



**DECLARATION OF COUNSEL SUPPORTING MOTION TO COMPEL**

**FILED**  
02-26-10  
04:59 PM

I, Christopher Witteman, hereby declare.

1. I am an attorney licensed to practice law before all Courts of the State of California since 1984. I am employed by the California Public Utilities Commission as staff counsel, and I have represented staff of the Communications Division (CD) and Consumer Protection and Safety Division (CPSD) in the above-captioned Investigation of TracFone, and in related proceedings.

2. Attached hereto as **Exhibit A** is a true and correct copy of the data request I caused to be sent to TracFone outside counsel. Mitchell F. (“Rick”) Brecher on December 22, 2009. The cover email, also attached, reflects that TracFone in-house counsel R. Salzman was also copied on the data request.

3. Attached hereto as **Exhibit B** is a true and correct copy of email correspondence reflecting the parties attempt to “meet and confer” regarding this discovery dispute. During the “meet and confer” discussion Mr. Brecher offered to stipulate

4. Attached as **Exhibit C** are true and correct copies of the FCC’s Form 499, as well as excerpts from the FCC’s Instructions as to Form 499 (pages 1-3 and 20-27).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the full extent of my own knowledge.

Executed this 26<sup>th</sup> day of February, 2010 in San Francisco, California.

/s/ Christopher Witteman

\_\_\_\_\_  
**Christopher Witteman**

# **EXHIBIT A**

**Witteman, Chris**

**From:** Witteman, Chris  
**Sent:** Tuesday, December 22, 2009 4:59 PM  
**To:** 'BRECHERM@gtlaw.com'  
**Cc:** 'fj@tracfone.com'; 'RSalzman@tracfone.com'; Tan-Walsh, Lilela; Christiansen, Charles H.  
**Subject:** RE: I.09-12-016, Order Instituting Investigation re TracFone Wireless, & Staff Report  
**Attachments:** Brecher letter DR 2.pdf

Dear Mr. Brecher:

Attached is CPUC Data Request 1.1 in the above reference matter.

Please don't hesitate to call if you have any questions or comments.

Chris Witteman  
Legal Division/Telecommunications  
California Public Utilities Commission  
505 Van Ness Ave., Room 5129  
San Francisco, CA 94102  
Tel: 415.355.5524  
Fax: 415.703.2262

PUBLIC UTILITIES COMMISSION  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



By E-mail (BrecherM@gtlaw.com) & U.S. Mail

December 22, 2009

Mitchell F. Brecher  
Greenberg Traurig  
2101 L. Street, NW  
Suite 1000  
Washington, DC 20037

Re: I. 09-12-016, *Investigation of TracFone Wireless, Inc. (U-4231) re collection and remittance of public purpose program surcharges and user fees;*  
Data Request 1.1.

Dear Mr. Brecher:

Enclosed please find the CPUC's Data Request no. 1.1 in the above referenced matter.

Do not hesitate to call or email if you have any questions concerning the enclosed.

Thank you for your attention to this matter.

Sincerely,

Chris Witteman  
[wit@cpuc.ca.gov](mailto:wit@cpuc.ca.gov)  
Tel. 415.355.5524  
Staff Counsel  
California Public Utilities Commission

WIT:nas

Enclosure

cc: F.J.Pollak ([fj@tracfone.com](mailto:fj@tracfone.com))  
Richard Salzman ([RSalzman@tracfone.com](mailto:RSalzman@tracfone.com))  
Charles Christiansen, Communications Division  
Llela Tan-Walsh, Communications Division

CPUC DATA REQUEST 1.1 TO TRACFONE WIRELESS, INC. (U-4231)  
December 22, 2009

Pursuant to California Public Utilities Code §§ 311, 314 and 581-84, please provide the following documents and information to Commission staff as soon as possible, but in no event later than January 19, 2009. As used herein, "you" or "TracFone" means TracFone Wireless Inc. (U-4231).

1. Copies of FCC forms 499-A and 499-Q, as submitted by TracFone to the Federal Communications Commission (FCC) and/or the Universal Service Administrative Company (USAC) for the years 2004 – 2008 inclusive.
2. Unless apparent from the requested 499 forms, please explain how you calculated your federal Universal Service Fund (USF) contribution in each of these years, stating for each year whether you used the Wireless Safe Harbor percentage or other method to calculate interstate and intrastate revenues. Provide copies of any traffic studies or calculations on which you relied, if applicable.
3. On June 11, 2009, you reported total California intrastate revenues for years 2006-2008. For years 2004, 2005, and 2009, please identify TracFone's total California intrastate revenue.

## **EXHIBIT B**

**Witteman, Chris**

**From:** Witteman, Chris  
**Sent:** Thursday, February 25, 2010 3:23 PM  
**To:** 'BRECHERM@gtlaw.com'  
**Subject:** RE: Data Requests to TracFone Wireless - Meet and Confer

Rick,

Thanks for taking the time to talk with me today. I have noted your belief that the duty to respond to data request was stayed while the motion for stay was pending. The sense here is that a motion to compel would be appropriate to get the matter on the table before the PHC. My intent is to get it on file tomorrow.

Chris

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**From:** BRECHERM@gtlaw.com [mailto:BRECHERM@gtlaw.com]  
**Sent:** Wednesday, February 24, 2010 6:14 PM  
**To:** Witteman, Chris  
**Subject:** Re: Data Requests to TracFone Wireless - Meet and Confer

Chris

Thanks for the email. Rather than sending emails back and forth, perhaps we could have a short phone discussion tomorrow. I'll be around all day.

Have a good evening.

Rick

Mitchell F. Brecher  
Greenberg Traurig, LLP  
2101 L Street, N.W.  
Suite 1000  
Washington, DC 20037  
Telephone : (202) 331-3152  
Fax: (202) 261-0152  
Mobile: (301) 509-8998  
e-mail : Brecherm@gtlaw.com

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**From:** Witteman, Chris <chris.witteman@cpuc.ca.gov>  
**To:** Brecher, Mitchell (Shld-DC-TelCom)  
**Cc:** fj@tracfone.com <fj@tracfone.com>; RSalzman@tracfone.com <RSalzman@tracfone.com>; Tan-Walsh, Llela <llela.tan-walsh@cpuc.ca.gov>; Christiansen, Charles H. <chc@cpuc.ca.gov>; Lo, Jeanette <jeanette.lo@cpuc.ca.gov>  
**Sent:** Wed Feb 24 20:55:53 2010  
**Subject:** Data Requests to TracFone Wireless - Meet and Confer

Rick,

Haven't heard back on this from you, but thought I'd try one more time in a "meet and confer" kind of way, preparatory to filing a motion. It's our view that TracFone's duty to respond to staff data requests operates independently under PU Code sections 311, 314, 581-82, and 584 etc., regardless of what happens on your motion to stay. The point of our motion would be to have ALJ DeAngelis affirm this at the PHC next week. If

2/25/2010

necessary, we will try to have something on file by Friday. I hope we don't have to get to that, but it's essentially your/TracFone's call.

Chris

Chris Witteman  
Legal Division/Telecommunications  
California Public Utilities Commission  
505 Van Ness Ave., Room 5129  
San Francisco, CA 94102  
Tel: 415.355.5524  
Fax:415.703.2262

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**From:** Witteman, Chris  
**Sent:** Wednesday, February 24, 2010 11:05 AM  
**To:** 'BRECHERM@gtlaw.com'  
**Cc:** 'fj@tracfone.com'; 'RSalzman@tracfone.com'; Tan-Walsh, Llela; Christiansen, Charles H.  
**Subject:** TracFone - Protective Orders

Rick,

Forgot to add: Staff does not sign protective orders. If you have good faith belief that the material is confidential, you can assert that by labelling the documents, or portions of them, or the data response, as confidential per section 583. I believe TracFone has done that previously with the carrier contracts.

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**From:** Witteman, Chris  
**Sent:** Wednesday, February 24, 2010 10:56 AM  
**To:** 'BRECHERM@gtlaw.com'  
**Cc:** fj@tracfone.com; RSalzman@tracfone.com; Tan-Walsh, Llela; Christiansen, Charles H.  
**Subject:** RE: I.09-12-016, Order Instituting Investigation re TracFone Wireless, & Staff Report

Rick,

A footnote in a motion (that otherwise does not address the data requests) is not sufficient to stay your client's responsibilities under the California Public Utilities Code. We would appreciate prompt production of the data and documents.

Thank you,

Chris

Chris Witteman  
Legal Division/Telecommunications  
California Public Utilities Commission  
505 Van Ness Ave., Room 5129  
San Francisco, CA 94102  
Tel: 415.355.5524  
Fax:415.703.2262

2/25/2010

**From:** BRECHERM@gtlaw.com [mailto:BRECHERM@gtlaw.com]  
**Sent:** Wednesday, February 24, 2010 10:52 AM  
**To:** Witteman, Chris  
**Cc:** fj@tracfone.com; RSalzman@tracfone.com; Tan-Walsh, Llela; Christiansen, Charles H.  
**Subject:** RE: I.09-12-016, Order Instituting Investigation re TracFone Wireless, & Staff Report

Chirs

Please see TracFone's motion for stay filed January 19, 2010. Your attention is specifically directed to page 11, note 10 which states that TracFone will not respond to Data Request No. 1.1 or other data requests while its stay motion remains pending. Moreover, it states that if production is compelled, TracFone will first seek to enter into an appropriate protective order to ensure that any requested information which constitutes trade secrets or other confidential information is protected from public disclosure.

I trust that this is responsive to you inquiry below.

**Mitchell Brecher**  
Shareholder  
Greenberg Traurig LLP | 2101 L Street N.W. | Washington, D.C. 20037  
Tel 202.331.3152 | Fax 202.261.0152 | Cell 301-509-8998  
brecher@gtlaw.com | www.gtlaw.com



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**From:** Witteman, Chris [mailto:wit@cpuc.ca.gov]  
**Sent:** Wednesday, February 24, 2010 12:39 PM  
**To:** Brecher, Mitchell (Shld-DC-TelCom)  
**Cc:** fj@tracfone.com; RSalzman@tracfone.com; Tan-Walsh, Llela; Christiansen, Charles H.  
**Subject:** RE: I.09-12-016, Order Instituting Investigation re TracFone Wireless, & Staff Report

Rick:

2/25/2010

As per below, we requested TracFone's 499 forms and related data on December 22, 2009. We're now pushing toward two months without a response, even though we reasonably requested a response by January 19, 2010. I am not finding any response from you (please forgive me if I have overlooked anything). Could you please advise when we may expect the documents and data? It is our position that objection to the production of same has been waived by TracFone's apparent failure to respond.

Thank you.

Chris Witteman  
Staff Counsel

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**From:** Witteman, Chris  
**Sent:** Tue 12/22/2009 4:58 PM  
**To:** 'BRECHERM@gtlaw.com'  
**Cc:** 'fj@tracfone.com'; 'RSalzman@tracfone.com'; Tan-Walsh, Llela; Christiansen, Charles H.  
**Subject:** RE: I.09-12-016, Order Instituting Investigation re TracFone Wireless, & Staff Report

Dear Mr. Brecher:

Attached is CPUC Data Request 1.1 in the above reference matter.

Please don't hesitate to call if you have any questions or comments.

Chris Witteman  
Legal Division/Telecommunications  
California Public Utilities Commission  
505 Van Ness Ave., Room 5129  
San Francisco, CA 94102  
Tel: 415.355.5524  
Fax:415.703.2262

**EXHIBIT C**

**2009 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting Calendar 2008 Revenues)**

Approval by OMB  
3060-0855

>>> Please read instructions before completing. <<<

Annual Filing -- due April 1, 2009

**Block 1: Contributor Identification Information**

During the year, filers must refile Blocks 1, 2 and 6 if there are any changes in Lines 104 or 112. See Instructions.

101 Filer 499 ID [If you don't know your number, contact the administrator at (888) 641-8722.

If you are a new filer, write "new" in this block and a Filer 499 ID will be assigned to you.]

102 Legal name of reporting entity

103 IRS employer identification number [Enter 9 digit number]

104 Name telecommunications provider is doing business as

105 Telecommunications activities of filer [Select up to 5 boxes that best describe the reporting entity. Enter numbers starting with "1" to show the order of importance -- see directions.]

- |  |  |  |   |
|--|--|--|---|
| <input type="checkbox"/> CAP/CLEC                                      | <input type="checkbox"/> Cellular/PCS/SMR (wireless telephony incl. by resale) | <input type="checkbox"/> Coaxial Cable                   | <input type="checkbox"/> Incumbent LEC              |
| <input type="checkbox"/> Interconnected VoIP                           | <input type="checkbox"/> Interexchange Carrier (IXC)                           | <input type="checkbox"/> Operator Service Provider (OSP) | <input type="checkbox"/> Paging & Messaging         |
| <input type="checkbox"/> Payphone Service Provider                     | <input type="checkbox"/> Local Reseller  | <input type="checkbox"/> Private Service Provider        | <input type="checkbox"/> Satellite Service Provider |
| <input type="checkbox"/> Shared-Tenant Service Provider / Building LEC | <input type="checkbox"/> Prepaid Card  | <input type="checkbox"/> Toll Reseller                   | <input type="checkbox"/> Wireless Data              |
| <input type="checkbox"/> SMR (dispatch)                                | <input type="checkbox"/> Other Local   | <input type="checkbox"/> Other Mobile                    | <input type="checkbox"/> Other Toll                 |

If Other Local, Other Mobile or Other Toll is checked, describe carrier type / services provided: ➔

106.1 Holding company name (All affiliated companies must show the same name on this line.)

106.2 Holding company IRS employer identification number [Enter 9 digit number]

107 FCC Registration Number (FRN) [ https://svartifoss2.fcc.gov/cores/CoresHome.html ]  
[For assistance, contact the CORES help desk at 877-480-3201 or CORES@fcc.gov] [Enter 10 digit number]

108 Management company [if filer is managed by another entity]

109 Complete mailing address of reporting entity corporate headquarters  
Note: this address will be used for the ITSP FCC regulatory fee billings unless the appropriate box is checked on Line 208.

Street1  
Street 2  
Street 3  
City State Zip (postal code) Country if not USA

110 Complete business address for customer inquiries and complaints  
check if same address as Line 109

Street1  
Street 2  
Street 3  
City State Zip (postal code) Country if not USA

111 Telephone number for customer complaints and inquiries [Toll-free number if available] ( ) - ext -

112 List all trade names used in the past 3 years in providing telecommunications. Include all names by which you are known by customers.

a	g
b	h
c	i
d	j
e	k
f	l

Use an additional sheet if necessary. Each reporting entity must provide all names used for telecommunications activities.

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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FCC Form 499-A  
February 2009

**Block 2-A: Regulatory Contact Information**

201 Filer 499 ID [from Line 101]

202 Legal name of reporting entity [from Line 102]

203 Person who completed this Worksheet

First MI Last

204 Telephone number of this person

( ) - ext -

205 Fax number of this person

( ) -

206 Email of this person || Required if available -- not for public release ||

207 Corporate office, attn. name, and mailing address to which future Telecommunications Reporting Worksheets should be sent

Office Attn First name MI Last  
 Email ||required if available, not for public release|| Phone ( ) - ext- Fax ( ) -  
 Street1  
 Street 2  
 Street 3  
 City State Zip (postal code) Country if not USA

check if same name as Line 203   
 check if same address as Line 109

208 Billing address and billing contact person:  
 [Plan administrators will send bills for contributions to this address. Please attach a written request for alternative billing arrangements.]

Company Attn First name MI Last  
 Email ||required if available, not for public release|| Phone ( ) - ext- Fax ( ) -  
 Street1  
 Street 2  
 Street 3  
 City State Zip (postal code) Country if not USA

check if name and address same as Line 207   
 check to use Line 208 information for FCC ITSP regulatory fee bill

**Block 2-B: Agent for Service of Process**

All carriers and providers of interconnected VoIP must complete Lines 209 through 213. During the year, carriers and providers of interconnected VoIP must refile Blocks 1, 2 and 6 if there are any changes in this section. See Instructions.

209 D.C. Agent for Service of Process per 47 U.S.C. § 413

Company Attn First name MI Last

210 Telephone number of D.C. agent

( ) - ext -

211 Fax number of D.C. agent

( ) -

212 Email of D.C. agent || Required if available ||

213 Complete business address of D.C. agent for hand service of documents

Street1  
 Street 2  
 Street 3  
 City State DC Zip

check to use Line 213 information for FCC ITSP regulatory fee bill   
 [if both Line 208 and Line 213 are checked, Line 208 will be used.]

214 Local/alternate Agent for Service of Process (optional)

Company Attn First name MI Last

215 Telephone number of local/alternate agent

( ) - ext -

216 Fax number of local/alternate agent

( ) -

217 Email of local/alternate agent || Required if available ||

218 Complete business address of local/alternate agent for hand service of documents

Street1  
 Street 2  
 Street 3  
 City State Zip (postal code) Country if not USA

check to use Line 218 information for FCC ITSP regulatory fee bill   
 [if both Line 208 and Line 218 are checked, Line 208 will be used.]

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Block 2-C: FCC Registration and Contact Information

Filers must refile Blocks 1, 2 and 6 if there are any changes in this section. See instructions.

219 Filer 499 ID [from Line 101]			
220 Legal name of reporting entity [from Line 102]			
221 Chief Executive Officer (or, highest ranking company officer if the filing entity does not have a chief executive officer)	First	MI	Last
222 Business address of individual named on Line 221	Street1		
check if same as Line 109 <input type="checkbox"/>	Street 2		
	Street 3		
	City	State	Zip (postal code) Country if not USA
223 Second ranking company officer, such as Chairman (Must be someone other than the individual listed on Line 221)	First	MI	Last
224 Business address of individual named on Line 223	Street1		
check if same as Line 109 <input type="checkbox"/>	Street 2		
	Street 3		
	City	State	Zip (postal code) Country if not USA
225 Third ranking company officer, such as President or Secretary (Must be someone other than individuals listed on Lines 221 or 223)	First	MI	Last
226 Business address of individual named on Line 225	Street1		
check if same as Line 109 <input type="checkbox"/>	Street 2		
	Street 3		
	City	State	Zip (postal code) Country if not USA
227 Indicate jurisdictions in which the filing entity provides service. Include jurisdictions in which service was provided in the past 15 months and jurisdictions in which service is likely to be provided in the next 12 months.			
<input type="checkbox"/> Alabama	<input type="checkbox"/> Guam	<input type="checkbox"/> Massachusetts	<input type="checkbox"/> New York
<input type="checkbox"/> Alaska	<input type="checkbox"/> Hawaii	<input type="checkbox"/> Michigan	<input type="checkbox"/> North Carolina
<input type="checkbox"/> American Samoa	<input type="checkbox"/> Idaho	<input type="checkbox"/> Midway Atoll	<input type="checkbox"/> North Dakota
<input type="checkbox"/> Arizona	<input type="checkbox"/> Illinois	<input type="checkbox"/> Minnesota	<input type="checkbox"/> Northern Mariana Islands
<input type="checkbox"/> Arkansas	<input type="checkbox"/> Indiana	<input type="checkbox"/> Mississippi	<input type="checkbox"/> Ohio
<input type="checkbox"/> California	<input type="checkbox"/> Iowa	<input type="checkbox"/> Missouri	<input type="checkbox"/> Oklahoma
<input type="checkbox"/> Colorado	<input type="checkbox"/> Johnston Atoll	<input type="checkbox"/> Montana	<input type="checkbox"/> Oregon
<input type="checkbox"/> Connecticut	<input type="checkbox"/> Kansas	<input type="checkbox"/> Nebraska	<input type="checkbox"/> Pennsylvania
<input type="checkbox"/> Delaware	<input type="checkbox"/> Kentucky	<input type="checkbox"/> Nevada	<input type="checkbox"/> Puerto Rico
<input type="checkbox"/> District of Columbia	<input type="checkbox"/> Louisiana	<input type="checkbox"/> New Hampshire	<input type="checkbox"/> Rhode Island
<input type="checkbox"/> Florida	<input type="checkbox"/> Maine	<input type="checkbox"/> New Jersey	<input type="checkbox"/> South Carolina
<input type="checkbox"/> Georgia	<input type="checkbox"/> Maryland	<input type="checkbox"/> New Mexico	<input type="checkbox"/> South Dakota
			<input type="checkbox"/> Tennessee
			<input type="checkbox"/> Texas
			<input type="checkbox"/> Utah
			<input type="checkbox"/> U.S. Virgin Islands
			<input type="checkbox"/> Vermont
			<input type="checkbox"/> Virginia
			<input type="checkbox"/> Wake Island
			<input type="checkbox"/> Washington
			<input type="checkbox"/> West Virginia
			<input type="checkbox"/> Wisconsin
			<input type="checkbox"/> Wyoming

228 Year and month filer first provided (or expects to provide) telecommunications in the U.S.	<input type="checkbox"/> Check if prior to 1/1/1999, otherwise Year	Month
--	---	-------

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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FCC Form 499-A  
February 2009

**Block 3: Carrier's Carrier Revenue Information**

301 Filer 499 ID [from Line 101]

302 Legal name of reporting entity [from Line 102]

Report billed revenues for January 1 through December 31, 2008.  
Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars.

Total Revenues (a)	If breakouts are not book amounts, enter whole percentage estimates		Breakouts	
	Interstate (b)	International (c)	Interstate Revenues (d)	International Revenues (e)

See instructions regarding percent interstate & international.

**Revenues from Services Provided for Resale as Telecommunications by Other Contributors to Federal Universal Service Support Mechanisms**

Fixed local service

Monthly service, local calling, connection charges, vertical features, and other local exchange service including subscriber line and PICC charges to IXCs

303.1 Provided as unbundled network elements (UNEs)

303.2 Provided under other arrangements

Per-minute charges for originating or terminating calls

304.1 Provided under state or federal access tariff

304.2 Provided as unbundled network elements or other contract arrangement

Local private line & special access service

305.1 Provided to other contributors for resale as telecommunications

305.2 Provided to other contributors for resale as interconnected VoIP

306 Payphone compensation from toll carriers

307 Other local telecommunications service revenues

308 Universal service support revenues received from Federal or state sources

Mobile services (including wireless telephony, paging & messaging, and other mobile services)

309 Monthly, activation, and message charges except toll

Toll services

310 Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.)

311 Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PICC pass-through, and other switched services not reported above)

312 Long distance private line services

313 Satellite services

314 All other long distance services

315 Total revenues provided for resale [Lines 303 through 314]

**Note: As stated in the instructions, for all revenues reported on this page, you must retain the Filer 499 ID and contact information for the associated customers. You must verify that each of these customers was a direct contributor to the federal universal service support mechanism for calendar year 2008 and that the customer is purchasing service for resale as telecommunications. These records must be made available to the administrator or the FCC upon request. The FCC website contains information on federal universal service contributors. (See instructions.)**

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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FCC Form 499-A  
February 2009

Block 4-A: End-User and Non-Telecommunications Revenue Information

401 Filer 499 ID [from Line 101]

402 Legal name of reporting entity [from Line 102]

Report billed revenues for January 1 through December 31, 2008.  
Do not report any negative numbers. Dollar amounts may be rounded to the nearest thousand dollars. However, report all amounts as whole dollars.  
See instructions regarding percent interstate & international.

Total Revenues	If breakouts are not book amounts, enter whole percentage estimates		Breakouts	
	Interstate	International	Interstate Revenues	International Revenues
(a)	(b)	(c)	(d)	(e)

Revenues from All Other Sources (end-user telecom. & non-telecom.)

403 Surcharges or other amounts on bills identified as recovering State or Federal universal service contributions

Fixed local services

Monthly service, local calling, connection charges, vertical features, and other local exchange service charges except for federally tariffed subscriber line charges and PICC charges

traditional circuit switched

- 404.1 Provided at a flat rate including interstate toll service -- local portion
- 404.2 Provided at a flat rate including interstate toll service -- toll portion
- 404.3 Provided without interstate toll included (see instructions)

interconnected VoIP

- 404.4 Offered in conjunction with a broadband connection
- 404.5 Offered independent of a broadband connection
- 405 Tariffed subscriber line charges and PICC charges levied by a local exchange carrier on a no-PIC customer
- 406 Local private line & special access service [Includes the transmission portion of wireline broadband Internet access provided on a common carrier basis.]
- 407 Payphone coin revenues (local and long distance)
- 408 Other local telecommunications service revenues

Mobile services (including wireless telephony, paging & messaging, and other mobile services)

- 409 Monthly and activation charges
- 410 Message charges including roaming and air-time charges for toll calls, but excluding separately stated toll charges

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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FCC Form 499-A  
February 2009

Block 4-A: Continued

	Total Revenues (a)	If breakouts are not book amounts, enter whole percentage estimates		Breakouts	
		Interstate	International	Interstate Revenues (d)	International Revenues (e)
<b>Toll services</b>					
411	Prepaid calling card (including card sales to customers and non-carrier distributors) reported at face value of cards				
412	International calls that both originate and terminate in foreign points		0%	100%	
413	Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.) other than revenues reported on Line 412 Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, <u>PICC pass-through, and other switched services not reported above</u> )				
414.1	All, other than interconnected VoIP, including, but not limited to, itemized toll on wireline and wireless bills				
414.2	All interconnected VoIP long distance, including, but not limited to, itemized toll				
415	Long distance private line services				
416	Satellite services				
417	All other long distance services				
	Revenues other than U.S. telecommunications revenues, including information services, inside wiring maintenance, billing and collection customer premises equipment, published directory, dark fiber, Internet access, cable TV program transmission, foreign carrier operations, and non-telecommunications revenues (See instructions.)				
418.1	bundled with circuit switched local exchange service				
418.2	bundled with interconnected VoIP local exchange service				
418.3	other				

Block 4-B: Total Revenue and Uncollectible Revenue Information

419	Gross billed revenues from all sources (incl. reseller & non-telecom.) [Lines 303 through 314 plus Lines 403 through 418]				
420	Gross universal service contribution base amounts [Lines 403 through 411 Lines 413 through 417] See Figure 4 in instructions.				
421	Uncollectible revenue/bad debt expense associated with gross billed revenues amounts shown on Line 419 [See Instructions Page 26]				
422	Uncollectible revenue/bad debt expense associated with universal service contribution base amounts shown on Line 420				
423	Net universal service contribution base revenues [Line 420 minus line 422]				

PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001

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FCC Form 499-A  
February 2009

**Block 5: Additional Revenue Breakouts**

501 Filer 499 ID [from Line 101]

502 Legal name of reporting entity [from Line 102]

Filers that report revenues in Block 3 and Block 4 must provide the percentages requested in Lines 503 through 510. See page 27 of instructions for limited exceptions.

Percentage of revenues reported in Block 3 and Block 4 billed in each region of the country. Round or estimate to nearest whole percentage. Enter 0 if no service was provided in the region.

		Block 3 Carrier's Carrier (a)	Block 4 End-User Telecom. (b)
503	Southeast: Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and U.S. Virgin Islands	%	%
504	Western: Alaska, Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming	%	%
505	West Coast: California, Hawaii, Nevada, American Samoa, Guam, Johnston Atoll, Midway Atoll, Northern Mariana Islands, and Wake Island.	%	%
506	Mid-Atlantic: Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, and West Virginia	%	%
507	Mid-West: Illinois, Indiana, Michigan, Ohio, and Wisconsin	%	%
508	Northeast: Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont	%	%
509	Southwest: Arkansas, Kansas, Missouri, Oklahoma, and Texas	%	%
510	Total [Percentages must add to 0 or 100.]	%	%

511 Revenues from resellers that do not contribute to Universal Service support mechanisms are included in Block 4-B, Line 420 but may be excluded from a filer's TRS, NANPA, LNP, and FCC interstate telephone service provider regulatory fee contribution bases. To have these amounts excluded, the filer has the option of identifying such revenues below. **As stated in the instructions, you must have in your records the FCC Filer 499 ID for each customer whose revenues are included on Line 511. (See instructions.)**

	(a)	(b)
	Total Revenues	Interstate and International
Revenues from resellers that do not contribute to Universal Service	\$	\$

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February 2009

**Block 6: CERTIFICATION: to be signed by an officer of the filer**

601 Filer 499 ID [from Line 101]

602 Legal name of reporting entity [from Line 102]

Section IV of the instructions provides information on which types of reporting entities are required to file for which purposes. Any entity claiming to be exempt from one or more contribution requirements should so certify below and attach an explanation. [The Universal Service Administrator will determine which entities meet the *de minimis* threshold based on information provided in Block 4, even if you fail to so certify, below.]

603 I certify that the reporting entity is exempt from contributing to: Universal Service  TRS  NANPA  LNP Administration

Provide explanation below:

604 Please indicate whether the reporting entity is State or Local Government Entity  I.R.C. § 501 or State Tax Exempt (see instructions)

605 I certify that the revenue data contained herein are privileged and confidential and that public disclosure of such information would likely cause substantial harm to the competitive position of the company. I request nondisclosure of the revenue information contained herein pursuant to Sections 0.459, 52.17, 54.711 and 64.604 of the Commission's Rules.

I certify that I am an officer of the above-named reporting entity as defined on page 33 of the instructions, that I have examined the foregoing report and, to the best of my knowledge, information and belief, all statements of fact contained in this Worksheet are true and that said Worksheet is an accurate statement of the affairs of the above-named company for the previous calendar year. In addition, I swear, under penalty of perjury, that all requested identification registration information has been provided and is accurate. If the above-named reporting entity is filing on a consolidated basis, I certify that this filing incorporates all of the revenues for the consolidated entities for the entire year and that the filer adhered to and continues to meet the conditions set forth in Section II-B of the instructions.

606 Signature

607 Printed name of officer First MI Last

608 Position with reporting entity

609 Business telephone number of officer ( ) - ext -

610 Email of officer || Required if available -- not for public release ||

611 Date

612 Check those that apply:  Original April 1 filing for year  New filer, registration only  Revised filing with updated registration  Revised filing with updated revenue data

Do not mail checks with this form. Send this form to: **Form 499 Data Collection Agent c/o USAC 2000 L Street, N.W. Suite 200 Washington DC, 20036**  
 For additional information regarding this worksheet contact: Telecommunications Reporting Worksheet information: (888) 641-8722 or via email: [Form499@universalservice.org](mailto:Form499@universalservice.org)

**PERSONS MAKING WILLFUL FALSE STATEMENTS IN THE WORKSHEET CAN BE PUNISHED BY FINE OR IMPRISONMENT UNDER TITLE 18 OF THE UNITED STATES CODE, 18 U.S.C. § 1001**

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FCC Form 499 Revised, February 2009

Approved by OMB 3060-0855

Estimated Average Burden Hours Per Response: 13.5 Hours

## Telecommunications Reporting Worksheet, FCC Form 499-A (2009)

### Instructions for Completing the Worksheet for Filing Contributions to Telecommunications Relay Service, Universal Service, Number Administration, and Local Number Portability Support Mechanisms

\* \* \* \* \*

NOTICE: Section 52.17 of the Federal Communications Commission's rules provides that all telecommunications carriers and interconnected voice over Internet protocol (VoIP) providers in the United States shall contribute on a competitively neutral basis to meet the costs of establishing numbering administration, and directs that contributions shall be calculated and paid in accordance with this Telecommunications Reporting Worksheet (FCC Form 499-A or Worksheet). 47 C.F.R. § 52.17. Section 52.32 provides that the local number portability administrators shall recover the shared costs of long-term number portability from all telecommunications carriers and interconnected VoIP providers. 47 C.F.R. § 52.32. Sections 54.706, 54.711, and 54.713 require all telecommunications carriers providing interstate telecommunications services, interconnected VoIP providers, 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 this Worksheet once a year and the Telecommunications Reporting Worksheet (FCC Form 499-Q) four times a year. 47 C.F.R. §§ 54.706, 54.711, 54.713. Section 64.604 requires that every common carrier and interconnected VoIP provider contribute to the Telecommunications Relay Services (TRS) Fund on the basis of its relative share of interstate end-user telecommunications revenues, with the calculation based on information provided in this Worksheet. 47 C.F.R. §§ 64.601(b), 64.604(c)(5)(iii)(B). Section 64.1195 and the Commission's orders require all telecommunications carriers and interconnected VoIP providers to register using the FCC Form 499-A. 47 C.F.R. § 64.1195(a).

This collection of information stems from the Commission's authority under sections 151(i), 225, 251, 254, and 258 of the Communications Act of 1934, as amended (Communications Act or Act), 47 U.S.C. §§ 151(i), 225, 251, 254, and 258. The data in the Worksheet will be used to calculate contributions to the universal service support mechanisms, the telecommunications relay services support mechanism, the cost recovery mechanism for numbering administration, and the cost recovery mechanism for shared costs of long-term number portability. Selected information provided in the Worksheet will be made available to the public in a manner consistent with the Commission's rules.

We have estimated that each response to this collection of information will take, on average, 13.5 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain the required data, and actually complete and review the form or response. If you have any comments on this estimate, or how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PER, Washington, D.C. 20554, Paperwork Reduction Project (3060-0855). We also will accept your comments via the Internet if you send them to [PRA@FCC.gov](mailto:PRA@FCC.gov). Please DO NOT SEND COMPLETED WORKSHEETS TO THIS ADDRESS.

Remember -- You are not required to respond to a collection of information sponsored by the federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid Office of Management and Budget (OMB) control number. This collection has been assigned an OMB control number of 3060-0855.

The Commission is authorized under the Communications Act to collect the information we request on this form. We will use the information that you provide to determine contribution amounts. If we believe there may be a violation or potential violation of a statute or a Commission regulation, rule, or order, your Worksheet may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation, or order. In certain cases, the information in your Worksheet may be disclosed to the Department of Justice, court, or other adjudicative body when (a) the Commission; or (b) any employee of the Commission; or (c) the United States government, is a party to a proceeding before the body or has an interest in the proceeding.

With the exception of your employer identification number, if you do not provide the information we request on the Worksheet, the Commission may consider you in violation of sections 1.47, 52.17, 52.32, 54.713, 64.604, and 64.1195 of the Commission's rules. 47 C.F.R. §§ 1.47, 52.17, 52.32, 54.713, 64.604, and 64.1195.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, P.L. No. 104-13, 44 U.S.C. § 3501, *et seq.*

\* \* \* \* \*

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File FCC Form 499-A online. See: <http://forms.universalservice.org>

## I. Introduction

As required under the Communications Act,<sup>1</sup> the Commission has established, in a series of separate proceedings, procedures to finance interstate telecommunications relay services (TRS), universal service support mechanisms, administration of the North American Numbering Plan (NANPA), and shared costs of local number portability administration (LNPA). To accomplish these congressionally directed objectives, contributions are collected from all telecommunications carriers providing interstate telecommunications services and certain other providers of interstate telecommunications (including interconnected VoIP providers). On July 14, 1999, the Commission amended its rules so that contributors to these mechanisms need only file one Telecommunications Reporting Worksheet (Worksheet) for the purpose of determining their contribution(s).<sup>2</sup> This Worksheet sets forth the information that the filer must submit, so that the administrators of these mechanisms may calculate and assess contributions.<sup>3</sup>

<sup>1</sup> 47 U.S.C. §§ 151, 225, 251, 254.

<sup>2</sup> On March 9, 2001, the Commission modified its rules to base universal service contributions on information reported on quarterly Telecommunications Reporting Worksheet filings, with an annual true-up based on information reported on annual Telecommunications Reporting Worksheets. *Federal-State Joint Board on Universal Service, Petition for Reconsideration filed by AT&T*, CC Docket No. 96-45, Report and Order and Order on Reconsideration, 16 FCC Rcd 5748 (2001) (*Quarterly Reporting Order*); see also, *1998 Biennial Regulatory Review -- Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Services, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms*, CC Docket 98-171, Report and Order, 14 FCC Rcd 16602 (1999) (*Consolidated Reporting Order*).

<sup>3</sup> In addition, filers use data submitted on the Form 499-A to calculate their Interstate Telecommunications Service Provider (ITSP) fees. See *Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, MD Docket No. 03-83, Report and Order, 18 FCC Rcd 15985 (2000); *Assessment and Collection of Regulatory Fees for Fiscal Year 2007*, MD Docket No 07-81, Report and Order and Further Notice of Proposed Rulemaking, 22 FCC Rcd 15712 (2007). Section 6003(a) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66) added section 9(a) to the Communications Act, which authorizes the Commission to collect annual regulatory fees to recover the annual costs of its enforcement, policy and rulemaking, user information, and international activities. 47 U.S.C. § 159(a), (b)(1)(A), and (g).

reported as end-user revenues) so that these revenues may be excluded for purposes of calculating contributions to TRS, LNPA, and NANPA.

2. Column (a) - total revenues

The reporting entity must report gross revenues from all sources, including non-regulated and non-telecommunications services on Lines 303 through 314 and Lines 403 through 418 and these must add to total gross revenues as reported on Line 419. Gross revenues include account set-up, connection, service restoration, termination and other non-recurring charges. These charges should be reported on the same line that the filer reports any associated recurring revenue. For example, an early termination charge for an interstate private line service would be reported as interstate revenue on Line 415. Deposits are not revenue. Gross revenues should include revenues derived from the activation and provision of interstate, international, and intrastate telecommunications, and non-telecommunications services. Gross revenues consist of total revenues billed to customers during the filing period with no allowances for uncollectibles, settlements, or out-of-period adjustments. Gross revenues do not include amounts that cannot be billed to customers. Gross revenues should include collection overages and unclaimed refunds for telecommunications and telecommunications services when not subject to escheats. Gross billed revenues may be distinct from booked revenues. National Exchange Carrier Association (NECA) pool companies should report the actual gross billed revenues (CABS Revenues) reported to the NECA pool and not settlement revenues received from the pool. Entities making consolidated filings must include in their FCC Form 499 Filings all revenue on the consolidated books of account.

Filers that maintain records in accordance with generally accepted accounting principles and that record revenues when earned instead of when billed, may use earned revenues to represent billed revenues as long as they do so consistently from reporting period to reporting period. Filers using earned revenues to represent billed revenues need not impute earned revenue for redeemed credits if no earned revenue is recorded when credits are redeemed. To the extent that earned revenues are net of any uncollectible amounts, these uncollectible amounts must not be included on Line 421 or Line 422.

For filers using billed revenues, credits cannot be deducted from billed revenues when the credit is *issued*. Rather, these filers should include *redeemed* credits with uncollectible amounts reported on Line 421 and Line 422.

An entity is not required to impute or report revenues for services provided to itself or to wholly owned affiliates unless: 1) it 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.

If revenue category breakout cannot be determined directly from corporate books of account or subsidiary records, filers may provide on the Worksheet a good-faith estimate of the breakout. Good-faith estimates should be based on information that is current for the filing period. Filers should maintain documentation for good-faith estimates. See Section II-D, above. Filers may not simply report all revenues on one of the "other revenue" lines.

Where two contributors have merged prior to the filing date, the successor company should report total revenues for the reporting period for all predecessor operations. The two contributors, however, should continue to report separately if each maintains separate corporate identities and continues to operate.<sup>34</sup> Where an entity obtains, through purchase, merger or transfer, the telecommunications operations or customer base of a telecommunications provider during the calendar year, the acquiring company must report all telecommunications revenues associated with such operations or customer base including revenues billed in the calendar year prior to the date of acquisition.

Gross revenues also should include any surcharges on telecommunications services or interconnected VoIP services

<sup>34</sup> See also Section II-E above.

that are billed to the customer and either retained by the filer or remitted to a non-government third party under contract. Gross revenues should exclude taxes and any surcharges that are not recorded on the company books as revenues but which instead are remitted to government bodies. Note that any charge included on the customer bill and represented to recover or collect contributions to federal or state universal service support mechanisms must be shown separately on Line 403. Other surcharges treated as revenues should be included in the revenue categories on which the surcharges were levied.

For international services, gross revenues consist of gross revenues billed by U.S. telecommunications providers with no allowances for settlement or settlement-like payments. International settlement and settlement-like receipts for foreign-billed service should not be included in U.S. telecommunications revenues. For common carriers providing international telecommunications services: except in very limited circumstances, such as receipts from foreign carriers for calls that are reoriginated and reported as U.S. billed traffic, the total revenues identified as international on Line 419(e) should match the total U.S. billed revenues that will be reported each year pursuant to 47 C.F.R. § 43.61. For example, if a filer receives payment from a foreign carrier for traffic that the filer receives outside of the United States, brings into the United States, and then refiles and carries the traffic to a foreign point, the filer would not include those settlement-like payments as revenues on Line 414 of the FCC Form 499-A even though they might be reported as revenues on the filer's 43.61 international traffic data report. Instead, those amounts would be reported on Line 418. Note that if the filer receives the traffic in the United States, then it is providing ordinary international service from the United States to a foreign point and receipts from the originating carrier would be reported as revenue on Line 414.

For international private line services, U.S. providers must report on Line 415 revenues from the U.S. portion of the circuit to the theoretical midpoint of the circuit regardless of whether such revenues were billed to the customer by the reporting carrier or by a partner carrier in a foreign point.

Filers may report international revenues in Section 43.61 reports that are net of credits at the time the credits are issued. For FCC Form 499 purposes, credits may be recognized only when redeemed. In Form 499 worksheets, filers that use earned revenue to represent billed revenue may recognize credits when redeemed but may not report negative revenues. Other filers should include credits in uncollectibles, when earned.

Revenue from circuits within the United States that connect a customer to an international circuit should be reported as interstate. Revenue from circuits that connect foreign points should be reported on Line 418.

If you have any revenues for Lines 303-314 and 403-420, you may not omit the dollar amounts from column (a) even if 100% of the revenues are for interstate or international services.

### 3. Columns (b), (c), (d), and (e) interstate & international

Columns (b), (c), (d), and (e) are provided to identify the part of gross revenues that arise from interstate and international services for each entry on Lines 303 through 314 and Lines 403 through 417. Intrastate telecommunications means communications or transmission between points within the same State, Territory, or possession of the United States, or the District of Columbia. Interstate and international telecommunications means communications or transmission between a point in one state, territory, possession of the United States or the District of Columbia and a point outside that state, territory, possession of the United States or the District of Columbia. Revenues from services offered under interstate tariffs, such as revenues from federal subscriber line charges and from federally tariffed LNP surcharges, should be identified as interstate revenues. This includes amounts incorporated in or bundled with other local service charges.

For example, if a prepaid calling card provider collects a fixed amount of revenue per minute of traffic, and 65 percent of minutes are interstate, then interstate revenues would include 65 percent of the per-minute revenues. Similarly, if a local exchange carrier bills local measured service charges for calls that originate in one state and terminate in another, these billings should be classified as interstate even though the charges are covered by a state

tariff and the revenues are included in a local service account. If over ten percent of the traffic carried over a private or WATS line is interstate, then the revenues and costs generated by the entire line are classified as interstate.<sup>35</sup> In general, flat-rated unbundled network access elements should be classified according to the regulatory agency that has primary jurisdiction over the contracts.

Amounts billed to customers to recover federal universal service contribution obligations should be attributed as either interstate or international revenues, as appropriate, but may not be reported as intrastate revenues. Filers should report intrastate revenues on Line 403 only to the extent that actual payments to state universal service programs were recovered by pass-through charges itemized on customer bills.

**Note:** Where possible, filers should report their amount of total revenues that are interstate and international by using information from their books of account and other internal data reporting systems. Where a filer can determine the precise amount of revenues that it has billed for interstate and international services, it should enter those amounts in columns (d) and (e), respectively.

If interstate and international revenues cannot be determined directly from corporate books of account or subsidiary records, filers may provide on the Worksheet good-faith estimates of these figures. In such cases, the filer should enter the good-faith estimates of the percentage of interstate and the percentage of international revenues in columns (b) and (c), respectively. A reporting entity may not submit a good-faith estimate lower than one percent unless the correct figure should be \$0. Good-faith estimates must be based on information that is current for the filing period. Information supporting good-faith estimates must be made available to either the FCC or to the administrators upon request. Using the good-faith estimate, calculate the amount of interstate revenues as the amount in column (a) times the percentage in column (b), and calculate the amount of international revenues as the amount in column (a) times the percentage in column (c). For convenience, calculated interstate and international revenue amounts that are greater than one thousand dollars may be rounded to the nearest thousand dollars. Please enter zero dollars in columns (d) and (e) if, and only if, there were no interstate revenues for the line for the reporting period.

Note that the FCC provides the following safe harbor percentages of interstate revenues associated with Line 309, Line 409, and Line 410:<sup>36</sup>

- 37.1% of cellular and broadband PCS telecommunications revenues
- 12.0% of paging revenues
- 1.0% of analog SMR dispatch revenues

These safe harbor percentages may not be applied to universal service pass-through charges, fixed local service revenues, or toll service charges. **All filers must report the actual amount of interstate and international revenues for these services.** For example, toll charges for itemized calls appearing on mobile telephone customer bills should be reported as intrastate, interstate or international based on the origination and termination points of the calls.

<sup>35</sup> See 47 C.F.R. § 36.154(a).

<sup>36</sup> See 2006 Contribution Methodology Reform Order, 21 FCC Rcd at 7532-33, 7545-46, paras. 25-27, 53-55. *Federal-State Joint Board on Universal Service, 1998 Biennial Regulatory Review - Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, Telecommunications Services for Individuals with Hearing and Speech Disabilities, and the Americans With Disabilities Act of 1990, Administration of the North American Numbering Plan and North American Numbering Plan Cost Recovery Contribution Factor and Fund Size, Number Resource Optimization, Telephone Number Portability, Truth-in-Billing and Billing Format*, CC Docket Nos. 96-45, 98-171, 90-571, 92-237, 99-200, 95-116, 98-170, Report and Order and Second Further Notice of Proposed Rulemaking, 17 FCC Rcd 24,952 (2002) (*Contribution Methodology Order*); see also *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 13 FCC Rcd 21252, 21258-60 (1998).

The FCC provides the following safe harbor percentage of interstate interconnected VoIP revenues associated with Line 303.2, Line 404.4, Line 404.5 and Line 414.2.

64.9% of interconnected VoIP telecommunications revenues

These safe harbor percentages may not be applied to universal service pass-through charges or other fixed local service revenues.

Wireless telecommunications providers and interconnected VoIP providers that choose to avail themselves of these safe harbor percentages for interstate revenues may assume that the FCC will not find it necessary to review or question the data underlying their reported percentages. All affiliated wireless telecommunications providers and interconnected VoIP providers must make a single election, each quarter, whether to report actual revenues or to use the current safe harbor within the same safe harbor category.<sup>37</sup> So, for example, if in a calendar quarter a wireless telecommunications provider reports actual interstate revenues for its cellular and broadband PCS telecommunications services, all of its affiliated legal entities must also report actual interstate telecommunications revenues for cellular and broadband PCS offerings. The same wireless telecommunications provider and all affiliates, however, could use the safe harbor for paging services. Annual revenues reported on the FCC Form 499-A should reflect the filer's reporting of revenues in each quarter on FCC Form 499-Q. For example, if a filer projected revenue based on a safe harbor for the first two quarters and based on traffic studies for the final two quarters, the amounts reported in the FCC Form 499-A for the first two quarters would be based on actual billings for those quarters and the relevant safe harbors, and the amounts reported for the final two quarters would be based on actual billings for those quarters and the traffic studies for those quarters.

Many carriers and other providers of telecommunications now offer packages that bundle fixed local exchange service with interstate toll service for a single price. Revenues for the whole bundle, except for tariffed subscriber line and PICC charges, should be reported on Line 404, as described more fully below. The portion of revenues associated with interstate and international toll services must be identified in columns (d) and (e), respectively.<sup>38</sup> Filers should make a good-faith estimate of the amounts of interstate and international revenues from bundled local/toll service if they cannot otherwise determine these amounts from corporate records, and must make their methodology available to the Commission or the Administrator, upon request.

Interconnected VoIP and CMRS providers may rely on traffic studies if they are unable to determine their actual interstate and international revenues.<sup>39</sup> In developing their traffic studies, interconnected VoIP and CMRS providers may rely on statistical sampling to estimate the proportion of minutes that are interstate and international. Any revenues associated with charges on customer bills that are identified as interstate or international must effectively be accounted for (e.g., through proper weighting in a traffic study) as 100 percent interstate or international when

<sup>37</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order and Order on Reconsideration, 18 FCC Rcd 1421 (2003). Note: Wireless telecommunications providers are "affiliated" for purposes of making the single election whether to report actual interstate telecommunications revenues or use the applicable interim wireless safe harbor if one entity (1) directly or indirectly controls or has the power to control another, (2) is directly or indirectly controlled by another, (3) is directly or indirectly controlled by a third party or parties that also controls or has the power to control another, or (4) has an "identity of interest" with another contributor; see also 47 C.F.R. § 1.2110(c)(5).

<sup>38</sup> See *Universal Service Contribution Methodology, Petition for Declaratory Ruling of CTIA – The Wireless Association on Universal Service Contribution Obligations, Petition for Declaratory Ruling of Cingular Wireless, LLC*, WC Docket No. 06-122, Declaratory Order, 23 FCC Rcd 1411, 1414, para. 5 (2008) (defining "toll service") (*Separately Stated Toll Order*).

<sup>39</sup> See *2006 Contribution Methodology Reform Order*, 21 FCC Rcd at 7534-36, 7547, paras. 29-33, 57; see also *Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as Amended; 1998 Biennial Regulatory Review – Review of Customer Premises Equipment and Enhanced Services Unbundling Rules in the Interexchange, Exchange Access and Local Exchange Markets*, CC Docket Nos. 96-61, 98-183, Report and Order, 16 FCC Rcd 7418, 7446-48, paras. 47-51 (2001) (*CPE Bundling Order*).

reporting revenues.<sup>40</sup> Sampling techniques must be designed to produce a margin of error of no more than one percent with a confidence level of 95%. If the sampling technique does not employ a completely random sample (e.g., if stratified samples are used), then the respondent must document the sampling technique and explain why it does not result in a biased sample. Traffic studies should include, at a minimum: (1) an explanation of the sampling and estimation methods employed and (2) an explanation as to why the study results in an unbiased estimate with the accuracy specified above. Mobile wireless providers and interconnected VoIP providers should retain all data underlying their traffic studies as well as all documentation necessary to facilitate an audit of the study data and be prepared to make this data and documentation available to the Commission upon request. In addition, CMRS and interconnected VoIP providers that rely on traffic studies must submit those studies to the Commission and USAC at the addresses below for review.<sup>41</sup>

Chief, Industry Analysis and Technology Division,  
Wireline Competition Bureau  
Federal Communications Commission  
Room 6-A224  
445 12th Street, S.W.  
Washington, D.C. 20554

Form 499 Data Collection Agent  
c/o USAC  
2000 L Street, N.W.  
Suite 200 Washington, D.C. 20036

Filers report total uncollectible revenue/bad debt expenses on Lines 421 and 422. Filers that maintain separate detail of uncollectibles by type of business should rely on those records in dividing uncollectible expense between carrier's carrier, contribution base and other revenues, and for dividing uncollectibles associated with contribution base revenues between intrastate, interstate and international categories. Filers that do not have such detail should make such assignments in proportion to reported gross revenues.

4. Explanation of Block 3 and Block 4-A revenue categories

The revenue detail provided in Block 3 on Lines 303 through 314 and in Block 4-A on Lines 403 through 418 should total to total gross revenues reported on Line 419. This section explains the detailed revenue categories.

Filers are instructed to report revenues from other universal service contributors on Lines 303 through 314. See Section III-C-1, above. Filers are instructed to report all other revenues on Lines 403 through 418. In many cases, the line-item categories are duplicated in the two sections. Carriers that are required to use the Uniform System of Accounts (USOA) prescribed in Part 32 of the Commission's rules should base their responses on their USOA account data and supplemental records, dividing revenues into those received from universal service contributors and those received from end users and other non-contributors. All filers should report revenues based on the following descriptions.

<sup>40</sup> See *Separately Stated Toll Order*, 23 FCC Rcd at 1418, para. 15. In developing traffic studies, toll service traffic must be identified and treated in a manner that recognizes that such traffic is more likely to be interstate or international than intrastate. See *id.* Additionally, appropriate weighting of the higher revenue that is often associated with toll service must be reflected in the traffic study or studies. See *id.*

<sup>41</sup> See *Vonage Holdings Corp. v. FCC*, 589 F.3d 1232, 1243-44 (2007) (vacating the Commission's requirement that traffic studies submitted by interconnected VoIP providers be pre-approved).

Fixed local service revenue categories

Fixed local services connect a specific point to one or more other points. These services can be provided using either wireline, fixed wireless, or interconnected VoIP technologies and can be used for local exchange service, private communications, or access to toll services.

Line 303 and Line 404 -- Monthly service, local calling including message and local toll charges, connection charges, vertical features, and other local exchange services should include the basic local service revenues except for local private line revenues, special access revenues, and revenues from providing mobile or cellular services. Line 303 and Line 404 should include charges for optional extended area service, dialing features, local directory assistance, added exchange services such as automatic number identification (ANI) or teleconferencing, LNP surcharges, connection charges, charges for connecting with mobile service and local exchange revenue settlements. Revenues for services provided to carriers should be divided between Line 303.1 -- provided as unbundled network elements (UNEs) -- and Line 303.2 -- provided under tariffs or arrangements other than unbundled network elements (for example, resale). Line 303.2 should include Presubscribed Interexchange Carrier Charge (PICC) charges levied on carriers.

Line 404.1-404.5 revenues should be divided between local exchange service provided using non-interconnected VoIP methods (Line 404.1, Line 404.2, and Line 404.3) and service provided using interconnected VoIP (Line 404.4 and Line 404.5). Revenue from non-interconnected VoIP plans that include interstate calling as part of the flat monthly fee should be reported on Line 404.1 and Line 404.2, with the local service portion reported on Line 404.1 and the toll portion reported on Line 404.2. If the revenue from the toll portion of such service is attributed to an affiliate, that affiliate must report such revenues on Line 404.2, not on Line 414. Revenue from non-interconnected VoIP local exchange services plans that do not include interstate calling should be reported on Line 404.3.

Local service provided *via* interconnected VoIP service revenues should be reported in Lines 404.4 or 404.5 depending on whether the revenues are earned from interconnected VoIP service offered in conjunction with a broadband connection (Line 404.4) or independent of the broadband connection (Lines 404.5).<sup>42</sup> We note that for incumbent local exchange carriers the interstate subscriber line charge represents the interstate portion of local exchange service revenues. These amounts are separate from toll revenues and correspond to the costs associated with allowing customers to originate and terminate interstate calls. Interconnected VoIP providers not reporting based on the safe harbor must make a similar allocation as well as determine the appropriate portion of revenues to allocate to interstate and international toll service.

Line 404 should not include subscriber line charges levied under a tariff filed by the reporting entity or placed on customer bills as a pass-through of underlying carrier subscriber line charges. Filers should instead report such revenues on line 405. Note that federal subscriber line charges typically represent the interstate portion of fixed local exchange service. Filers without subscriber line charge revenue must identify the interstate portion of fixed local exchange service revenues in column (d) of the appropriate line 404.1-404.5. Line 404.1-404.5 also should include revenues from federally tariffed LNP surcharges and these surcharges should be identified as interstate revenues.

Line 304 -- Line 304 should include per-minute charges for originating or terminating calls. This line also would include revenues to the local exchange carrier for messages between a cellular customer and another station within the mobile service area. The line should include any other gross charges to other carriers for the origination or termination of toll or non-toll traffic. Do not deduct or net payments to carriers for origination or termination of

<sup>42</sup> Bundled broadband and interconnection offerings include those offered directly by the reporting entity and those offered by the reporting entity through an affiliate.

traffic on their networks. Revenues for originating and terminating minutes should be divided between Line 304.1 - provided under state or federal access and Line 304.2 - provided as unbundled network elements or other contract arrangements. Line 304 includes direct trunk transport, port charges, mileage charges and rearrangement charges that are normally treated as access charge revenues.<sup>43</sup> Do not include international settlement or settlement-like receipts or transiting fees from international toll services.

Line 405 -- Line 405 should include charges to end users specified in access tariffs, such as tariffed subscriber line charges and PICC charges levied by a local exchange carrier on customers that are not presubscribed to an interexchange carrier (*i.e.*, a no-PIC customer). However, Line 405 should not include charges to end users for special access services (which are reported on Line 406). Telecommunications providers that do not have subscriber line charge or PICC tariffs on file with the Commission or with a state utility commission or who are not reselling such tariffed charges, should report \$0 on Line 405.

Line 305 and Line 406 -- Local private line and special access service should include revenues from providing local services that involve dedicated circuits, private switching arrangements, digital subscriber lines, and/or predefined transmission paths. Line 406 should include revenues from special access lines resold to end users unless the service is bundled with, and charged as part of a toll service, in which case the revenues should be reported on the appropriate toll service line. Report on Lines 305 and 406 revenues from offering dedicated capacity between specified points even if the service is provided over local area switched MPLS, ATM or frame relay networks.

Divide amounts reported on Line 305 between Line 305.1 -- service provided to other contributors for resale as telecommunications and Line 305.2 -- service provided to other contributors for resale as interconnected VoIP.

Amounts reported on Line 406 include revenues from the transmission component of wireline broadband Internet access service to the extent described below as well as other revenue from private line and special access service.<sup>44</sup> Specifically, Line 406 includes all revenue from broadband service (including the transmission component of wireline broadband Internet access service) provided on a common carrier basis. Revenues for the provision of wireline broadband Internet access transmission on a non-common carrier basis should be reported on Line 418. All other revenues from local private line service and special access service billed to end users must be reported on Line 406.

Line 306 and Line 407 -- Line 306 should include revenues received from carriers as payphone compensation for originating toll calls. Line 407 should include revenues received from customers paid directly to the payphone service provider, including all coin-in-the-box revenues. Do not deduct commission payments to premises' owners.

<sup>43</sup> 47 C.F.R. Part 69.

<sup>44</sup> Wireline broadband Internet access service is a service that uses wireline facilities of the telephone network to provide subscribers with Internet access capabilities. It can be provided over facilities such as copper loops, hybrid copper-fiber loops, fiber-to-the-curb, fiber-to-the-premises, or any other type of wireline facilities, and can use circuit-switched, packet-based, or any other technology. Wireline broadband Internet access service inextricably intertwines information-processing capabilities with data transmission such that the consumer always uses them as a unitary service. Wireline broadband Internet access service should be carefully distinguished from other wireline broadband services such as ATM, frame relay, gigabit Ethernet service, and other high-capacity special access services that end users have traditionally used for basic transmission purposes. These services lack the key characteristics of wireline broadband Internet access service -- they do not inextricably intertwine transmission with information-processing capabilities. Because these services typically are used for basic transmission purposes, they are telecommunications services and must be reported on Line 406. *See 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*, CC Docket Nos. 02-33, 01-337, 95-20, 98-10, Report and Order, 20 FCC Rcd 14853, 14860, para. 9 (2005) (*Wireline Broadband Internet Access Services Order*), petitions for review pending, *Time Warner Telecom v. FCC*, No. 05-4769 (and consolidated cases) (3rd Cir. filed Oct. 26, 2005).

Line 307 and Line 408 -- Other local telecommunications service revenues should include local telecommunications service revenues that reasonably would not be included with one of the other fixed local service revenue categories. Line 307 should include charges for physical collocation of equipment pursuant to 47 U.S.C. § 251(c)(6). Report on these lines revenues from offering switched capacity on local area data networks such as ATM or frame relay networks.

Line 308 -- Universal service support revenues should include all amounts that filers receive as universal service support from either states or the federal government. 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 mechanisms. Line 308 should include amounts received as cash as well as amounts received as credit against contribution obligations. Line 308 should not include any amounts charged to customers to recover universal service or similar contributions. Line 308 excludes charges or credits for subsidized services provided to schools, libraries, and rural health care providers. Such charges are properly reported as end user revenue.

#### Mobile service

Mobile services are wireless communications between mobile wireless equipment, such as cellular phones, and other points.

Line 309, Line 409, and Line 410 -- Data reported on these lines should contain mobile service revenues other than toll charges to mobile service customers. Charges associated with customer premises equipment should not be included on these lines. A single category -- Line 309 -- is provided for all mobile service provided to resellers. Line 309 should include revenues received from another carrier for roaming service provided to customers of that carrier. For services provided to end users, Line 409 should contain monthly charges, activation fees, service restoration, and service order processing charges, etc. Line 410 should contain message charges, including any roaming charges assessed on customers for calls placed out of customers' home areas and local directory assistance charges. End-user prepaid wireless service revenues attributable to activation and daily or monthly access charges should be reported on Line 409. End-user prepaid wireless service revenues attributable to airtime should be reported on Line 410. Itemized toll charges to mobile service customers should be included in the Lines 413 or 414, as appropriate.

Roaming charges for service provided by foreign carriers operating in foreign points are not U.S. telecommunications revenues and therefore should be reported on Line 418.

#### Toll service revenue categories

Toll services are telecommunications services, wireline, wireless, or interconnected VoIP services, that enable customers to communicate outside of local exchange calling areas. Toll service revenues include intrastate, interstate, and international long distance services.

Line 411 -- This line should include revenues from prepaid calling cards provided either to customers, distributors or to retail establishments. Prepaid card includes prepaid service where the customer utilizes the service provider's switching platform and a personal identification number (PIN) for purposes of verification and billing, even if the customer does not receive a physical card.<sup>45</sup> Gross billed revenues should represent the amounts actually paid by end user customers and not the amounts paid by distributors or retailers, and should not be reduced or adjusted for discounts provided to distributors or retail establishments. All prepaid card revenues are classified as end-user

<sup>45</sup> See *AT&T Corp. Petition for Declaratory Ruling Regarding Enhanced Prepaid Calling Card Services, Regulation of Prepaid calling Card Services*, WC Docket Nos. 03-133, 05-68, Order and Notice of Proposed Rulemaking, 20 FCC Rcd 4826, 4827-4827, para. 3 (2005).