
FCC Universal Service Fund Proceeding Expected to Impact Telecom Charges for End Users; New Reply Comment Date Established

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On December 2, 2008, the FCC extended the reply comment date in its sweeping Universal Service Fund (“USF”) Further Notice of Proposed Rulemaking (the “FNPRM”) until December 22, 2008. USF is an almost \$7 billion program overseen by the FCC that promotes the availability of affordable telecommunications services throughout the United States. Funds are made available to schools and libraries, low-income residential consumers and telephone companies operating in high cost areas.

Most of the funding comes from telecommunications service providers, who contribute to the fund based on a percentage of their interstate and international revenues (the “contribution factor”). The contribution factor is adjusted quarterly based on the estimated revenue required to fund each of the program initiatives. The contribution factor has ranged between 10-12 percent during the past few years and for the fourth quarter of 2008 is 11.4 percent. Carriers pass these charges through to their end user customers, and the charges are shown as a line item on the end user’s bill.

In the FNPRM, the FCC seeks comment on various proposals to change the current USF system, all of which may impact end user rates. The most fundamental change proposed would be the adoption of a telephone numbers-based USF contribution methodology under which contributors will pay a monthly rate of \$.85 - \$1 per number based on the number of telephone numbers assigned to end user customers. The proposed fee will be applied to Assessable Numbers—those that are actually in use by end users for services that receive communications from or terminate communications to (i) an interstate public telecommunications network or (ii) a network that traverses an interstate public telecommunications network. The provider with the retail relationship to the end user is responsible for contributing.

The FCC further proposes that providers of business services should contribute based on its end users’ connection to the public telephone network. The proposed fees would range from \$5-\$35 per month per Assessable Connection, with the higher amount assessed on connections above 64 kbps. Thus, end users

may be facing higher USF charges based on the types and quantities of services they purchase from their telecommunications carriers. Large users with many phone numbers and connections may end up with higher USF charges than under the current revenue-based methodology. As a result, they may want to consider whether changes to their current mix of services may be warranted to reduce USF charges.

As part of the FNPRM, the FCC may also address intercarrier compensation, which refers to the charges that one carrier pays to another carrier to originate, transport, and/or terminate telecommunications traffic. Although the same facilities are typically used to originate, terminate, and transport all types of traffic, the rates for intercarrier compensation vary based on several factors: (1) where the call begins and ends (i.e. local or long distance, interstate or intrastate); (2) what types of carriers are involved (incumbent local carriers, competitive local carriers, long distance providers, wireless carriers); and (3) the type of traffic (wire-line voice calls, wireless calls, data bound for an Internet service provider). Currently, intercarrier compensation payments are governed by a complex system of federal and state rules. Intercarrier compensation represents a substantial portion of a carrier's costs for providing telecommunications services.

The FCC has proposed a ten-year transition resulting in reduced intercarrier compensation termination rates. In the first stage, intrastate access rates are reduced to interstate access rate levels over a two-year period. In stage two, carriers will reduce their unified terminating access rates to an interim uniform termination rate set by the state during the next two years. In stage three, there will be six-year gradual downward transition to a uniform reciprocal compensation rate. The FCC expects that states will set the final reciprocal compensation rates at or below \$.0007. Lower intercarrier compensation rates could result in lower usage charges for most telecommunications services, though the FCC historically has not required carriers to flow through expense reductions.

To offset any potential revenue loss to Local Exchange Carriers ("LECs") from the reduced intercarrier compensation rates, the FCC proposes to increase the cap for subscriber line charges ("SLC"). The SLC is a monthly fee paid by the end user to the LEC who connects the end user to the telephone network. For residential and single line businesses, the cap would increase from \$6.50 to \$8.00. For non-primary residential lines, the cap would increase from \$7.00 to \$8.50. For multi-line businesses, the cap would increase from \$9.20 to \$11.50.

This Advisory addresses only the major issues raised in the FNPRM. The entire 430 page document is linked below. Because this FNPRM may impact end user rates for all residential and commercial customers of telecommunications services, you may wish to file reply comments in this proceeding. Please let us know if you would like our assistance with a filing or have any questions about the proceeding.

Live Link

Order on Remand and Report and Order and Further Notice of Proposed Rulemaking; Federal Communications Commission; November 5, 2008 (PDF, 430 pages)

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