

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

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Request for Review by Cox Communications, Inc.)	
of Action by Universal Service Administrator)	

ORDER

Adopted: June 4, 2008

Released: June 4, 2008

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION AND BACKGROUND

1. In this order, we grant the appeal of a decision by the Universal Service Administrative Company (USAC) filed by Cox Communications, Inc. (Cox).¹ Cox requests that the Commission reverse USAC's decision to disallow Cox's use of voice over Internet protocol (VoIP) revenue allocation methodology to determine interstate revenues for universal service contribution purposes.

2. The assessment of universal service fund (USF) contributions is governed by the statutory framework established by Congress in the Communications Act of 1934, as amended (the Act).² Section 254(d) of the Act, for example, directs that every 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.³ Section 254(d) also vests the Commission with the permissive authority to require "[a]ny other provider of interstate telecommunications . . . to contribute to the preservation and advancement of universal service if the public interest so requires."⁴ To this end, in the *2006 Interim Contribution Methodology Order*, the Commission determined that interconnected VoIP providers are "providers of interstate telecommunications" under section 254(d) of the Act and exerted its permissive authority to require interconnected VoIP providers to contribute to the USF because "the public interest so requires."⁵ The Commission further determined that it must pre-approve any traffic study before an interconnected VoIP provider can rely on it to report revenues.⁶ In *Vonage Holdings Corp. v. FCC*, the U.S. Court of Appeals for the District of Columbia Circuit overturned the pre-approval requirement.⁷

¹ Request for Review by Cox Communications, Inc. of Action by Universal Service Administrator, CC Docket No. 96-45 (filed May 21, 2007) (Cox Request for Review).

² See 47 U.S.C. § 151, 201, 202, 254.

³ 47 U.S.C. § 254(d).

⁴ *Id.*

⁵ *Universal Service Contribution Methodology*, WC Docket Nos. 06-122 and 04-36, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, and 98-170, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7538, para. 35 (2006) (*2006 Interim Contribution Methodology Order*).

⁶ *Id.* at 7547, para. 57.

⁷ *Vonage Holdings Corp. v. FCC*, 489 F.3d 1232, 1243-44 (D.C. Cir. 2007) (*Vonage Order*).

II. DISCUSSION

3. Cox appeals a decision by USAC disallowing Cox's method of allocating interconnected VoIP revenues because USAC determined that the method was, in effect, a traffic study and required prior Commission approval before Cox could rely on it for the purpose of reporting its revenue information.⁸ The Commission's pre-approval requirement for traffic studies of interconnected VoIP providers was vacated in the *Vonage Order*.⁹ Thus, even if Cox's submission to USAC was a traffic study, Cox did not need to receive Commission pre-approval in order to rely on it. We, therefore, grant Cox's appeal and reverse USAC's decision to disallow Cox's use of an interconnected VoIP revenue allocation methodology to determine interstate revenues for universal service contribution purposes. Our decision is limited to the issue of pre-approval; we need not, and do not, reach a determination as to whether Cox's allocation methodology constitutes a traffic study or the validity of the Cox's revenue allocation methodology. Nor do we limit the ability of USAC or the Commission to review the allocation methodology.

III. ORDERING CLAUSES

4. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated in sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91 and 0.291, that Cox Communications, Inc.'s Request for Review IS GRANTED, to the extent provided herein.

5. IT IS FURTHER ORDERED that, pursuant to authority delegated under sections 0.91, 0.291 and 1.102 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.102, this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Dana R. Shaffer
Chief
Wireline Competition Bureau

⁸ See Cox Request for Review, Exhibit 1 (Administrator's Decision on Contributor Reporting Matter, at 1).

⁹ *Vonage Order*, 489 F.3d at 1243-44.