

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

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

**COMMENTS OF THE  
INDEPENDENT TELEPHONE & TELECOMMUNICATIONS ALLIANCE**

The Independent Telephone & Telecommunications Alliance (“ITTA”) hereby submits its comments in response to the November 23, 2012 *Public Notice* issued by the Federal Communications Commission (“FCC” or “Commission”) in the above-captioned proceeding.<sup>1</sup> The *Public Notice* seeks input on proposed revisions to the FCC Forms 499-A and 499-Q and their related instructions to be used in 2013 to report revenues for Universal Service Fund (“USF”) contribution purposes.

ITTA commends the Commission for seeking public input on its proposed changes to the forms and instructions, as providers have long urged the Commission to provide more clarity, transparency, and predictability in connection with revisions to these documents.<sup>2</sup> Unfortunately, the *Public Notice* is inadequate to achieve these goals.

As described below, the *Public Notice* does not go far enough in identifying and describing the proposed changes and the reasoning underlying them, which prevents ITTA and other industry stakeholders from providing informed comment. To obtain meaningful input from interested parties, the FCC must provide additional detail and explanation regarding the proposed changes and the purposes underlying them so that the Commission’s intended objectives are

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<sup>1</sup> *Wireline Competition Bureau Seeks Comment on Proposed Changes to FCC Form 499-A, FCC Form 499-Q, and Accompanying Instructions*, WC Docket No. 06-122, DA 12-1872 (rel. Nov. 23, 2012) (“*Public Notice*”).

<sup>2</sup> See, e.g., Reply Comments of the Independent Telephone & Telecommunications Alliance, WC Docket No. 06-122, GN Docket No. 09-51, at 5-6 (filed Aug. 3, 2012).

clear, it is readily apparent to those affected whether such changes are substantive in nature, and the legal and policy basis for the changes can be scrutinized. Without additional guidance and specificity regarding the Commission's proposed revisions to the forms and instructions, ITTA and other industry stakeholders are hindered in their ability to provide an educated response regarding such changes.

## **DISCUSSION**

The Commission utilizes Forms 499-A and 499-Q to collect detailed information from communications providers regarding revenues they receive from offering service for purposes of assessing USF contributions on such providers. The level of complexity and detail required to complete these forms is no secret. The Annual Telecommunications Reporting Worksheet is only 12 pages in length, but requires 40 pages of instructions. The single page Form 499-Q for reporting quarterly data requires 21 pages of instructions.

Providers often rely on subject matter experts within their companies to complete the forms, as they have the most experience in interpreting the instructions and gathering the data requested by the Commission. In the past, their task has been made more challenging when the Commission has unilaterally adopted changes to the forms and instructions without explanation or the opportunity for providers to review the changes and provide helpful input.

ITTA is pleased that the Commission is now reversing course by seeking public comment on its proposed revisions to the forms and instructions for 2013. After reviewing the *Public Notice* and the redlined forms and instructions reflecting the proposed revisions, however, there is still a significant amount of ambiguity regarding the intent and impact of certain changes.

For instance, the Commission contends in the *Public Notice* that some of the proposed changes to the forms and instructions are necessary “[i]n order to better reflect Commission

precedent and rules.”<sup>3</sup> Unfortunately, this information alone does not provide enough explanation to interested parties for them to identify and understand why the changes were made, the “Commission precedent and rules” being relied upon, what the Commission’s intended goal was in making the changes, and the potential consequences of such changes, whether intended or not. A description that the proposed changes are necessary “[i]n order to better reflect Commission precedent and rules” is vague and inadequate if the Commission’s purpose in releasing the *Public Notice* was to solicit meaningful comment regarding the impact of its proposed changes.

In addition, it is not clear based on the *Public Notice* or redlined forms and instructions whether or how providers are supposed to implement the change adopted in the Commission’s *2012 Wholesaler-Reseller Clarification Order* requiring providers, for the first time, to provide reseller exemption certifications on a service-by-service basis.<sup>4</sup> The legality of this change notwithstanding,<sup>5</sup> if the Commission is going to implement such a requirement, it must provide specific guidance to providers on how to comply.<sup>6</sup>

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<sup>3</sup> *Public Notice* at 3, 5.

<sup>4</sup> See *Universal Contribution Methodology, Application for Review of Decision of the Wireline Competition Bureau Filed by Global Crossing Bandwidth, Inc., et al.*, WC Docket No. 06-122, Order, FCC 12-134, ¶¶ 40-41 and n. 111 (Nov. 5, 2012) (“*2012 Wholesaler-Reseller Clarification Order*”).

<sup>5</sup> Separately, ITTA has filed comments in support of a Petition for Partial Reconsideration and Request for Stay of this aspect of the *2012 Wholesaler-Reseller Clarification Order* in which ITTA argues that the Commission’s “clarification” that reseller certifications are required on a service-by-service basis must be overturned because it is a new requirement that must be adopted pursuant to the Commission’s statutory obligations under the Administrative Procedure Act and the Paperwork Reduction Act. See Comments of the Independent Telephone & Telecommunications Alliance in Support of TelePacific Corp. d/b/a TelePacific Communication’s Petition for Partial Reconsideration and Request for Stay, WC Docket No. 06-122 (filed Jan. 9, 2013).

<sup>6</sup> See Letter from Alan Buzacott, Verizon, to Marlene H. Dortch, FCC, WC Docket No. 06-122 (filed Aug. 30, 2012), at 2 (Verizon Aug. 30<sup>th</sup> Letter”); Letter from Michael Saperstein, *et al.*, to Marlene H. Dortch, FCC, WC Docket No. 06-122 (filed Aug. 20, 2012), at 1 (pointing out that

ITTA understands that providers may continue to rely on reseller exemption certifications that are consistent with the sample language in the 2012 instructions through December 31, 2013. However, it is imperative that the Commission provide guidance and seek industry input regarding its precise expectations for any service-specific certification obligation as soon as possible, so that providers can prepare and make necessary changes to ensure compliance with such a requirement in future reporting periods.

As the Commission has acknowledged, “wholesalers and customers may have established operating, reporting and financial procedures” in place and “may need time to make changes to their internal policies and procedures, as well as to their existing contracts, to ensure compliance with the Commission’s reseller requirements.”<sup>7</sup> Thus, issuing specific guidance regarding any requirement for service-specific certifications “is an essential step,” without which it will be unclear whether such certifications must be provided on a circuit-by-circuit basis, or pursuant to a percentage-based or some other approach.

Requiring carriers to interpret such a requirement on their own likely will lead to confusion and disputes. Issuing specific guidance and soliciting industry input well before the relevant reporting period for implementing such a requirement “would significantly reduce the potential for disputes, and would allow carriers to begin making costly system changes with the assurance that those modifications are consistent with the new requirement and would not have to be redone at a later date.”<sup>8</sup> Given that the *Public Notice* does not appear to raise this issue for

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the Commission can impose a new service-specific reseller certification requirement “only within the context of broader contribution reform after considering all comments filed... and only with clear guidance to carriers and sufficient lead time for carriers to make any necessary systems changes”).

<sup>7</sup> 2012 *Wholesaler-Reseller Clarification Order* at ¶ 41.

<sup>8</sup> Verizon Aug. 30<sup>th</sup> Letter at 2.

comment, it is important that the Commission provide additional guidance and an opportunity for public input well before such an obligation goes into effect.

## CONCLUSION

In sum, the Commission's goal of seeking public input on its proposed changes to the Annual and Quarterly Telecommunications Reporting Worksheets – to create greater transparency, clarity, and predictability – is laudable. However, the *Public Notice* and redlined forms and instructions do not go far enough to provide industry stakeholders with sufficient information on which to provide informed comment. The Commission must provide additional guidance and specificity regarding its proposed revisions in order to permit ITTA and other affected parties to provide a meaningful response regarding the likely impact of such changes. ITTA also urges the Commission, in the continuing spirit of openness and transparency, to provide an opportunity for public dialogue with respect to other changes affecting providers' reporting obligations, such as any requirement to provide reseller exemption certifications on a service-by-service basis.

Respectfully submitted,

By: /s/ Genevieve Morelli

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