satisfy their contributions obligations? If so, what information should we rely upon to track that goal?

276. USAC employs several practices to identify entities that should register and contribute to the Fund. For example, during contributor audits, USAC obtains a list of resellers from the auditee and identifies companies that have not registered. USAC contacts these companies to determine why they are not registered or contributing to the Fund. USAC also contacts companies that it independently identifies from industry news sources and whistleblowers. We seek comment on additional steps that could be taken to identify those telecommunications providers that are not meeting their contribution requirements. What measures could the Commission direct USAC to take to ensure industry-wide compliance with our contribution rules?

277. We seek comment on the extent to which potential rule changes that could simplify the contribution system discussed in this Notice could help ensure that contribution assessments are made and collected in accordance with Commission rules and requirements. Further, we seek comment on how we could measure the benefits of simplification in the contribution system. What information would we need, and what would be an appropriate performance goal?

278. *USAC Audits.* We seek comment on processes and procedures that USAC could implement to make the contributor audit process more efficient. We seek public comment on how to most efficiently use our administrative resources to ensure that contributions are made in accordance with the Commission's rules and requirements, while minimizing compliance burden on companies subject to audit. We seek comment on whether we should require USAC to produce an updated audit plan for OMD and the Bureau for USF contribution purposes. How many audits should USAC initiate (at a minimum) each year? How should USAC ensure that audits encompass a representative sample of the industry?

279. *Timely and Efficient Reporting.* We seek comment on whether we should adopt as a performance goal that a specified percentage of reporting entities file their Worksheets on time. We seek comment on what additional outreach and training USAC may need to do to encourage more reporting entities to file their Worksheets on time and electronically. We also seek comment on any revisions to our rules that would create the proper incentives for timely filing. We seek comment on this analysis and the time frame in which we should implement and monitor our progress towards meeting such a goal, if adopted.

280. *Prompt Payment and Collection of Contribution Obligations.* We seek comment on adopting several performance goals related to that task. First, we seek comment on adopting a performance goal of decreasing the aggregate number and dollar amount of delinquent contributions payments. Second, we seek comment on adopting performance goals of reducing the percentage of contributors that are delinquent in payments, the percentage of contributors delinquent more than 30 days, and the percentage of contributors delinquent more than 90 days. We seek comment on these performance goals and also on the specific targets that USAC and the Commission should strive to reach. We seek comment on what additional outreach and training USAC may need to do to encourage more contributors to pay their debts on time, and whether any revisions to our rules would encourage timely payment. We seek comment on what allowances we can and should make in consideration of any economic conditions impacting the industry.

281. We seek comment on whether these measures would assist the Commission with monitoring either the costs of compliance for contributors or the contributions burden on consumers and businesses, especially when coupled with other proposals in this Notice. We seek specific comment on whether any particular reforms identified in this Notice would help or hinder oversight over the contribution system. We also invite parties to suggest additional or alternative goals and measures for assessing the performance of the contribution system.

5. Paper-Filing Fees

282. We propose to adopt a filing fee for contributors that choose to submit the Telecommunications Reporting Worksheets by paper rather than electronically. In order to increase efficiency in program administrative, we propose to amend § 54.711 to require that reporting entities file the Telecommunications Reporting Worksheet electronically: *Electronic Filings. Reporting entities must file the Telecommunications Reporting Worksheet electronically. The Administrator shall assess a $25 fee on reporting entities for filing paper copies of the quarterly Telecommunications Reporting Worksheet. The Administrator shall assess a $50 fee on reporting entities for filing paper copies of the annual Telecommunications Reporting Worksheet. The Administrator shall not assess a paper-filing fee on reporting entities that electronically file their Telecommunications Reporting Worksheet, but such entities must also submit either a paper or electronic certification attesting to the accuracy of the information reported therein under penalty of perjury.*

283. Based on information provided by USAC, the proposed paper-filing fees would be set at a level so as to compensate the Fund for the additional costs incurred by USAC to manually process these paper filings and encourage more reporting entities to file electronically. We seek comment on this analysis.

284. We seek comment on the merits and technical aspects of a rule change assessing a paper filing fee. What is the potential impact on contributors and the Fund if we adopt a paper filing fee? We seek specific comment on setting the appropriate size of a paper filing fee so that reporting entities would have an appropriate incentive to file electronically and in a timely manner. We seek comment on any other changes

to our rules that would ensure better compliance with our rules and the Debt Collection Improvement Act. The above proposed rule requires electronic filers to submit either a paper or electronic certification attesting the accuracy of the electronic filing. We seek comment on what procedures we should adopt to facilitate the certification to be done electronically, per the E–Sign Act. In addition, we seek comment on what modifications, if any, USAC should make to its electronic filing system to ensure that it is accessible to persons with disabilities. In lieu of imposing a filing fee, is there a different approach that would incent contributors to file electronically?

6. Filer Registration and Deregistration

285. We seek comment on tightening our registration requirements so that all telecommunications providers with FCC Form 499–A reporting obligations (whether they are common carriers or not) have the obligation to register within thirty days of commencing service. We propose to amend § 54.706 to include the following proposed rule: *(f) Registration Requirements. Every common carrier subject to the Communications Act of 1934, as amended, and every entity required to submit a Telecommunications Reporting Worksheet shall register with the Commission in accordance with the provisions of 47 CFR 64.1195(a) thru (c) and the Instructions to the Telecommunications Reporting Worksheet within thirty days of the commencement of provision of service.*

286. Deregistration Requirements. We also propose to require registered entities that no longer meet the requirements to register to file a deregistration with the Commission. A deregistration requirement could ensure that the Commission's Form 499 Filer Database is current and complete. Currently, if a contributor has previously filed a Form 499–A or Form 499–Q, but has not notified USAC that it no longer providers telecommunicates services, USAC estimates the provider's quarterly revenues and sends an invoice to that provider for its estimated contributions. This may create confusion and generate late fees for providers that no longer provide service. A formal deregistration requirement could streamline USAC's and the Commission's processes by eliminating unnecessary invoices and removing entities that no longer provide service from the Commission's database. We propose to amend § 54.706 to include the following proposed rule: *(g) Deregistration Requirements. If a registrant stops providing interstate and international telecommunications to others, it shall deregister with the Commission within thirty days of its last provision of telecommunications. To deregister, a registrant must comply with the Instructions to the Telecommunications Reporting Worksheet.*

287. Would adoption of such a rule simplify the process of billing contributors, and thereby lessen USAC's administrative costs? Would adoption of such a rule further other proposed reform goals?

288. *Wholesale-Reseller Confirmation Requirements.* We seek comment on adopting a value-added revenue system to address recurring USF contribution issues that arise in instances where wholesale carriers provide services to other carriers. To the extent that we do not adopt a value-added system, however, we seek comment on requiring all registrants that provide telecommunications to other carriers to check the registration status of their customers. We seek comment on whether imposing such an obligation could ''deter [registrants] from providing service to resellers that have not registered with the Commission, which will, in turn, make it more difficult for 'bad actor' resellers to stay in business.'' We propose to amend § 54.706 to include the following proposed rule: *Customer Confirmation Requirements. A telecommunications carrier or provider providing telecommunications to other carriers or providers shall have an affirmative duty to ascertain whether a customer that is required to register has in fact registered with the Commission prior to offering service to that customer.*

289. Would adoption of each of the above proposed rules increase the likelihood that all potential contributors register with the Commission and comply with universal service contribution reporting obligations? What are the costs and benefits of imposing such an obligation on FCC registrants, and how would that vary if the Commission adopts other rule changes discussed in this Notice? For instance, if the Commission were to require contributions from wholesalers, would that lessen the potential policy rationale for ensuring the reseller is registered with the Commission?

D. Recovery of Universal Service Contributions From End Users

290. We seek comment on issues relating to recovery of universal service contributions from customers. We request clear and specific comments on the type and magnitude of likely benefits and costs of each of the rules discussed in this section, and request that parties claiming significant costs or benefits provide supporting analysis and facts, including an explanation of how they were calculated and identification of all underlying assumptions.

291. The statutory framework established by Congress in the Act governs the recovery of universal service contributions by telecommunications service providers. Although a contributor may generally recover its universal service contributions from its customers, the Commission has placed two restrictions on doing so. First, a ''federal universal service line-item charge'' may not ''exceed the interstate telecommunications portion of that customer's bill times the relevant contribution factor.'' Second, eligible telecommunications carriers (ETCs) that are incumbent LECs may not pass through a federal universal service line-item charge to their Lifeline subscribers except to recover ''contribution costs associated with the provision of interstate telecommunications services that are not supported by the Commission's universal service mechanisms.'' In practice, this means that incumbent ETCs historically have not been permitted to pass through to Lifeline subscribers the contribution costs associated with the subscriber line charge (which is deemed 100 percent interstate), but they may pass through contribution costs associated with other interstate services, such as long distance calling. There is no comparable restriction for competitive ETCs that serve Lifeline subscribers.

1. Pass-Through of USF Contributions as Separate Line Item Charge

292. We seek comment on ways to improve transparency relating to the amount of universal service contribution charges that are being passed through by the carriers to their customers.

293. *Providing Clarity in Customer Bills.* Under today's system, the contribution factor is typically applied to only a fraction of the total end user revenues derived from a customer. Currently, § 54.712(a) only addresses line items on customer bills and does not address situations in which there is no billing relationship. Moreover, our rules do not require contributors to indicate how the universal service charge on a customer's bill is calculated. In many instances, customer bills include a line item for USF, but do not indicate the USF contribution factor used to determine such line item, or the portion of the bill to which the

contribution factor was applied. We seek comment on whether we should limit the flexibility currently afforded contributors in the recovery of universal service obligations or adopt measures to provide greater transparency regarding such recovery to enable consumers to make informed choices regarding their service. For example, we could adopt a rule that contributors must identify on the consumer bill the portion of the bill (whether based on revenues or another unit) that is subject to assessment. This could enable end users to determine whether they are being properly charged a USF pass-through charge. What modifications, if any, would we need to make to § 54.712 of the existing rules, which prohibits a carrier from charging more than the interstate portion of the bill times the relevant contribution factor.

294. We seek comment on the value of making the burden of the universal service contribution plain, and whether this can be obtained without distorting the pricing strategies of individual providers. Would it be possible to require that the advertised price include the universal service contribution, while allowing the continued publication of the universal service contribution as a line item in end-users' bills? What additional rules should the Commission adopt to provide clarity to customers regarding USF pass-through charges? How should these rules be enforced? What benefits to consumers and/or cost burden to providers would such rules result in?

295. *Advertising USF Charges.* Should we also mandate that carriers disclose at the time of initial service subscription the amount of the quoted rate or other assessable units that would be subject to assessment? Are there alternative approaches the Commission should take to ensure greater disclosure of such charges to customers in a way that advances price comparison and evaluation?

296. *Mass Market Customers vs. Business Customers.* If we were to adopt either of these rules, should the rule apply broadly to all customers, or be limited to mass market customers, who typically have less leverage than businesses, institutions and governmental entities that purchase communications services? If we were to adopt such a distinction, how should we define ''mass market'' for these purposes?

297. *Eliminating Line Items.* An alternative approach to the rules described above would be to limit carrier flexibility to recover their universal service contributions from end users through a line-item or ''surcharge'' on end-user bills. Under such an approach, while contributors would retain the flexibility to include the cost of contributing to the universal service fund in determining their overall rate structure, they would not be permitted to represent any line item on end-user customer bills as a federal universal service charge. For instance, § 54.712 of the Commission's rules, which currently specifies that line items may not exceed the assessable portion of the bill times the contribution factor, could be replaced with the following rule: *Federal universal service contribution costs may not be recovered by contributors as a separate line-item charge on a customer's bill.*

298. We seek comment on the relative advantages of any of these potential changes over our current rules regarding the recovery of universal service contributions. In particular, we invite commenters to address whether such rules would benefit consumers by requiring contributors to quote prices for their services that are subject to USF obligations. What cost/burdens would this impose on service providers, and how can such cost/burdens be mitigated? We additionally ask commenters to address whether such rules would result in bills that are simpler and easier to understand. We particularly seek comment from consumer groups on the benefits or disadvantages of such a rule. We also seek comment on whether a rule limiting the pass through of USF charges would unnecessarily reduce carriers' pricing flexibility, resulting in fewer options for consumers.

299. We seek comment on our authority to impose these constraints on contributors' recovery of universal service contributions from their customers. We seek comment on whether sections 4(i), 201, 202, and 254 of the Act, or other statutory provisions, provide sufficient authority to adopt these proposals. Could the Commission adopt such requirements pursuant to its authority to regulate common carrier billing practices under section 201(b) of the Act? Because sections 201 and 202 of the Act only apply to ''common carriers'' or ''telecommunications carriers,'' could the Commission make these rules applicable to the broader category of ''telecommunications providers'' under its authority to regulate universal service contribution obligations pursuant to section 254(d) of the Act?

300. We also ask commenters to address whether any of these rules would raise First Amendment or other constitutional concerns, and, if so, how we should address those concerns. Would such rules be consistent with the Commission's other policies and regulations, including the Commission's goals of promoting competition, deregulation, innovation, and universal service?

2. Segregation of USF Pass-Through Charges

301. When a telecommunications provider files bankruptcy, the funds collected by the provider from end-user customers to recover universal service contribution costs are often claimed as part of the bankruptcy estate for the benefit of all the carrier's creditors, rather than for the benefit of the Fund. From 2001 through 2011, the USF was unable to collect, due to provider bankruptcies, $80 million of the $90.7 million in funds that such providers had collected as universal service line items. The Fund collected the remaining $10.7 million through participation in the providers' bankruptcy cases, but only after significant delays and the expenditure of attorneys' fees.

302. We seek comment on whether we should take steps to ensure contributions are made by contributors that become insolvent. Should we adopt a rule specifying that telecommunications providers that impose line items on their customers for federal universal service contributions are acting on behalf of the Fund? Would such a codified rule strengthen the position of USAC and the Commission in bankruptcy proceedings?

303. One potential solution to this problem would be to amend § 54.712 of our rules to require contributors that recover their contribution obligation from end-users to segregate those end-user payments in dedicated trust accounts for the sole benefit of the USF. We seek comment on whether the Commission should adopt such a requirement, and the particulars of its implementation. Should we, for instance, require the account to be interest-bearing? Should we require that USAC have access to or be a co-signatory on each account? In the event of late payment, should we permit contributors to use the trust funds to pay interest, penalties and/or costs assessed against the contributor under our rules for late payment? How would such a requirement best be enforced? We also seek comment on alternative means of ensuring payment of contribution amounts to the Fund in cases of insolvency and financial distress, and their advantages and disadvantages.

3. Limiting Pass-Through of USF Charges to Lifeline Subscribers

304. We seek comment on rule changes to provide a more level playing field among incumbent ETCs and competitive ETCs regarding their recovery of universal service pass-through charges. In particular, we propose to extend the current rules that apply only to incumbent carriers by amending § 54.712 to prohibit competitive ETCs from recovering USF charges for Lifeline offerings from Lifeline subscribers as follows: *Lifeline Subscribers. Eligible telecommunications carriers covered by § 69.131 and § 69.158 are subject to the limitations on universal service end user charges set forth therein. All other eligible telecommunications carriers shall not recover federal universal service contribution costs from Lifeline services to Lifeline subscribers. This limitation does not apply to services to Lifeline subscribers that are not supported by Lifeline, such as per-minute or other additional charges beyond the service for which the customer receives Lifeline support.* Such a rule could offer an easily administrable bright-line rule: ETCs would be free to pass along contribution costs through a line-item (or prepaid charge in the case of prepaid cards or services) only if the Lifeline subscriber chooses to purchase additional services beyond the basic Lifeline service. We seek comment on this analysis.

305. Would it be appropriate to bar competitive ETCs from passing through universal service contribution costs associated with their basic Lifeline offering, comparable to the restriction that exists today for incumbent carriers? Would such a rule result in competitive ETCs reducing the number of minutes provided in a Lifeline offering? We note that competitive ETCs are not required to allocate their costs and tariff their basic local exchange service (as incumbent LECs generally must), and there may be no reliable way to determine whether a competitive ETC is effectively recovering the contribution costs associated with the eligible Lifeline service included in the package. How would the Commission treat Lifeline service offerings by competitive ETCs?

306. We seek to develop the record on carrier practices today regarding recovery of USF contribution costs for Lifeline offerings from Lifeline subscribers. We seek comment and data on the extent to which ETCs that offer prepaid services supported by the Lifeline program effectively recover from their Lifeline subscribers the cost of their universal service contributions associated with that Lifeline plan. Do they recover those costs by adjusting the number of minutes provided for the established Lifeline rate? Do competitive ETCs providers that have monthly billing arrangements with Lifeline subscribers pass through USF contribution costs for Lifeline offerings?

307. We seek comment on the potential impact of a rule prohibiting recovery of contribution costs for Lifeline offerings on Lifeline service providers and their Lifeline subscribers. Given the Commission's steps in the last decade to increase telephone penetration on Tribal lands via the low-income program, we are particularly interested in comment from Tribal governments and Tribally-owned and operated Lifeline service providers on the impact of such a rule on Tribal lands and their Lifeline subscribers. Commenters that oppose such a rule should provide specific alternative rules and explain how their proposals would support the goals of universal service.

308. We seek comment on whether we need to update our rules applicable to both incumbent and competitive ETCs in light of the emergence of Lifeline offerings that may permit the Lifeline subscriber to make calls across state lines as well as within the state. For instance, should we adopt a rule that expressly prohibits all ETCs from recovering any contribution costs associated with a Lifeline offering that provides all-distance calling from their Lifeline subscriber?

309. Finally, we also seek comment on the impact on low-income subscribers generally, i.e., those subscribers that would be eligible for Lifeline, even if they do not participate in the program, of the different contribution methodologies discussed in above. What is the average amount of USF pass-through charge imposed and collected today for low-income consumers?

II. Procedural Matters

A. Ex Parte Presentations

310. *Ex Parte Rules.* The proceeding this Notice initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule § 1.1206(b). In proceedings governed by rule § 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format *(e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Initial Regulatory Flexibility Analysis

311. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Notice. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposed Rules

312. In the Notice, we seek public comment on approaches to reform and modernize how Universal Service Fund (USF or Fund) contributions are assessed and recovered. We seek comment on ways to reform the USF

contribution system in an effort to promote efficiency, fairness, and sustainability. We seek comment in four key areas regarding the contributions system: (1) Who should contribute to the Fund; (2) how contributions should be assessed; (3) how the administration of the contribution system can be improved; and (4) recovery of universal service contributions from consumers.

313. First, we seek comment on who should contribute to the Fund. Specifically, we seek comment on how we could exercise our permissive authority to define what services or providers should be subject to contribution obligations, either by: (1) Clarifying or modifying on a service-by-service basis whether particular services or providers are required to contribute to the Fund; or (2) adopting a more general rule that would specify which interstate telecommunications providers must contribute without enumerating the specific services subject to assessment.

314. Second, we seek comment on how contributions should be assessed. In particular, what methodology we should use to determine the relative contribution obligation among those providers who are required to contribute. In particular, we seek to refresh the record and update proposals to assess based on revenues, connections, numbers, or a hybrid approach. For each alternative, we ask parties to address the current and projected impact on the relative contribution burden for consumers and businesses in light of marketplace trends.

315. Third, we seek comment on how to improve the administration of the contribution system. We seek comment on potential rule changes that could be implemented to provide greater transparency and clarity regarding contribution obligations, reduce costs of administering the program, and improve the operation and administration of the program. Specifically, we seek comment on potential rule changes in six areas that should improve administration: (1) Updating the Telecommunications Reporting Worksheet and its instructions; (2) revising the frequency of adjustments to the contribution factor; (3) codifying the pay-and-dispute policy; (4) improving oversight and accountability; (5) mandating electronic filing of the Telecommunications Reporting Worksheet with a fee for paper filer; and (6) implementing a filer registration and deregistration requirement for all parties required to file the Telecommunications Reporting Worksheet.

316. Finally, we seek comment on whether the Commission could promote fairness and transparency by modifying the methods by which providers recover the costs of universal contributions from consumers. Specifically, we seek comment on the following questions: (1) whether to limit the flexibility of contributors to pass through contribution costs as a separately stated line item on customer bills; (2) whether to implement measures to ensure contributions are made by contributors that become insolvent; and (3) whether to prohibit competitive carriers from recovering universal service contributions for Lifeline offerings from Lifeline subscribers.

2. Legal Basis

317. The legal basis for any action that may be taken pursuant to the Notice is contained in sections 1, 2, 4(i), 4(j), 201, 202, 218–220, 254, and 303(r) of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, as amended.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

318. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. Nationwide, there are a total of approximately 29.6 million small businesses, according to the SBA.

319. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 3,188 firms in this category, that operated for the entire year. Of this total, 3144 firms employed 999 or fewer employees, and 44 firms employed 1000 employees or more. Thus, under this size standard, the majority of firms can be considered small entities that may be affected by rules adopted pursuant to the Notice.

320. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of local exchange service are small entities that may be affected by rules adopted pursuant to the Notice.

321. *Incumbent Local Exchange Carriers (incumbent LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to incumbent local exchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small entities that may be affected by rules adopted pursuant to the Notice.

322. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

323. *Competitive Local Exchange Carriers (competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard

specifically for these service providers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of these 72 carriers, an estimated 70 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by rules adopted pursuant to the Notice.

324. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to interexchange services. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of these companies, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted pursuant to the Notice.

325. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The closest applicable size standard under SBA rules is for Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 193 providers have reported that they are engaged in the provision of prepaid calling cards. Of these providers, an estimated 193, or all such providers, have 1,500 or fewer employees and none have more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by rules adopted pursuant to the Notice.

326. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 213 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 211 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by rules adopted pursuant to the Notice.

327. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 881 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 857 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by rules adopted pursuant to the Notice.

328. Payphone Service Providers (PSPs). Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 535 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 531 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by rules adopted pursuant to the Notice.

329. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by rules adopted pursuant to the Notice.

330. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees and five have more than 1,500 employees. Consequently, the Commission estimates that the majority of Other Toll Carriers are small entities that may be affected by the rules adopted pursuant to the Notice.

331. *800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service (toll-free) subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, 877, and 866 numbers in use. According to this data, as of September 2009, the number of 800 numbers assigned was 7,860,000; the number of 888 numbers assigned was 5,588,687; the number of 877 numbers assigned was 4,721,866; and the number of 866 numbers assigned was 7,867,736. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll-free subscribers that would qualify as small businesses under the SBA size standard. Consequently, we estimate that there are 7,860,000 or fewer small entity 800 subscribers; 5,588,687 or fewer small entity 888 subscribers;

4,721,866 or fewer small entity 877 subscribers; and 7,867,736 or fewer small entity 866 subscribers.

2. Wireless Telecommunications Service Providers

332. *Wireless Telecommunications Carriers (except Satellite).* Since 2007, the SBA has recognized wireless firms within this new, broad, economic census category. Prior to that time, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For this category, census data for 2007 show that there were 1,383 firms that operated for the entire year. Of this total, 1,368 firms employed 999 or fewer employees and 15 employed 1000 employees or more. Similarly, according to Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) Telephony services. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Consequently, the Commission estimates that approximately half or more of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small entities that may be affected by the rules adopted pursuant to the Notice.

333. *Broadband Personal Communications Service.* The broadband personal communications service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These standards defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. In 1999, the Commission re-auctioned 347 C, E, and F Block licenses. There were 48 small business winning bidders. In 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small'' businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. In 2005, the Commission completed an auction of 188 C block licenses and 21 F block licenses in Auction 58. There were 24 winning bidders for 217 licenses. Of the 24 winning bidders, 16 claimed small business status and won 156 licenses. In 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction 71. Of the 14 winning bidders, six were designated entities. In 2008, the Commission completed an auction of 20 Broadband PCS licenses in the C, D, E and F block licenses in Auction 78.

334. *Advanced Wireless Services.* In 2008, the Commission conducted the auction of Advanced Wireless Services (''AWS'') licenses. This auction, which as designated as Auction 78, offered 35 licenses in the AWS 1710–1755 MHz and 2110–2155 MHz bands (''AWS–1''). The AWS–1 licenses were licenses for which there were no winning bids in Auction 66. That same year, the Commission completed Auction 78. A bidder with attributed average annual gross revenues that exceeded $15 million and did not exceed $40 million for the preceding three years (''small business'') received a 15 percent discount on its winning bid. A bidder with attributed average annual gross revenues that did not exceed $15 million for the preceding three years (''very small business'') received a 25 percent discount on its winning bid. A bidder that had combined total assets of less than $500 million and combined gross revenues of less than $125 million in each of the last two years qualified for entrepreneur status. Four winning bidders that identified themselves as very small businesses won 17 licenses. Three of the winning bidders that identified themselves as a small business won five licenses. Additionally, one other winning bidder that qualified for entrepreneur status won two licenses.

335. *Narrowband Personal Communications Services.* In 1994, the Commission conducted an auction for Narrowband PCS licenses. A second auction was also conducted later in 1994. For purposes of the first two Narrowband PCS auctions, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission awarded a total of 41 licenses, 11 of which were obtained by four small businesses. To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order,* 65 FR 35875, June 6, 2000. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. A third auction was conducted in 2001. Here, five bidders won 317 (Metropolitan Trading Areas and nationwide) licenses. Three of these claimed status as a small or very small entity and won 311 licenses.

336. *Paging (Private and Common Carrier).* In the *Paging Third Report and Order, 64 FR 33762, June 4, 1999,* the Commission developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. According to Commission data, 291 carriers have reported that they are engaged in Paging or Messaging Service. Of these, an estimated 289 have 1,500 or fewer employees, and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of paging providers are small entities that may be affected by rules adopted pursuant to the Notice. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses.

A subsequent auction of MEA and Economic Area (''EA'') licenses was held in the year 2001. Of the 15,514 licenses auctioned, 5,323 were sold. One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs, was held in 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses. A fourth auction of 9,603 lower and upper band paging licenses was held in the year 2010. Twenty-nine bidders claiming small or very small business status won 3,016 licenses.

337. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the small business size standard under the SBA rules applicable to Wireless Telecommunications Carriers (except Satellite). Under this category, the SBA deems a wireless business to be small if it has 1,500 or fewer employees. The Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard that may be affected by rules adopted pursuant to the Notice.

338. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is subject to spectrum auctions. In the *220 MHz Third Report and Order,* we adopted a small business size standard for ''small'' and ''very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small business size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and nine EAG licenses. Fourteen companies claiming small business status won 158 licenses.

339. *Specialized Mobile Radio.* The Commission awards small business bidding credits in auctions for Specialized Mobile Radio (''SMR'') geographic area licenses in the 800 MHz and 900 MHz bands to entities that had revenues of no more than $15 million in each of the three previous calendar years. The Commission awards very small business bidding credits to entities that had revenues of no more than $3 million in each of the three previous calendar years. The SBA has approved these small business size standards for the 800 MHz and 900 MHz SMR Services. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction was completed in 1996. Sixty bidders claiming that they qualified as small businesses under the $15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels was conducted in 1997. Ten bidders claiming that they qualified as small businesses under the $15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band. A second auction for the 800 MHz band was conducted in 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.

340. The auction of the 1,053 800 MHz SMR geographic area licenses for the General Category channels was conducted in 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. In an auction completed in 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were awarded. Of the 22 winning bidders, 19 claimed small business status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

341. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. In addition, we do not know how many of these firms have 1,500 or fewer employees. We assume, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is approved by the SBA.

342. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (''MDS'') and Multichannel Multipoint Distribution Service (''MMDS'') systems, and ''wireless cable,'' transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (''BRS'') and Educational Broadband Service (''EBS'') (previously referred to as the Instructional Television Fixed Service (''ITFS'')). In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (''BTAs''). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules. The Commission has adopted three levels of bidding credits for BRS: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) is eligible to receive a 15 percent discount on its winning bid; (ii) a bidder with

attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) is eligible to receive a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) is eligible to receive a 35 percent discount on its winning bid. In 2009, the Commission conducted Auction 86, which offered 78 BRS licenses. Auction 86 concluded with ten bidders winning 61 licenses. Of the ten, two bidders claimed small business status and won four licenses; one bidder claimed very small business status and won three licenses; and two bidders claimed entrepreneur status and won six licenses.

343. In addition, the SBA's Cable Television Distribution Services small business size standard is applicable to EBS. There are presently 2,032 EBS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, we estimate that at least 1,932 licensees are small businesses. Since 2007, Cable Television Distribution Services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA defines a small business size standard for this category as any such firms having 1,500 or fewer employees. The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year. Of this total, 939 firms had employment of 999 or fewer employees, and 16 firms had employment of 1000 employees or more. Thus, under this size standard, the majority of firms can be considered small entities that may be affected by rules adopted pursuant to the Notice.

344. *Lower 700 MHz Band Licenses.* The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission defined a ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Additionally, the Lower 700 MHz Band had a third category of small business status for Metropolitan/Rural Service Area (''MSA/RSA'') licenses, identified as ''entrepreneur'' and defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA approved these small size standards. The Commission conducted an auction in 2002 of 740 Lower 700 MHz Band licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)). Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses. The Commission conducted a second Lower 700 MHz Band auction in 2003 that included 256 licenses: Five EAG licenses and 476 Cellular Market Area licenses. Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses. In 2005, the Commission completed an auction of five licenses in the Lower 700 MHz Band, designated Auction 60. There were three winning bidders for five licenses. All three winning bidders claimed small business status.

345. In 2007, the Commission reexamined its rules governing the 700 MHz band in the *700 MHz Second Report and Order.* The *700 MHz Second Report and Order* revised the band plan for the commercial (including Guard Band) and public safety spectrum, adopted services rules, including stringent build-out requirements, an open platform requirement on the C Block, and a requirement on the D Block licensee to construct and operate a nationwide, interoperable wireless broadband network for public safety users. An auction of A, B and E block licenses in the Lower 700 MHz band was held in 2008. Twenty winning bidders claimed small business status (those with attributable average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years). Thirty-three winning bidders claimed very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years). In 2011, the Commission conducted Auction 92, which offered 16 Lower 700 MHz band licenses that had been made available in Auction 73 but either remained unsold or were licenses on which a winning bidder defaulted. Two of the seven winning bidders in Auction 92 claimed very small business status, winning a total of four licenses.

346. *Upper 700 MHz Band Licenses.* In the *700 MHz Second Report and Order,* the Commission revised its rules regarding Upper 700 MHz band licenses. In 2008, the Commission conducted Auction 73 in which C and D block licenses in the Upper 700 MHz band were available. Three winning bidders claimed very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years).

347. *700 MHz Guard Band Licenses.* In the *700 MHz Guard Band Order* , we adopted a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

348. *Cellular Radiotelephone Service.* Auction 77 was held to resolve one group of mutually exclusive applications for Cellular Radiotelephone Service licenses for unserved areas in New Mexico. Bidding credits for designated entities were not available in Auction 77. In 2008, the Commission completed the closed auction of one unserved service area in the Cellular

Radiotelephone Service, designated as Auction 77. Auction 77 concluded with one provisionally winning bid for the unserved area totaling $25,002.

349. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as defined by the SBA, we use the broad census category, Wireless Telecommunications Carriers (except Satellite). This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. We note that PLMR licensees generally use the licensed facilities in support of other business activities, and therefore, it would also be helpful to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

350. As of March 2010, there were 424,162 PLMR licensees operating 921,909 transmitters in the PLMR bands below 512 MHz. We note that any entity engaged in a commercial activity is eligible to hold a PLMR license, and that any revised rules in this context could therefore potentially impact small entities covering a great variety of industries.

351. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (''BETRS''). In the present context, we will use the SBA's small business size standard applicable to Wireless Telecommunications Carriers (except Satellite), *i.e.,* an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by rules proposed in the Notice.

352. *Air-Ground Radiotelephone Service.* The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. We will use SBA's small business size standard applicable to Wireless Telecommunications Carriers (except Satellite), *i.e.,* an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA small business size standard and may be affected by rules adopted pursuant to the Notice.

353. *Aviation and Marine Radio Services.* Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category Wireless Telecommunications Carriers (except Satellite), which is 1,500 or fewer employees. Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of our evaluations in this analysis, we estimate that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. In addition, a ''very small'' business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the above special small business size standards and may be affected by rules adopted pursuant to the Notice.

354. *Fixed Microwave Services.* Fixed microwave services include common carrier, private operational-fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for Wireless Telecommunications Carriers (except Satellite), which is 1,500 or fewer employees. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by rules adopted pursuant to the Notice. We note, however, that the common carrier microwave fixed licensee category includes some large entities.

355. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for Cellular and Other Wireless Telecommunications Carriers (except Satellite). Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. Census data for 2007, which supersede data contained in the 2002 Census, show that there were 1,383 firms that operated that year. Of those 1,383, 1,368 had fewer than 100 employees, and 15 firms had more than 100 employees. Thus under this category and the associated small business size standard, the majority of firms can be considered small.

356. *39 GHz Service.* The Commission created a special small business size

standard for 39 GHz licenses—an entity that has average gross revenues of $40 million or less in the three previous calendar years. An additional size standard for ''very small business'' is: An entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by rules adopted pursuant to the Notice.

357. *Local Multipoint Distribution Service.* Local Multipoint Distribution Service (''LMDS'') is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. The auction of the 986 LMDS licenses began and closed in 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional small business size standard for ''very small business'' was added as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards in the context of LMDS auctions. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. In 1999, the Commission re-auctioned 161 licenses; there were 32 small and very small businesses winning that won 119 licenses.

358. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order,* we established a small business size standard for a ''small business'' as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. These size standards will be used in future auctions of 218–219 MHz spectrum.

359. *2.3 GHz Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (''WCS'') auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service. In the auction, which was conducted in 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity.

360. *1670–1675 MHz Band.* An auction for one license in the 1670–1675 MHz band was conducted in 2003. The Commission defined a ''small business'' as an entity with attributable average annual gross revenues of not more than $40 million for the preceding three years and thus would be eligible for a 15 percent discount on its winning bid for the 1670–1675 MHz band license. Further, the Commission defined a ''very small business'' as an entity with attributable average annual gross revenues of not more than $15 million for the preceding three years and thus would be eligible to receive a 25 percent discount on its winning bid for the 1670–1675 MHz band license. One license was awarded. The winning bidder was not a small entity.

361. *3650–3700 MHz band.* In March 2005, the Commission released a *Report and Order and Memorandum Opinion and Order* that provides for nationwide, non-exclusive licensing of terrestrial operations, utilizing contention-based technologies, in the 3650 MHz band (*i.e.,* 3650–3700 MHz). As of April 2010, more than 1270 licenses have been granted and more than 7433 sites have been registered. The Commission has not developed a definition of small entities applicable to 3650–3700 MHz band nationwide, non-exclusive licensees. However, we estimate that the majority of these licensees are Internet Access Service Providers (ISPs) and that most of those licensees are small businesses.

362. *24 GHz—Incumbent Licensees.* This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. For this service, the Commission uses the SBA small business size standard of ''Cellular and Other Wireless Telecommunications Carriers (except satellite),'' which is 1,500 or fewer employees. We believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is our understanding that Teligent and its related companies have fewer than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

363. *24 GHz—Future Licensees.* With respect to new applicants in the 24 GHz band, the size standard for ''small business'' is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of $15 million. ''Very small business'' in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these small business size standards. These size standards will apply to a future 24 GHz license auction, if held.

3. International Service Providers

364. *Satellite Telecommunications.* Since 2007, the SBA has recognized satellite firms within this revised category, with a small business size standard of $15 million. The most current Census Bureau data are from the economic census of 2007, and we will use those figures to gauge the prevalence of small businesses in this category. Those size standards are for the two census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under the ''Satellite Telecommunications'' category, a business is considered small if it had $15 million or less in average annual receipts. Under the ''Other Telecommunications'' category, a business is considered small if it had $25 million or less in average annual receipts.

365. The first category of Satellite Telecommunications ''comprises establishments primarily engaged in providing point-to-point telecommunications services to other

establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' For this category, Census Bureau data for 2007 show that there were a total of 512 firms that operated for the entire year. Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by rules adopted pursuant to the Notice.

366. The second category of Other Telecommunications ''primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,346 firms had annual receipts of under $25 million. Consequently, we estimate that the majority of Other Telecommunications firms are small entities that might be affected by our action.

4. Cable and OVS Operators

367. *Cable and Other Program Distribution.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year. Of this total, 939 firms employed 999 or fewer employees, and 16 firms employed 1000 employees or more. Thus, under this size standard, the majority of firms can be considered small and may be affected by rules adopted pursuant to the Notice.

368. *Cable Companies and Systems.* The Commission has developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. Industry data indicate that, of 1,076 cable operators nationwide, all but 11 are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 1,076 cable operators nationwide, all but eleven are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Industry data indicate that, of 7,208 systems nationwide, 6,139 systems have under 10,000 subscribers. Thus, under this second size standard, most cable systems have 10,000—19,999 subscribers. Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the Notice.

369. *Cable System Operators.* The Act also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Industry data indicate that, of 1,076 cable operators nationwide, all but ten are small under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

370. *Open Video Services.* The open video system (''OVS'') framework was established in 1996, and is one of four statutorily recognized options for the provision of video programming services by local exchange carriers. The OVS framework provides opportunities for the distribution of video programming other than through cable systems. Because OVS operators provide subscription services, OVS falls within the SBA small business size standard covering cable services, which is ''Wired Telecommunications Carriers.'' The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. According to Census Bureau data for 2007, there were a total of 955 firms in this previous category that operated for the entire year. Of this total, 939 firms employed 999 or fewer employees, and 16 firms employed 1000 employees or more. Thus, under this second size standard, most cable systems are small and may be affected by rules adopted pursuant to the Notice. In addition, we note that the Commission has certified some OVS operators, with some now providing service. Broadband service providers (''BSPs'') are currently the only significant holders of OVS certifications or local OVS franchises. The Commission does not have financial or employment information regarding the entities authorized to provide OVS, some of which may not yet be operational. Thus, again, at least some of the OVS operators may qualify as small entities.

5. Internet Service Providers

371. *Internet Service Providers.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA has developed a small business size standard of 1,500 or fewer employees. According to Census Bureau data from 2007, there were 3,188 firms in this category, total, that operated for the entire year. Of this total, 3,144 firms had employment of 999 or fewer employees, and 44 firms had employment of 1000 employees or more. Consequently, we estimate that the majority of these firms are small entities that may be affected by rules adopted pursuant to this Notice.

6. Other Internet-Related Entities

372. *Internet Publishing and Broadcasting and Web Search Portals.*

Our action may pertain to interconnected VoIP services, which could be provided by entities that provide other services such as email, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The Commission has not adopted a size standard for entities that create or provide these types of services or applications. However, the Census Bureau has identified firms that ''primarily engaged in (1) publishing and/or broadcasting content on the Internet exclusively or (2) operating Web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format (and known as Web search portals).'' The SBA has developed a small business size standard for this category, which is: all such firms having 500 or fewer employees. According to Census Bureau data for 2007, there were 2,705 firms in this category that operated for the entire year. Of this total, 2,682 firms employed 499 or fewer employees, and 23 firms employed 500 employees or more. Consequently, we estimate that the majority of these firms are small entities that may be affected by rules adopted pursuant to the Notice.

373. *Data Processing, Hosting, and Related Services.* Entities in this category ''primarily * * * provid[e] infrastructure for hosting or data processing services.'' The SBA has developed a small business size standard for this category; that size standard is $25 million or less in average annual receipts. According to Census Bureau data for 2007, there were 8,060 firms in this category that operated for the entire year. Of these, 7,744 had annual receipts of under $24,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by rules adopted pursuant to the Notice.

374. *All Other Information Services.* The Census Bureau defines this industry as including ''establishments primarily engaged in providing other information services (except news syndicates, libraries, archives, Internet publishing and broadcasting, and Web search portals).'' Our action pertains to interconnected VoIP services, which could be provided by entities that provide other services such as email, online gaming, web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is $7.0 million or less in average annual receipts. According to Census Bureau data for 2007, there were 367 firms in this category that operated for the entire year. Of these, 334 had annual receipts of under $5.0 million, and an additional 11 firms had receipts of between $5 million and $9,999,999. Consequently, we estimate that the majority of these firms are small entities that may be affected by rules adopted pursuant to the Notice.

7. Other Entities

375. *Responsible Organizations (RespOrgs).* Toll-free numbers are assigned on a first-come, first-served basis by entities referred to as ''Responsible Organizations'' or ''RespOrgs.'' These entities, which may or may not be telephone companies, have access to the SMS/800 database, which contains information regarding the status of all toll-free numbers. RespOrgs are certified by the SMS/800 database administrator, which manages toll-free service. Most RespOrgs are telephone carriers or companies. Other companies that apply for RespOrg status are enhanced voice mail providers, VoIP carriers, call tracking and marketing analytics firms, or vanity number firms. Neither the Commission nor the SBA has developed a small business size standard specifically for RespOrgs. There are 404 RespOrgs certified by SMS/800. Consequently, we estimate that there are not more than 404 RespOrgs that are small entities.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

376. The transition to a simplified contribution system could affect all telecommunications providers, including small entities, and may include new administrative processes. The Commission seeks comment on various reporting, recordkeeping, and other compliance requirements that may apply to all telecommunications providers, including small entities. We seek comment on any costs and burdens on small entities associated with the proposed rules, including data quantifying the extent of such costs or burdens.

377. *Apportioning Revenues from Bundled Services.* Under the current Fund contribution system, revenues from telecommunications offerings are subject to contribution assessment while revenues from information services and consumer-premises equipment (CPE) are excluded from the contribution base. A telecommunications provider must therefore apportion its revenues between telecommunications and non-telecommunications sources for purposes of contribution assessment. Telecommunications providers can currently apportion their bundled revenues pursuant to two safe harbor methods established by the Commission. In addition to the safe harbors, a telecommunications provider could apportion its bundled revenues using any reasonable alternative method. In the Notice, we seek comment on ways to simplify the apportionment of bundled offerings. We seek comment on a bright-line rule that codifies a modified version of the two safe harbors. If adopted, this change would affect how telecommunications providers apportion and report revenues from bundled services.

378. *Contributions for Services with an Interstate Telecommunications Component.* We seek comment on what revenues should be assessed to the extent we choose to exercise our permissive authority over services that provide interstate telecommunications. We seek comment on whether we could and should require contributions on the full retail revenues of an information service that provides interstate telecommunications. We also seek comment on whether to assess only the telecommunications (i.e., the transmission) component and, if so, how we would we determine what portion of the integrated service revenues should be associated with the transmission component. We also ask whether we should craft a rule, or safe harbor, that provides for assessment of a certain percentage of retail revenues of information services with a telecommunications (transmission) component. If adopted, this change would affect all providers of services that contain an interstate telecommunications component.

379. *Allocating Revenues Between Inter- and Intrastate Jurisdictions.* We also seek comment on whether the Act compels us to only assess a portion of revenues associated with services that operate interstate, intrastate, or internationally. In the Notice, we seek comment on whether to (1) adopt a rule that requires all providers subject to contributions to report and contribute on all revenues derived from assessable services rather than require providers to allocate revenues between the interstate and intrastate jurisdictions; (2) adopt a bright line rule for how companies should allocate revenues between jurisdictions for broad categories of services; or (3) find that for USF contribution purposes, revenues from such services should be reported as 100 percent interstate. If adopted, this change would affect how telecommunications providers allocate and report mixed jurisdiction revenues.

380. *Contribution Obligations of Wholesalers and Their Customers.* We seek comment on modifying the existing Fund contribution methodology to assess value-added revenues rather than end-user revenues. Under a value-added approach, each telecommunications provider in a service chain would contribute based on the value it ''adds'' to the service. Alternatively, we seek comment on whether we should mandate greater specificity in contributor certifications to their wholesalers. If adopted, this change would affect how revenues are reported.

381. *Reporting Prepaid Calling Card Revenues.* In the Notice, we seek comment on adopting a rule to require prepaid calling card providers to report and contribute on all end-user revenues, and who should be deemed the end user for purposes of such a rule. We seek comment on rules standardizing the reporting of prepaid calling card revenues. We propose rules requiring all telecommunications providers (as well as telecommunications carriers) to register with the Commission, and rules requiring entities that provide telecommunications to others for resale to check the registration status of the their customers. We believe these rules will provide reporting entities with enhanced certainty regarding their contributions obligations. If adopted, this change would affect telecommunications providers that are wholesalers and resellers of prepaid calling cards.

382. *International Telecommunications Providers.* We seek comment on eliminating the exemption for international-only providers and limited international revenues exemption (LIRE)-qualifying providers. We also seek comment on modifying the LIRE exemption by requiring LIRE-qualifying providers to contribute on at least a portion of its revenues. If adopted, this change would affect international-only telecommunications providers and telecommunications providers who may have previously relied on the LIRE exemption.

383. *Reforming the De Minimis Exemption.* The Commission has authority to exempt a carrier or class of carriers from Fund contribution requirements if their contributions would be *de minimis.* Currently, *de minimis* status is determined on a providers' annual contribution amount. In the Notice, we seek comment on simplifying the exemption by basing it on a provider's annual assessable revenues. This should simplify the process by which entities may determine if they qualify for the *de minimis* exception. If adopted, this change would affect *de minimis* telecommunications providers.

384. *Assessing Contributions Based on Connections.* In this Notice, we seek comment on whether we should adopt a contribution system based on connections. Under a connections-based system, providers could be assessed based on the number, speed, or capacity of connections to a communications network provided to customers. Providers would contribute a set amount per connection, regardless of the revenues derived from that connection. We seek comment on whether a connections-based approach would better meet our proposed goals of promoting efficiency, fairness, and sustainability in the Fund, as well as other goals identified by commenters. If adopted, this change would affect all telecommunications providers.

385. *Assessing Contributions Based on Numbers.* We also seek comment on whether we should adopt a contributions system based on numbers. Under a numbers-based system, in its simplest form, providers would be assessed based on their count of North American Numbering Plan telephone numbers. There would be a standard monthly assessment per telephone number, such as $1 per month, with potentially higher and lower tiers for certain categories of numbers based on how these numbers are assigned or used. The monthly assessment per number would be calculated by applying a formula based on the USF demand requirement and the relevant count of numbers, however that term is defined. We seek comment on whether a numbers-based approach would better meet our proposed goals of promoting efficiency, fairness, and sustainability in the Fund, as well as other goals identified by commenters. If adopted, this change would affect all telecommunications providers.

386. *Assessing Contributions Based on a Hybrid Methodology With a Numbers Component.* In this Notice, we also seek comment on whether we should consider a hybrid approach that combines a telephone numbers component with a connections component. Under such an approach, providers could be assessed a flat fee for each assessable NANP telephone number and assessed a fee based on the connection for services not associated with a NANP telephone number. We seek comment on whether a hybrid approach would better meet our proposed goals for reforming the contributions methodology. If adopted, this change would affect all telecommunications providers.

387. *Pass-Through of USF Contributions as a Separate Line Item Charge.* In this Notice, we seek comment on ways to improve the transparency for customers relating to the amount of universal service contribution charges that are being passed through by the providers to their customers. We seek comment on whether to: (1) Require greater clarity on customer bills regarding how the USF charge was calculated; (2) require providers to disclose at initiation of service the amount of the quoted rate or assessable units would be USF-assessable; and (3) if we were to adopt either of these rules, apply them to all customers, or limit the rules to mass market customers. We seek comment on whether to prohibit contributors from recovering contribution costs as a separate line item on the customer bill. We also seek comment on whether we should take steps to ensure that contributions are made by contributors that become insolvent, specifically by requiring contributors that recover their contribution obligation from end-users to segregate those end-user payments in dedicated trust accounts for the sole benefit of the USF. Finally, we propose to level the playing field between incumbent LECs and competitive LECs by adopting a rule that would prohibit competitive ETCs from recovering USF contribution costs for their Lifeline offerings from Lifeline subscribers. If adopted, this change would affect competitive telecommunications providers that serve Lifeline customers.

388. *Other Reporting Changes.* We propose requiring all telecommunications providers (as well as telecommunications carriers) to register with the Commission, and propose rules requiring registrants that provide telecommunications to others for resale to check the registration status of their customers. We also propose that telecommunications providers file electronically their quarterly and annual Telecommunications Reporting Worksheet, with a fee for those that file by paper. We believe these rules will provide reporting entities enhanced certainty regarding their contribution obligations.

5. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

389. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of

differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

390. As indicated in the Notice, we seek to reform the contribution system. We believe our proposed rules will provide reporting entities enhanced certainty regarding their contribution obligations, which is especially important for small businesses that may not have the resources of larger business to comply with complex rules.

391. We believe that adopting a simplified and clearly defined apportionment method will provide greater predictability to all telecommunications providers and customers. The Notice seeks comment on a modified version of the two safe harbors available for apportioning revenues from bundled service offerings. We believe that providing a bright line rule for providers reduces the administrative burden for small entities.

392. We seek comment on whether we should modify the contribution methodology to assess ''value-added'' revenues rather than ''end user'' revenues. Under this approach, each telecommunications provider in a service value chain (including both wholesalers and resellers) would contribute based on the value in the providers adds to the service. We also seek comment on modifying the current reseller certification process to provide greater clarity regarding contribution obligations when wholesale inputs are incorporated into other services that are not telecommunications services. We believe that either of these approaches would simplify the reporting process for all parties, and provide greater certainty. For each approach, we seek comment on ways to streamline the overall reporting requirements for all parties. In addition, these potential rule changes would increase the Commission's administration and oversight of the contributions system in the wholesaler–reseller context.

393. We believe that our registration and deregistration proposals for all parties required to file the Telecommunications Reporting Worksheet will help ensure that the Commission's FCC Form 499–A Filer Database is current and complete. One of the purposes of registration is that it allows the Commission to better monitor registered providers for compliance with our rules and regulations. In addition, a filer registration requirement provides transparency to the public, making available important information including the relevant regulatory contact information. We recognize that the proposed registration and deregistration process may impose a small one-time burden on parties that were not previously required to register, but we believe the benefit of having a current and complete database may outweigh the burden.

394. We seek comment on modifying the *de minimis* exemption to base the threshold on assessable revenues rather than the amount of contributions. We believe this will simplify the contributions system and reduce the administrative burden for small entities. We also seek comment on whether this proposal might also reduce the reporting obligations and regulatory uncertainty for *de minimis* telecommunications providers that have growing revenues. Specifically, we seek comment on whether to make it optional for a telecommunications provider to file quarterly Telecommunications Reporting Worksheets for a year after which the provider qualifies as *de minimis.* We believe these changes might simplify the reporting obligations of small entities and reduces their administrative burden.

395. We seek comment on updating the Telecommunications Reporting Worksheets (FCC Forms 499–A and 499–Q) and its instructions. Specifically, we seek comment on whether we should modify the process by which these forms are revised by soliciting public comment from interested parties prior to adopting revisions to the forms or the instructions. We believe these changes would provide greater clarity to contributors and simplify compliance and the administration of the contributions process.

396. We note that in past contribution reform proceedings some parties have proposed alternative contribution methodologies based on numbers, connections, or a combination of numbers and connections. To the extent that parties believe that alternative systems would better promote our goals for contribution reform, we seek comment on the benefits of such systems relative to our proposed improved revenues system and ask for specific proposals on how such systems could be implemented.

397. The Notice seeks comment from all interested parties. The Commission is aware that some of the proposals or approaches under consideration may impact small entities. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the proposals or approaches outlined in the Notice. We invite comment on how these proposals or approaches might be made less burdensome for small entities but still in keeping with our goals for contribution reform. We also invite commenters to discuss the benefits of such changes on small entities and to weigh these benefits against the burdens for telecommunications providers that might also be small entities. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the Notice, in reaching its final conclusions and taking action in this proceeding.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

398. None.

C. Paperwork Reduction Act Analysis

399. This document contains proposed new or modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

D. Filing Requirements

400. *Comments and Reply Comments.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments and reply comments. Comments on the proposed rules are due on or before July 9, 2012 and reply comments are due on or before August 6, 2012. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before August 6, 2012. All filings should refer to CC Docket No 06–122 and GN Docket No. 09–51. Comments may be filed using: (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

List of Subjects in 47 CFR Part 54

Communications Common Carriers, Reporting and Record Keeping Requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54, as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154 (i), 201, 205, 214, 219, 220, 254, 303(r), and 1302 unless otherwise noted.

2. Amend § 54.706 by adding paragraphs (f), (g), and (h) to read as follows:

§ 54.706 Contributions.

* * * * *

(f) *Registration Requirements.* Every common carrier subject to the Communications Act of 1934, as amended, and every entity required to submit a Telecommunications Reporting Worksheet shall register with the Commission in accordance with the provisions of 47 CFR 64.1195(a) through (c) and the Instructions to the Telecommunications Reporting Worksheet within thirty days of the commencement of provision of service.

(g) *Deregistration Requirements.* If a registrant stops providing interstate and international telecommunications to others, it shall deregister with the Commission within thirty days of its last provision of telecommunications. To deregister, a registrant must comply with the Instructions to the Telecommunications Reporting Worksheet.

(h) *Customer Confirmation Requirements.* A telecommunications carrier or provider providing telecommunications to other carriers or providers shall have an affirmative duty to ascertain whether a customer that is required to register has in fact registered with the Commission prior to offering service to that customer.

3. Amend § 54.711 by adding paragraphs (d) and (e) to read as follows:

§ 54.711 Contributor reporting requirements.

* * * * *

(d) *Telecommunications Reporting Worksheet Revisions.* The Wireline Competition Bureau shall annually issue a Public Notice seeking comment on the Telecommunications Reporting Worksheets and accompanying instructions. No later than 60 days prior to the annual filing deadline, the Wireline Competition Bureau shall issue a Public Notice attaching the finalized Telecommunications Reporting Worksheet and instructions.

(e) *Electronic Filings.* Reporting entities must file the Telecommunications Reporting Worksheet electronically. The Administrator shall assess a $25 fee on reporting entities for filing paper copies of the quarterly Telecommunications Reporting Worksheet. The Administrator shall assess a $50 fee on reporting entities for filing paper copies of the annual Telecommunications Reporting Worksheet. The Administrator shall not assess a paper-filing fee on reporting entities that electronically file their Telecommunications Reporting Worksheet, but such entities must also submit either a paper or electronic certification attesting to the accuracy of the information reported therein under penalty of perjury.

4. Amend § 54.712 by adding paragraph (b) to read as follows:

§ 54.712 Contributor recovery of universal service costs from end users.

* * * * *

(b) *Lifeline Subscribers.* Eligible telecommunications carriers covered by §§ 69.131 and 69.158 are subject to the limitations on universal service end user charges set forth therein. All other eligible telecommunications carriers shall not recover federal universal service contribution costs from Lifeline services to Lifeline subscribers. This limitation does not apply to services to Lifeline subscribers that are not supported by Lifeline, such as per-minute or other additional charges beyond the service for which the customer receives Lifeline support.

5. Amend § 54.713 by revising paragraph (b) to read as follows:

§ 54.713 Contributor's failure to report or to contribute.

* * * * *

(b) If a universal service fund contributor fails to make full payment of the monthly amount established by the contributor's applicable Form 499–A or Form 499–Q, or the monthly invoice provided by the Administrator, on or before the date due, the payment is delinquent. Late fees, interest charges, and penalties for failure to remit any payment by the date due shall apply regardless of whether the obligation to pay that amount is appealed or otherwise disputed unless the Administrator or the Commission (pursuant to § 54.719) finds the disputed charges are the result of clear error by the Administrator. All such delinquent amounts shall incur from the date of delinquency, and until all charges and costs are paid in full, interest at the rate equal to the U.S. prime rate (in effect on the date of the delinquency) plus 3.5 percent, as well as administrative charges of collection and/or penalties and charges permitted by the applicable law (*e.g.,* 31 U.S.C. 3717 and implementing regulations).

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