



PUBLIC NOTICE

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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

Comment Date: (30 days after date of publication in the Federal Register)

In order to promote clarity, transparency and predictability, the Wireline Competition Bureau (Bureau) seeks comment on proposed revisions to (1) the annual Telecommunications Reporting Worksheet, FCC Form 499-A (Form 499-A) and accompanying instructions (Form 499-A Instructions) to be used in 2013 to report 2012 revenues,¹ and (2) the quarterly Telecommunications Reporting Worksheet, FCC Form 499-Q (Form 499-Q) and accompanying instructions (Form 499-Q Instructions) to be used in 2013 to report projected collected revenues on a quarterly basis.² The revisions to the forms and instructions are attached to this Public Notice in redline format, showing proposed changes from the forms and instructions currently in effect.³

¹ The Communications Act of 1934, as amended, requires that the Commission establish mechanisms to fund universal service (USF), interstate telecommunications relay services (TRS), the administration of the North American Numbering Plan (NANPA), and the shared costs of local number portability administration (LNPA). 47 U.S.C. §§ 151, 225, 251, 254. To accomplish these congressionally directed objectives, the Commission requires telecommunications carriers and certain other providers of telecommunications (including Voice-over-Internet-Protocol (VoIP) service providers) to report each year on Form 499-A the revenues they receive from offering service. See 47 C.F.R. §§ 52.17(b), 52.32(b), 54.708, 54.711, 64.604(b)(5)(iii)(B). Form 499-A is due on April 1 of each year. See USAC Schedule of Filings, at <http://www.usac.org/cont/499/filing-schedule.aspx> (last visited Nov. 21, 2012).

² Sections 54.706, 54.711, and 54.713 of the Commission's rules require all telecommunications carriers providing interstate telecommunications services, interconnected VoIP providers that provide interstate telecommunications, providers of interstate telecommunications that offer interstate telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators to contribute to universal service and file Form 499-Q on February 1, May 1, August 1, and November 1, each year. 47 C.F.R. §§ 54.706, 54.711, 54.713.

³ The Bureau has delegated authority to revise the Forms 499 and accompanying instructions to ensure "sound and efficient administration of the universal service programs." See *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, 18442, para. 81 (1997) ("Because it is difficult to determine in advance precisely the information that will be needed to administer the new universal service programs, the [Common Carrier] Bureau will have delegated authority to waive, reduce, or eliminate contributor reporting requirements that may prove unnecessary. The Bureau also will have delegated authority to require any additional contributor reporting requirements necessary to the sound and efficient administration of the

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The proposed revisions include the following modifications:

- **Stylistic Changes:** In several instances, wording in the instructions was revised for clarification purposes, without changing the substance.
- **Date Changes:** Dates were updated throughout. References to “2012” were changed to “2013,” and references to “2011” were changed to “2012.”
- **Web Pages:** Hyperlinks were revised as appropriate throughout the Form 499-A Instructions and the Form 499-Q Instructions.
- **Estimation Factor:** Appendix A of the Form 499-A Instructions (at Line 10) and Figure 1 of the Form 499-Q Instructions (at Line 16) contain the estimation factor to be used by filers to determine *de minimis* status.⁴ The estimation factor for 2013 is 0.162.
- **Charges Allowed by *USF/ICC Transformation Order*:** In the *USF/ICC Transformation Order*, the Commission allowed incumbent local exchange carriers (LECs) to charge an access recovery charge (ARC) on wireline telephone service to partially offset intercarrier compensation revenue declines resulting from the transition of certain switched access rates adopted as part of the comprehensive intercarrier compensation reform.⁵ The Form 499-A Instructions were revised at page 17 (Line 405) to list the ARC as a type of charge to end users (specified in access tariffs) reportable under Line 405. Similarly, the *USF/ICC Transformation Order* allows per-minute charges for originating or terminating voice over Internet Protocol (VoIP) / public switched telephone traffic.⁶ The Form 499-A Instructions were revised at page 16 (Line 304) to list such charges as a type of per-minute originating and terminating charge reportable on Line 304.
- **Filing Schedule:** Table 1 of the Form 499-A Instructions and Figure 2 of the Form 499-Q Instructions were revised to clarify the filing addresses for Form 499-A, Form 499-Q,

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universal service programs.”). Consistent with this authority, the Bureau annually revises the Telecommunications Reporting Worksheet Instructions to provide instructions and guidance for complying with existing rules and requirements. 47 C.F.R. § 54.711(c). The FCC Forms 499 instructions are modified based on experience in administering the universal service program and explicit rulings by the Commission. *See, e.g., Universal Service Contribution Methodology et al.*, WC Docket No. 06-122 *et al.*, Report and Order and Notice of Proposed Rulemaking, 21 FCC Rcd 7518, 7533-50, paras. 24-62 (2006).

⁴ Pursuant to the *de minimis* exemption, telecommunications carriers and telecommunications providers are not required to contribute directly to the universal service support mechanisms for a given year if their contribution for that year is less than \$10,000. *See* 47 C.F.R. § 54.708.

⁵ *See Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17956-61, 17987-94, paras. 847-53, 905-16 (2011) (*USF/ICC Transformation Order*), *pets. for review pending sub nom*, In re: FCC 11-161, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

⁶ *USF/ICC Transformation Order*, 26 FCC Rcd at 18005-08, paras. 940-42.

Traffic Studies, and the Consolidated Filer Certification. Form 499-Q (Line 113) was revised to allow filers to check the applicable quarter for which the form is being filed.

- **Mergers:** Pages 9 and 14 of the Form 499-A Instructions were revised to clarify the procedures for successor companies to report the revenues of acquired entities.
- **Holding Company and Affiliates:** Form 499-A (Line 106.1), Form 499-Q (Line 105), page 11 of the Form 499-A Instructions, and page 11 of the Form 499-Q Instructions were revised to include a checkbox for filers to indicate whether they have affiliates. Affiliates should list the same holding company on Form 499-A and Form 499-Q. Form 499-Q (Line 105.1) was revised to include the Internal Revenue Service (IRS) employer identification number (EIN) for the filer's holding company.
- **Definition of Affiliate:** The definition of the term affiliate is added on pages 10-11 of the Form 499-A Instructions and page 10 of the Form 499-Q Instructions. This definition is the same as the definition contained in Appendix A of the Form 499-A Instructions and Figure 1 of the Form 499-Q Instructions.
- **Ink Signature Requirement:** Page 9 of the Form 499-A Instructions and page 19 of the Form 499-Q Instructions were revised to clarify that an original ink signature is required from an officer when he or she first files a form. Subsequent forms signed by the same officer may be signed electronically.
- **Subscriber Line Charges and Exchange Access Service:** In order to better reflect Commission precedent and rules, we are deleting the following language from the discussion of Line 404 in the Form 499-A Instructions: "Note that federal subscriber line charges typically represent the interstate portion of fixed local exchange service; these amounts are separate from toll revenues and correspond to the revenues received by incumbent telephone companies to recover part of the cost of networks that allow customers to originate and terminate interstate calls. Filers without subscriber line charge revenue must identify the interstate portion of fixed local exchange service revenues in column (d) of the appropriate line 404.1." We consolidated on page 17 of the Form 499-A Instructions the description of what federal subscriber line charges (SLCs) are and added language clarifying that carriers that elect to charge end users for the provision of interstate exchange access service through a separately stated charge (*e.g.*, a SLC) should report such revenues on Line 405. Conforming changes were made at page 14 of the FCC Form 499-Q Instructions.
- **Special Access on Common Carrier Basis:** Page 18 of the Form 499-A Instructions were revised to remind filers that they should report, on Line 406, revenues derived from the sale of special access on a common carrier basis to providers of retail broadband Internet access service.
- **Definition of "Toll Services" for Wireless Providers:** Pages 19-20 of the Form 499-A Instructions were revised to include a cross reference to Commission orders defining "toll services" for wireless providers.

- **Carrier’s Carrier Revenues:** Pages 22-23 of the Form 499-A Instructions were revised to provide additional examples of intercarrier compensation that should be reported in Block 3 (carrier’s carrier revenues) and not in Block 4 (end user revenues).
- **Traffic Studies:** Page 28 of the Form 499-A Instructions and page 16 of the Form 499-Q Instructions were revised to include format headings to be used when filing traffic studies, to assist in administrative processing. These headings are intended to help identify each filer submitting traffic studies in order to properly match the traffic study with such filer’s Form 499-A and Form 499-Q filings.
- **Consistency in Traffic Study or Safe Harbor Elections:** Page 27 of the Form 499-A Instructions and pages 15-17 of the Form 499-Q Instructions were revised to clarify the requirement that the same election made by a filer on its Form 499-Q filings to use either a safe harbor or traffic studies to project revenues for a particular quarter must be used on the filer’s Form 499-A for reporting historical revenues for that particular quarter. Form 499-Q (Line 114) was revised to include a check box when filers use safe harbors for reporting revenue allocations.
- **Percentage of Revenues Billed Per Region:** Lines 503 through 510 of Form 499-A currently require filers to report the percentage of telecommunications revenues billed by LNPA region. Page 30 of the Form 499-A Instructions was revised to clarify that filers may use customer billing addresses to calculate or estimate this percentage.
- **“Reseller” Sample Certification Language:** Consistent with the recently adopted *2012 Wholesaler-Reseller Clarification Order*,⁷ pages 22-25 of the Form 499-A Instructions and pages 11-12 of the Form 499-Q Instructions were revised to clarify that providers may rely on reseller certificates that are consistent with the sample language contained in the 2012 FCC Forms 499 instructions, and included herein for illustrative purposes, through December 31, 2013. The Instructions were also revised to delete the suggested procedure to check the Commission’s website to ascertain whether a carrier customer is a contributor to the USF, because such action, by itself, is insufficient to satisfy the reasonable expectation standard. Pages 24-25 of the Form 499-A Instructions were revised to include new sample certification language that providers may utilize to satisfy the reasonable expectation standard, pending adoption of any rule changes in the pending universal service contribution reform rulemaking.

⁷ 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, at para. 51 (rel. Nov. 5, 2012) (*2012 Wholesaler-Reseller Clarification Order*) (instructing the Bureau to seek comment on any revisions to be made to the 2013 FCC Forms 499 and instructions, which will be used to report 2012 revenues).

- **Deleted Language:**
 - Rounding Percentages: Page 10 of the Form 499-A Instructions was revised to delete instructions requiring revenues to be rounded to the nearest whole percent. Revenues should not be rounded to whole numbers. This is consistent with the safe harbors for interstate/intrastate revenues, which are not whole numbers.
 - Revenues from Affiliates: In order to better reflect Commission precedent and rules, page 14 of the Form 499-A Instructions was revised to delete the following language: “Gross billed revenues also do not include revenues (imputed or otherwise) for services provided to the filer itself or from one wholly owned affiliate to another unless: (1) the filer is required to record such revenues for some other federal or state regulatory purpose; or (2) the filer is providing service to an affiliate for resale and the affiliate is not a direct universal service contributor.” Similar language was deleted from page 13 of the Form 499-Q Instructions.

Interested parties may file **comments on or before (30 days after date of publication in the Federal Register)**

All pleadings are to reference **WC Docket 06-122**. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies.⁸

- *Electronic Filers*: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- *Paper Filers*: Parties who choose to file by paper must file an original and one copy of each filing.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes 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.

⁸ See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1999).

- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

In addition, we request that one copy of each pleading be sent to each of the following:

- (1) Ernesto Beckford, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-B432, Washington, DC 20554; e-mail: Ernesto.Beckford@fcc.gov; and
- (2) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-B521, Washington, DC 20554; e-mail: Charles.Tyler@fcc.gov.

The proceeding this Notice initiates shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules.⁹ 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.

For further information, please contact Ernesto Beckford, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484, or Ernesto.Beckford@fcc.gov.

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⁹ 47 C.F.R. §§ 1.1200 *et seq.*

Attachments:

Attachment 1: Draft Form 499-A (Redline Copy)

Attachment 2: Draft Form 499-A Instructions (Redline Copy)

Attachment 3: Draft Form 499-Q (Redline Copy)

Attachment 4: Draft Form 499-Q Instructions (Redline Copy)