



PUBLIC NOTICE

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WIRELINE COMPETITION BUREAU RELEASES 2014 TELECOMMUNICATIONS REPORTING WORKSHEETS AND ACCOMPANYING INSTRUCTIONS

Revised Certification Language Available for Wholesale and Resale Providers

WC Docket No. 06-122

The Wireline Competition Bureau (Bureau) announces the release of the (1) annual Telecommunications Reporting Worksheet, FCC Form 499-A (Form 499-A) and accompanying instructions (Form 499-A Instructions) to be used in 2014 to report 2013 revenues,¹ and (2) quarterly Telecommunications Reporting Worksheet, FCC Form 499-Q (Form 499-Q) and accompanying instructions (Form 499-Q Instructions) to be used in 2014 to report projected collected revenues on a quarterly basis.²

The Bureau has delegated authority to revise the Form 499-A, Form 499-Q (collectively, Forms) and accompanying instructions to, among other things, ensure “sound and efficient administration of the universal service programs.”³ On October 29, 2013, the Bureau released a Public Notice seeking

¹ The Communications Act of 1934, as amended (Act), requires that the Commission establish mechanisms to fund universal service, interstate telecommunications relay services (TRS), the administration of the North American Numbering Plan, and the shared costs of local number portability administration. 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 Universal Service Administrative Company (USAC) Schedule of Filings, <http://www.usac.org/cont/499/filing-schedule.aspx> (last visited Jan. 28, 2014).

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 the universal service fund (USF) 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 *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) (*Universal Service Second Order on Reconsideration*) (“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, now Wireline Competition] 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 universal service programs.”). Consistent with this authority, the Bureau annually revises the

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comment on proposed revisions to the Forms and the accompanying instructions.⁴ The Bureau received several comments addressing the proposed changes to be incorporated into the 2014 Forms and accompanying instructions.⁵

Reseller Certifications

In this year's Form 499-A instructions, the Bureau has implemented for calendar year 2014 the Commission's directive in the *2012 Wholesaler-Reseller Clarification Order* to revise sample reseller certification language.⁶ In August 2013, the Bureau separately sought public comment on an industry proposal for those revisions.⁷ Pages 22-26 of the Form 499-A Instructions provide the revised sample reseller certification language. Those pages have also been updated to fully reflect the clarifications provided in the *2012 Wholesaler-Reseller Clarification Order*, including the definition of "reseller," and the "reasonable expectation" standard for filers that report revenues from reseller customers.⁸

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Telecommunications Reporting Worksheet Instructions to provide instructions and guidance for complying with existing rules and requirements. See 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 *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, Public Notice, 28 FCC Rcd 14767 (Wireline Comp. Bur. 2013). The Public Notice included proposed revisions to the reseller certification language that were based on an industry group proposal, which was placed separately on public notice on August 2, 2013. See *Wireline Competition Bureau Seeks Comment on Proposed Sample Reseller Certification Language for FCC Form 499-A Instructions*, WC Docket No. 06-122, Public Notice, 28 FCC Rcd 11195 (Wireline Comp. Bur. 2013). A number of parties commented on the industry proposal. See BT Americas Inc. Comments, WC Docket No. 06-122 (filed Sept. 6, 2013); COMPTel Comments, WC Docket No. 06-122 (filed Sept. 6, 2013); EarthLink Inc. and twTelecom Inc. Comments, WC Docket No. 06-122 (filed Sept. 6, 2013); HyperCube Telecom, LLC Comments, WC Docket No. 06-122 (filed Sept. 6, 2013); Level 3 Communications, LLC Comments, WC Docket No. 06-122 (filed Sept. 5, 2013); Network Enhanced Telecom, LLP Comments, WC Docket No. 06-122 (filed Sept. 6, 2013); U.S. TelePacific Corp., Fibertech Networks, LLC, and Zayo Group, LLC Comments, WC Docket No. 06-122 (filed Sept. 6, 2013).

⁵ See, e.g., Ad Hoc Coalition of International Telecommunications Companies Comments, WC Docket No. 06-122 (filed Nov. 27, 2013); Industry Group (AT&T, BT, CenturyLink, Orange, Sprint, Verizon, and XO Communications) Joint Comments, WC Docket No. 06-122 (filed Nov. 27, 2013); Nexus Communications, Inc. Comments, WC Docket No. 06-122 (filed Nov. 27, 2013).

⁶ 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, 27 FCC Rcd 13780, 13798, para. 41 (2012) (*2012 Wholesaler-Reseller Clarification Order*).

⁷ See *supra* n.4.

⁸ The Commission directed the Bureau to revise the sample reseller certification language to reflect the longstanding requirement that in order to classify revenues as carrier's carrier revenues, wholesaler providers must have a reasonable expectation that their customers are "resellers" as the Commission has long defined that term for contributions purposes – "a telecommunications service provider that 1) incorporates the purchased telecommunications services into its own offerings and 2) can reasonably be expected to contribute to support universal service based on revenues from those offerings." The Commission also clarified that the two prongs of the definition are separate and independent, and wholesale providers must be able to demonstrate that customers satisfy both requirements in order to report the revenues from sales to those customers as carrier's carrier revenues.

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Filers (and their reseller customers) should read carefully the revisions to Section III.C.2 of the Form 499-A Instructions, and note any modifications that may need to be made to existing reseller certifications in order to take advantage of the “safe harbor” described in the *2012 Wholesaler-Reseller Clarification Order*.⁹ In addition, filers and/or reseller customers who are not familiar with the relevant portions of the *2012 Wholesaler-Reseller Clarification Order* are encouraged to carefully review that order.¹⁰

Other Changes

The other revisions to the 2014 Form 499-A and Form 499-Q Instructions, as applicable, are summarized below:

- **Termination of Service:** Page 6 of the Form 499-A Instructions was revised to direct filers to the website of USAC, the Administrator of the USF, for details regarding documentation that must be filed when a filer ceases providing telecommunications.
- **Identification Numbers:** Page 10 of the Form 499-A Instructions and page 10 of the Form 499-Q Instructions were revised to instruct filers that lack Internal Revenue Service employer identification numbers to contact USAC for an alternative identification number.
- **“Affiliate” Identifier:** Page 10 of the Form 499-A Instructions and pages 10-11 of the Form 499-Q Instructions were revised to emphasize that all “affiliated” filers, as that term is defined under 47 U.S.C. § 153, should enter a common identifier (the “Affiliated Filers Name/Holding Company Name”). Typically this is the name of the filer’s holding company, but in some instances, a group of affiliated filers may choose to designate an entity that is not the holding company of each affiliate. The term “holding company” is replaced by “Affiliated Filers Name/Holding Company Name” where appropriate throughout the Form 499-A and 499-Q Instructions.
- **Contact Information:** Contact information is added to page 11 of the Form 499-A Instructions for filer inquiries regarding the instructions for Interstate Telecommunications Service Providers (ITSP) regulatory fee bills. Page 36 of the Form 499-A Instructions and page 21 of the Form 499-Q Instructions were revised to delete contact information for the Wireline Competition Bureau and Industry Analysis and Technology Division; filers should contact USAC with questions about the Forms 499. The phone number for NANPA is corrected on page 36 of the FCC Form 499-A Instructions.

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2012 Wholesaler-Reseller Clarification Order, 27 FCC Rcd at 13795, 13796, paras. 34, 37 (citing *Universal Service Second Order on Reconsideration*, 12 FCC Rcd at 18507, App. A). See also *2012 Wholesaler-Reseller Clarification Order*, 27 FCC Rcd at 13796-98, paras. 37-42 (clarifying “reasonable expectation” standard).

⁹ *2012 Wholesaler-Reseller Clarification Order*, 27 FCC Rcd at 13801, para. 51 (stating that “[a] wholesale provider that complies with all of the guidance in the Form 499-A instructions will be afforded a “safe harbor” –i.e., that provider will be deemed to have demonstrated a reasonable expectation”) (emphasis in original).

¹⁰ The order is available at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-12-134A1.pdf.

- **Agent Designation:** Page 11 of the Form 499-A Instructions was revised to clarify that only common carriers are required to designate an agent in the District of Columbia.
- **International Services:** A paragraph containing instructions on reporting of certain international revenues is moved from page 20 to the “Note on International Services” on page 14 in the Form 499-A Instructions. This edit clarifies that the instruction applies to all international revenues.
- **Lifeline Assistance:** Consistent with the *Lifeline Reform Order*,¹¹ the following sentence is deleted from page 18 of the Form 499-A Instructions: “Line 308 should include as revenues Lifeline Assistance reimbursement for the waived portion of subscriber line or presubscribed interexchange carrier charges from the Low Income or High Cost universal service support mechanism.”
- **Intrastate Revenue:** Page 26 of the Form 499-A Instructions and page 14 of the Form 499-Q Instructions were revised to clarify that total revenues reported in column (a) include intrastate revenues; intrastate revenues are not reported separately on the Forms.
- **TRS Support Mechanism:** Consistent with the requirements of the Twenty-First Century Communications and Video Accessibility Act of 2010¹² and the *2011 TRS Contributions Order* implementing those requirements,¹³ citations to section 715 of the Act (47 U.S.C. § 616) were added throughout, and page 37 of the Form 499-A Instructions was revised to clarify that providers of non-interconnected VoIP service are required to contribute to the interstate TRS support mechanism.
- **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 “2013” were changed to “2014,” and references to “2012” were changed to “2013.”

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¹¹ See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket 11-42 et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6682-83, paras. 54-59 (2012) (*Lifeline Reform Order*).

¹² Pub. L. No. 111-260, § 103(b), 124 Stat. 2751, 2755 (2010).

¹³ See *Contributions to the Telecommunications Relay Services Fund*, CG Docket No. 11-47, Report and Order, 26 FCC Rcd 14532, 14537, para. 12 (2011) (*2011 TRS Contributions Order*) (added definition of “non-interconnected VoIP service” to the Commission’s TRS rules at 47 C.F.R. § 64.601(a)).

For further information, please contact Carol Pomponio, Telecommunications Access Policy Division, Wireline Competition Bureau, at (202) 418-1898 or TTY (202) 418-0484.

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