

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

In the Matter of)
Universal Service Contribution Methodology) WC Docket No. 06-122
Request for Review of the Decision of the)
Universal Service Administrator and)
Emergency Petition for Stay by)
U.S. TelePacific Corp. d/b/a)
TelePacific Communications)

ORDER

Adopted: April 30, 2010

Released: April 30, 2010

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we grant in part a request for review filed by U.S. TelePacific Corp. d/b/a TelePacific Communications (TelePacific) of a decision by the Universal Service Administrative Company (USAC) requiring TelePacific to contribute to the universal service fund based on revenues from TelePacific’s provision of Internet access service.1 Based on the Commission’s decision in the 2005 Wireline Broadband Internet Access Services Order, wireline broadband Internet access services are not currently subject to universal service contribution obligations.2 As such, we direct USAC to accept TelePacific’s re-filed 2008 FCC Form 499-A, in which TelePacific reports its revenue in accordance with the Commission’s precedent on classification of broadband Internet access services.

2. As part of our ongoing effort to protect the integrity of the universal service fund, we order TelePacific to provide to the Chief, Wireline Competition Bureau, a detailed explanation of the methodology by which TelePacific apportions revenues derived from its sale to end users of voice telephony and other services utilizing leased T-1 lines and how it reports such revenues on FCC Form 499-A, within 60 days of this order. We further order TelePacific to provide USAC with the names and

1 See U.S. TelePacific Corp. d/b/a TelePacific Communications Request for Review and Reversal of Universal Service Administrator Decision, WC Docket No. 06-122, at 2 (filed Jan. 8, 2010) (TelePacific Request for Review). Because we are acting on the request for review, we dismiss TelePacific’s emergency petition for stay as moot. See U.S. TelePacific Corp. d/b/a TelePacific Communications Emergency Petition for Stay Pending Commission Review (Jan. 8, 2010) (TelePacific Petition for Stay).

2 Appropriate Framework for Broadband Access to the Internet over Wireline Facilities; Universal Service Obligations of Broadband Providers; Review of Regulatory Requirements For Incumbent LEC Broadband Telecommunications Services; Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services; 1998 Biennial Regulatory Review – Review Of Computer III and ONA Safeguards and Requirements; Conditional Petition of the Verizon Telephone Companies for Forbearance under 47 U.S.C. § 160(c) with regard to Broadband Services Provided via Fiber to the Premises; Petition of the Verizon Telephone Companies for Declaratory Ruling or, Alternatively, for Interim Waiver with regard to Broadband Services Provided via Fiber to the Premises; Consumer Protection in the Broadband Era, CC Docket No. 02-33, 01-337, 95-20, 98-10, WC Docket Nos. 04-242, 05-271, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 14853, 14860 n.15 (2005) (Wireline Broadband Internet Access Services Order) (subsequent history omitted).

contact information of its wholesale providers of transmission services, so that USAC can assure that any contributions owed to the universal service fund are promptly paid.

II. BACKGROUND

A. The Act and the Commission's Rules

3. Section 254(d) of the Communications Act of 1934, as amended (the Act), directs 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.”³ Section 254(d) further provides that “[a]ny other provider of interstate telecommunications may be required to contribute to the preservation and advancement of universal service if the public interest so requires.”⁴ To this end, the Commission has determined that common carriers and private service providers that provide interstate telecommunications to others for a fee generally must contribute to the universal service fund based on their interstate and international end-user telecommunications revenues.⁵

4. Although the Commission declined to exempt from contribution “any of the broad classes of telecommunications carriers that provide interstate telecommunications services,” not all carriers that provide interstate telecommunications service contribute to the universal service fund.⁶ In particular, the Commission recognized that “[b]asing contributions on end-user revenues . . . will relieve wholesale carriers from contributing directly to the support mechanisms” because these carrier’s carriers do not earn revenues directly from end-users.⁷ Instead, the reseller that provides the service to the end-user and thereby earns end-user revenues contributes directly to the universal service fund.⁸

³ 47 U.S.C. § 254(d).

⁴ *Id.*

⁵ See *Universal Service First Report and Order*, 12 FCC Rcd at 9183–84, para. 795. The Commission also requires certain other providers of interstate telecommunications to contribute to the universal service fund. See, e.g., *Universal Service Contribution Methodology*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, WC Docket Nos. 06-122, 04-36, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518 (2006) (requiring interconnected voice over Internet protocol (VoIP) providers to contribute to the universal service fund) (*Interim Contribution Methodology Order*). Although the Commission has not addressed the regulatory classification of interconnected VoIP services as “telecommunications services” or “information services” under the Act, the Commission has concluded that interconnected VoIP providers are “providers of interstate telecommunications” for purposes of universal service. *Interim Contribution Methodology Order*, 21 FCC Rcd at 7537, para. 35; 47 C.F.R. § 254(d).

⁶ *Universal Service First Report and Order*, 12 FCC Rcd at 9179, para. 787. For example, carriers are not required to contribute to the universal service fund in a given year if their contribution for that year would be less than \$10,000. 47 C.F.R. § 54.708. Likewise, carriers with purely intrastate or international revenues are not required to contribute. *Universal Service First Report and Order*, 12 FCC Rcd at 9174, para. 779; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Sixteenth Order on Reconsideration, 15 FCC Rcd 1679, 1685, para. 15 (1999). Certain government entities, broadcasters, schools, libraries, systems integrators, and self-providers are also exempt from the contribution requirement. 47 C.F.R. § 54.706(d). Also, if an entity provides broadband transmission service to an Internet Service Provider (ISP) on a non-common carrier (i.e. a private carriage basis), that entity is not required to contribute to universal service on the basis of revenues derived from the provision of that transmission service. *Wireline Broadband Internet Access Services Order*, 20 FCC Rcd at 14909–10, para. 103; *id.* at 14916 n.357; *Interim Contribution Methodology Order*, 21 FCC Rcd at 7549, n. 206 (restating this holding). Unless a carrier meets one of the exemptions or exceptions, however, it must contribute to the universal service fund.

⁷ *Universal Service First Report and Order*, 12 FCC Rcd at 9207, para. 846.

⁸ *Id.*

5. The Commission has designated USAC as the entity responsible for administering the universal service support mechanisms under FCC direction.⁹ Pursuant to the Commission's rules, contributors report their revenues by filing Telecommunications Reporting Worksheets (FCC Forms 499-A and 499-Q) with USAC.¹⁰ USAC reviews these filings and verifies the information provided by the contributors.¹¹ USAC also bills contributors for their universal service contributions.¹²

6. In determining what revenues are subject to contribution, the Commission has generally made a distinction between revenues derived from "telecommunications" offerings (specifically, telecommunications offerings provided on a common carriage or private carriage basis¹³) and revenues derived from "information services."¹⁴ To calculate universal service contribution obligations, providers must report their revenues to USAC using the FCC Form 499, segregating their non-telecommunications revenues (such as revenues from sales of information services) from their telecommunications revenues and further segregating their end-user telecommunications revenues from their telecommunications revenues from sales to other contributors (i.e., carrier's carrier revenues).¹⁵ To ensure that all subject telecommunications and telecommunications services revenues are captured at some point in the distribution chain, a wholesale provider of telecommunications or telecommunications services must generally treat each customer as an end user, unless the customer incorporates the leased telecommunications into its own telecommunications offerings and can reasonably be expected to contribute directly to the federal universal service fund based on revenues from those offerings.¹⁶

⁹ *Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45, 97-21, Report and Order and Second Order on Reconsideration, 12 FCC Rcd 18400, 18423-24, para. 41 (1997); see 47 C.F.R. § 54.701.

¹⁰ 47 C.F.R. § 54.711(a) (setting forth reporting requirements in accordance with Commission announcements in the Federal Register). Contributors report historical revenue on the annual Telecommunications Reporting Worksheet (FCC Form 499-A), which is generally filed on April 1 each year. See Universal Service Administrative Company, Schedule of Filings, <http://www.universalservice.org/fund-administration/contributors/revenue-reporting/schedule-filings.aspx> (last visited Apr. 30, 2010) (USAC Form 499 Filing Schedule). Contributors project future quarters' revenue on the quarterly Telecommunications Reporting Worksheets (FCC Form 499-Q), which are generally filed on February 1, May 1, August 1, and November 1. USAC Form 499 Filing Schedule.

¹¹ 47 C.F.R. § 54.711(a).

¹² 47 C.F.R. § 54.702(b).

¹³ An entity that provides telecommunications services on a common carriage basis offers services to the public indiscriminately under the same general terms and conditions. In contrast, telecommunications offerings provided on a private carriage basis are tailored to the special requirements of each customer pursuant to individually negotiated contracts. See *Nat'l Ass'n of Regulatory Utility Comm'rs v. FCC*, 525 F.2d 630 (D.C. Cir. 1976); *Nat'l Ass'n of Regulatory Utility Comm'rs v. FCC*, 533 F.2d 601 (D.C. Cir. 1976).

¹⁴ See 47 U.S.C. § 153(20) (defining "information service" as "the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications"). Prior to the Telecommunications Act of 1996, the Commission used the term "basic service" instead of "telecommunications service" and "enhanced service" instead of "information service." See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report to Congress, 13 FCC Rcd 11501, 11541, para. 81 (1998) (*Report to Congress*); *Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry)*, 77 FCC 2d 384 (1980), *recon.*, 84 FCC 2d 50 (1980), *further recon.*, 88 FCC 2d 512 (1981), *aff'd sub nom. Computer and Communications Industry Ass'n v. FCC*, 693 F.2d 198 (D.C. Cir. 1982).

¹⁵ See 47 C.F.R. § 54.711(a); Telecommunications Reporting Worksheet, FCC Form 499-A (2010), Instructions at 4-5, <http://www.usac.org/res/documents/fund-administration/pdf/forms/form-499A-fy2010-instructions.pdf> (last visited Apr. 30, 2010) (2010 FCC Form 499-A Instructions).

¹⁶ *Federal-State Joint Board on Universal Service; Request for Review of Decision of the Universal Service Administrator by Global Crossing Bandwidth, Inc.*, CC Docket No. 96-45, Order, 24 FCC Rcd 10824, 10825-26, (continued . . .)

Providers with direct contribution obligations may pass through their contribution assessments to their customers, and generally do so unless a customer certifies that it “is purchasing service for resale in the form of . . . telecommunications.”¹⁷

7. In the 2005 *Wireline Broadband Internet Access Services Order*, the Commission concluded, consistent with its prior findings for cable modem service, that “wireline broadband Internet access service provided over a provider’s own facilities is . . . an information service.”¹⁸ The Commission defined wireline broadband Internet access as “a service that uses existing or future wireline facilities of the telephone network to provide subscribers with Internet access capabilities.”¹⁹ The Commission also explained that its finding was not dependent on the type of wireline facility over which the service is provided, or on whether the service provider owns or leases the transmission inputs.²⁰

8. Pursuant to this precedent, Internet access service providers that lease or purchase transmission from telecommunications carriers to provide wireline broadband Internet access services are not required to contribute to the universal service fund for revenues derived from the provision of that service. If such providers lease or purchase transmission service that is offered on a common carrier basis, whether from an affiliated entity or a third party, they are end users of that telecommunications service, and the telecommunications carrier providing the leased telecommunications services is obligated to contribute to universal service on those revenues.²¹ That telecommunications carrier, in turn, may choose to pass through those universal service contribution assessments.²²

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para. 5 (Wireline Comp. Bur. 2009) (*Global Crossing Order*); 2010 FCC Form 499-A Instructions at 19 (“For purposes of completing Block 3, a “reseller” is a telecommunications carrier or telecommunications provider that: 1) incorporates purchased telecommunications services into its own telecommunications offerings; and 2) can be reasonably expected to contribute to federal universal support mechanisms based on revenues from such offerings when provided to end users”).

¹⁷ See 47 C.F.R. § 54.712(a) (authorizing contributors to recover federal universal service contribution costs from their customers); 2010 FCC Form 499-A Instructions at 19; see also *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, WC Docket No. 05-337, CC Docket No. 96-45, Notice of Proposed Rulemaking, 23 FCC Rcd 1467, 1469 n.10 (2008) (noting that providers almost always pass contribution obligations through to their customers).

¹⁸ *Wireline Broadband Internet Access Services Order*, 20 FCC Rcd at 14863, para. 14.

¹⁹ *Id.* at 14860, para. 9.

²⁰ See *id.* at 14860, para. 9 n.15 (noting that the classification of wireline broadband Internet access service applies whether the transmission “component is provided over all copper loops, hybrid copper-fiber loops, a fiber-to-the-curb or fiber-to-the-premises (FTTP) network, or any other type of wireline facilities, and whether that component is provided using circuit-switched, packet-based, or any other technology”); *id.* at 14864-65, para. 16 (affirming that the classification applies when the retail service provider does not own the transmission facilities).

²¹ See *Wireline Broadband Internet Access Services Order*, 20 FCC Rcd at 14864, para. 16 & n.44 (citing *Report to Congress*, 13 FCC Rcd at 11530, para. 59); *id.* at 14909–10, para. 103; *id.* at 14916 n.357 (“[S]ome providers of wireline broadband Internet access service may choose to offer a stand-alone broadband telecommunications service on a common carrier basis. To the extent that they do so, they must continue to contribute to universal service mechanisms on a permanent basis pursuant to section 254(d).”).

²² Under the current universal service contributions system, providers of telecommunications services and certain providers of telecommunications must contribute to the universal service fund based on their end-user telecommunications revenues. To avoid liability for universal service assessments for revenues that are deemed to be end user revenues, a wholesale provider needs to take reasonable steps to verify that its customers are resellers. The most common way for a company to do so is to obtain certifications from each reseller that it “is purchasing service for resale in the form of U.S. telecommunications” and that it “contributes directly to the federal universal service support mechanisms.” See 2010 FCC Form 499-A Instructions at 19. A wholesale provider must contribute on its telecommunications revenues unless it reasonable expects that its customer will itself contribute on its revenues from reselling those services, and certification from the reseller may help establish the necessary
(continued . . .)

B. Request for Review

9. TelePacific is a competitive carrier in California and Nevada. TelePacific's business includes leasing T-1 lines from incumbent local exchange carriers and using them to sell to small business customers a bundle of services including Internet access services, email services, and other features.²³ TelePacific does not offer or sell stand-alone special access service to its retail customers.²⁴ TelePacific asserts that its Internet access service is governed by the Commission's precedent regarding wireline broadband Internet access service because it "uses existing or future wireline facilities of the telephone network to provide subscribers with Internet access capabilities" and that revenues from this service are not subject to universal service contribution requirements.²⁵ TelePacific also offers its customers voice telephony services, often bundled with its Internet access service, over the same facilities.²⁶ TelePacific asserts that it has previously and continues to contribute to the universal service fund for revenues derived from the company's provision of voice telephony services.²⁷

10. In its 2008 FCC Form 499-A (reporting revenues for 2007), TelePacific reported its revenues from its Internet access service as intrastate telecommunications revenues exempt from universal service contribution.²⁸ TelePacific revised and re-filed its 2008 FCC Form 499-A and, in doing so, reclassified its Internet access service revenues as information service revenues not subject to universal service contribution.²⁹

11. On December 10, 2009, USAC rejected TelePacific's revised filing, finding that TelePacific's service provided over T-1 lines is a basic transmission service that is classified by the Commission as a telecommunications service subject to universal service fund reporting and contribution obligations.³⁰ In accordance with its finding, USAC ordered TelePacific to revise its 2008 FCC Form 499-A and any other FCC Forms 499-A in which TelePacific reported its Internet access service revenues as exempt from contributions, and to refile the forms by February 8, 2010.³¹

12. On January 8, 2010, TelePacific requested that the Commission review USAC's decision and stay the effect of that decision pending Commission review.³² In its request for review, TelePacific argues that USAC's decision is inconsistent with the *Wireline Broadband Internet Access Services*

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expectation. See *Global Crossing Order*, 24 FCC Rcd at 10825-26, para. 5. Other evidence, such as a verification that a customer actually contributes each month based on its projected revenues, may also be used to help establish the necessary expectation. See 2010 FCC Form 499-A Instructions at 19.

²³ TelePacific Request for Review at 2. TelePacific also offers wireline broadband Internet access service over other facilities, such as unbundled network elements and fiber. See *id.*

²⁴ *Id.* at 3.

²⁵ *Id.* at 4-5 (citing the *Wireline Broadband Internet Access Services Order*, 20 FCC Rcd at 14860-61, para. 9).

²⁶ *Id.* at 2.

²⁷ *Id.*

²⁸ TelePacific Request for Review at 3; Administrator's Decision on Universal Service Fund Contributor Reporting Matter—U.S. TelePacific Corp. d/b/a TelePacific Communications (Filer ID 819502) Status of Revised 2008 FCC Form 499-A, at 2 (Dec. 10, 2009) (USAC Decision Letter). Providers do not contribute to the federal universal service fund based on intrastate telecommunications revenues. See 47 C.F.R. § 54.706(b).

²⁹ TelePacific Request for Review at 3; USAC Decision Letter at 2.

³⁰ USAC Decision Letter at 6.

³¹ TelePacific Request for Review at 4. USAC allows contributors 60 days to comply with its decisions before assessing penalties; the February 8, 2010 deadline is 60 days from the date of USAC's December 10, 2009 decision letter to TelePacific. See USAC Decision Letter at 6.

³² TelePacific Request for Review; TelePacific Petition for Stay.

Order.³³ The Wireline Competition Bureau sought comment on TelePacific's proposal on January 19, 2010.³⁴

III. DISCUSSION

13. Based on the record before us, we agree with TelePacific that its Internet access service is not currently subject to universal service contribution requirements. We therefore direct USAC to accept TelePacific's re-filed 2008 FCC Form 499-A. However, we do not have sufficient information in the record to address TelePacific's contention that no federal universal service contributions should be assessed on revenues derived from the sale of T-1 lines to TelePacific.

14. As noted above, in determining what revenues are subject to contribution, the Commission has made a distinction between revenues derived from offerings of "telecommunications" or "telecommunications services" and revenues derived from services classified as "information services" such as wireline broadband Internet access service.³⁵ Wireline broadband Internet access service is defined as "a service that uses existing or future wireline facilities of the telephone network to provide subscribers with Internet access capabilities."³⁶ In the instant matter, USAC based its finding that TelePacific's Internet service was subject to universal service requirements solely because the facilities (T-1 lines) used to provide the service are typically used for basic transmission service.³⁷

15. We conclude that the USAC findings in the instant matter were in error under the *Wireline Broadband Internet Access Services Order*.³⁸ In the present case, TelePacific leases T-1 lines and other high-capacity circuits from providers, and offers either broadband Internet access service or both broadband Internet access service and voice telephony to its end user customers, small businesses, over those lines. TelePacific asserts under oath that it provides Internet access service as described in the *Wireline Broadband Internet Access Order*.³⁹ Based on the record before us, we find that TelePacific's Internet access service is a wireline broadband Internet access service under existing Commission precedent and that TelePacific is not required to make contributions based on revenues from sales of that service.⁴⁰

³³ TelePacific Request for Review at 5–6, 18.

³⁴ *Comment Sought on Request of TelePacific Communications for Review of a Universal Service Contribution Decision of the Universal Service Administrative Company and a Stay of that Decision*, WC Docket No. 06-122, Public Notice, 25 FCC Rcd 348 (Wireline Comp. Bur. 2010). Comments on the request for review were due by January 29, 2010, and reply comments were due by February 3, 2010. *Id.* A list of parties filing comments in response to the request for review is included in the appendix.

³⁵ *See supra* para. 6. Under the Commission's general contribution requirements, revenues from offerings of telecommunications services (i.e., common carrier services) and, in certain instances, offerings of telecommunications are subject to universal service assessment. *See supra* note 5 (noting exception for broadband transmission service to an ISP offered on a private-carriage basis).

³⁶ *Wireline Broadband Internet Access Services Order*, 20 FCC Rcd at 14860–61, para. 9.

³⁷ USAC Decision at 5–6.

³⁸ *Wireline Broadband Internet Access Services Order*, 20 FCC Rcd at 14860 n.15 & 14862, para. 12; *see* Coalition Comments at 8; COMPTTEL Comments at 3; New Edge Comments at 1–2.

³⁹ TelePacific Request for Review at 2–3.

⁴⁰ TelePacific argues in an *ex parte* filing that it should not indirectly contribute to universal service for the T-1 lines it leases. *See* Letter from Andrew D. Lipman, *et al.*, Counsel for U.S. TelePacific, Corp. d/b/a TelePacific Communications, to Marlene H. Dortch, Secretary, FCC, at 1 (filed Feb. 1, 2010). Whether a provider is able to pass through universal service contributions to end users in a particular circumstance depends on the relevant tariff or contractual relationship.

16. In conclusion, to protect the integrity of the universal service fund and ensure that all contribution obligations are fulfilled, we order TelePacific to provide to the Chief, Wireline Competition Bureau, a detailed explanation of the methodology by which TelePacific apportions revenues derived from its sale to end users of voice telephony and other services utilizing leased T-1 lines and how it reports such revenues on FCC Form 499-A, within 60 days of this order. We further order TelePacific to provide USAC with the names and contact information of its wholesale providers of transmission services within 60 days of this order, so that USAC can assure that all contributions to universal service are promptly paid.⁴¹

IV. ORDERING CLAUSES

17. ACCORDINGLY, IT IS ORDERED, 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 the authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the request for review filed by U.S. TelePacific Corp. is hereby GRANTED IN PART to the extent discussed herein and the Universal Service Administrative Company SHALL ACCEPT U.S. TelePacific Corp.’s re-filed 2008 FCC Form 499-A.

18. IT IS FURTHER ORDERED, 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 the authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the petition for a stay filed by U.S. TelePacific Corp. is hereby DISMISSED AS MOOT.

19. IT IS FURTHER ORDERED, 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 the authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that U.S. TelePacific Corp. SHALL PROVIDE to the Chief, Wireline Competition Bureau, a detailed explanation of the methodology by which TelePacific apportions revenues derived from its sale to end users of voice telephony and information services utilizing leased T-1 lines and how it reports such revenues on FCC Form 499-A, within 60 days.

20. IT IS FURTHER ORDERED, 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 the authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that U.S. TelePacific Corp. SHALL PROVIDE to the Universal Service Administrative Company the names and contact information of its wholesale providers of transmission services within 60 days of this order.

21. IT IS FURTHER ORDERED, 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 the authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the motion to strike the reply comments of AT&T, Inc. filed by U.S. TelePacific Corp. is hereby DENIED.

⁴¹ All filing contributors are required to submit a revised FCC Form 499-A if they discover an error in the revenue data that they report. *See* 2010 FCC Form 499-A Instructions at 11. To the extent that TelePacific certified to a provider that TelePacific was contributing directly on certain revenues, that certification may have impacted the amount of revenues that TelePacific’s wholesale provider reported. Accordingly, TelePacific’s wholesale providers may be required to revise reported revenue data as appropriate. The provider may also rely on the terms of any agreements with TelePacific to assess TelePacific any pass-through charges that TelePacific avoided due to its reseller certifications.

22. IT IS FURTHER ORDERED that, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. § 1.102(b)(1), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Sharon E. Gillett
Chief
Wireline Competition Bureau

APPENDIX

List of Commenters

Commenter

Coalition for Fairness and Restraint in USAC Fund Administration
COMPTEL and CALTEL
New Edge Network, Inc.

Abbreviation

Coalition
COMPTEL
New Edge

Reply Commenter

AT&T Inc.
Qwest Communications International, Inc.

Abbreviation

AT&T
Qwest