

## SUPPORTING STATEMENT

### A. Justification:

1. This submission is being made as an extension to an existing information collection pursuant to 44 U.S.C. § 3507. This submission seeks to extend the existing FCC Forms 499-A and 499-Q and their accompanying instructions, to become effective by November 1, 2010.

In the Communications Act of 1934, as amended (the Act), Congress directed the Commission to implement measures necessary to promote the advancement of universal service. Specifically, section 254 of the Act directs the Commission to establish universal service support mechanisms with the goal of ensuring the delivery of affordable telecommunications services to all Americans, including consumers in high-cost areas, low-income consumers, eligible schools and libraries, and rural health care providers. In furtherance of this goal, section 254(d) of the Act states that “[e]very telecommunications carrier that provides interstate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.” Section 254(d) also vests the Commission with the permissive authority to require “[a]ny other provider of interstate telecommunications . . . to contribute to the preservation and advancement of universal service if the public interest so requires.”

The Commission has taken numerous steps to carry out the universal service objectives established by the Act. As part of its efforts to ensure the ongoing stability and sufficiency of the universal service support system in an increasingly competitive marketplace, the Commission initiated a proceeding to revisit its universal service contribution methodology in May 2001. In the *Interim Contribution Methodology Order and Further Notice*, the Commission established various interim measures that modified reporting requirements for the FCC Form 499, which collects data that is used to calculate contributions to the federal universal service support mechanisms. Seeking to further develop the record regarding various proposals submitted in response to the *Interim Contribution Methodology Order and Further Notice*, the Commission released a Further Notice of Proposed Rulemaking and Report and Order (*First Further Notice*) in February 2002. The *First Further Notice* invited commenters to supplement the record with any new arguments or data on proposals to retain or modify the existing, revenue-based assessment methodology. In a subsequent order and further notice, the *Second Wireless Safe Harbor Order*, the Commission sought additional comment on capacity-based proposals that had been developed in the record. The Commission also sought comment on a telephone-number based proposal advanced by AT&T and the Ad Hoc Telecommunications Users Group. The Commission subsequently sought comment on a Commission staff study, which estimated potential contribution assessment levels under the then-newly modified revenue-based method and the three connection-based proposals

in the further notice portion of the *Second Wireless Safe Harbor Order*. It also sought comment on various alternative contribution methodologies.

In the *2006 Contribution Methodology Order*, the Commission adopted interim modifications to the existing methodology for assessing contributions to the federal universal service fund in order to maintain the stability and sufficiency of the fund in the near-term in response to marketplace changes while the Commission continued to examine more fundamental reform. Specifically, the Commission raised the interim wireless safe harbor from 28.5 percent to 37.1 percent. In conjunction with this increase, the Commission also required wireless carriers that use traffic studies to submit them no later than the deadline for submitting the FCC Form 499-Q that reflects the results of that study. The Commission also set forth rules requiring providers of certain voice over Internet Protocol (VoIP) services that interconnect with the nation's existing public switched telephone network (interconnected VoIP providers) to contribute to universal service support mechanisms. To fulfill this obligation, the Commission adopted three means by which interconnected VoIP providers could determine their contribution requirements. First, they may report based on their actual interstate and international telecommunications revenues. Second, interconnected VoIP providers may report revenues based on an interim safe harbor that allows the reporting of 64.9 percent of interconnected VoIP telecommunications revenues as interstate and international. Third, interconnected VoIP providers may report their revenues based on pre-approved traffic studies.

On June 1, 2007, the U.S. Court of Appeals of the District of Columbia Circuit, in *Vonage Holdings Corp. v. FCC*, generally affirmed the *2006 Contribution Methodology Order*. The Court, however, vacated the pre-approval requirement for traffic studies submitted by interconnected VoIP providers and the interim suspension of the carrier's carrier rule. Later, on June 15, 2007, the Commission released an Order requiring interconnected VoIP providers to contribute to the Telecommunications Relay Service (TRS) fund. The previously approved revisions to the FCC Forms 499-A and 499-Q and accompanying instructions incorporated the changes required by the *Vonage Holdings Corp. Decision* and *TRS Contribution Order*. These changes include removing the pre-approval requirement for interconnected VoIP providers who file traffic studies from the instructions to the FCC Forms 499-A and 499-Q, removing the interim suspension of the carrier's carrier rule from the instructions to the FCC Forms 499-A and 499-Q and from the FCC Form 499-A, and including the requirement that interconnected VoIP providers contribute to the TRS fund in the FCC Form 499-A instructions.

The Commission seeks an extension of currently approved forms and instructions for FCC Forms 499-A and 499-Q. Pursuant to 47 C.F.R. sections 1.47, 54.706, 54.708, 54.709, and 54.711 of the Commission's rules and 47 U.S.C. section 418, the forms and related collections are needed to administer the universal service fund.

As noted on the OMB Form 83i, this information collection does not affect individuals or households; thus, there are no impacts under the Privacy Act.

Statutory authority for this information collection is contained in sections 151, 154(i), 154(j), 155, 157, 201, 205, 214, 225, 254, and 303(r) of the Act, 47 U.S.C. §§ 151, 154(i), 154(j), 155, 157, 201, 205, 214, 225, 254, and 303(r).

2. The Commission adopted modified reporting requirements to collect information necessary to evaluate individual contributors' contributions to the universal service mechanisms, pursuant to section 254 of the Act. Consistent with the Commission's existing policy, contributors will continue to file a Telecommunications Reporting Worksheet, Form 499-Q on a quarterly basis and/or the Form 499-A on an annual basis. The Commission continues to believe that its reporting requirements will not be burdensome for contributors, as they need to track such information for their own internal business purposes.

3. Respondents are able to obtain copies of the Telecommunications Reporting Worksheet (Worksheet) from the Universal Service Administrative Company (Administrator), the Commission's website or the Commission's fax-on-demand system. Worksheets are filed with the Administrator and may be filed electronically. The Commission will make available electronic versions of the Worksheet that may be used to produce completed copies. Forms may be downloaded electronically and arrangements can be made for the electronic payment of universal service contributions.

4. The information sought is unique to each contributor and similar information would not be available to the Commission from other sources. Without this information, contributions to the federal universal service support mechanisms (and other federal programs) could not be calculated.

The Commission is not aware of any similar information already available that can be used or modified for the purposes described in Item 2 above. The Commission previously has identified areas of duplication such as the reporting of the same information for different federal programs, including Telecommunications Relay Service, Universal Service, Number Administration, and Local Number Portability Support Mechanisms. These programs currently are subject to consolidated data submissions in this information collection.

5. As a general proposition, Congress has required that all telecommunications carriers contribute to these support and cost recovery mechanisms. In addition, Congress has given the Commission authority to require contribution from any other providers of telecommunications. As such, the information collections may affect small entities, as well as large entities. The Commission has taken steps to ensure that these mechanisms are competitively neutral -- which will favorably affect all entities, including small entities. The Commission also has retained the *de minimis* exemption to ensure that compliance costs associated with contributing to universal service do not exceed actual contribution amounts.

6. Funding for the universal service support mechanisms (derived from statutory mandates) depends on accurate information from contributors. The frequency of filing the Worksheet is determined by the Commission. Contributors to the federal universal service support mechanisms are currently required to submit the Worksheet annually and

quarterly. Only by collecting data this frequently can the Commission continue to ensure that the federal universal service support mechanisms meet the statutory requirement to be specific, predictable, and sufficient.

7. No other special circumstances will apply to this information collection.

8. The Commission published a notice in the Federal Register as required by 5 C.F.R. 1320.8 (d). See 75 FR 20993, dated April 22, 2010. No comments were received as a result of the notice.

9. The Commission does not anticipate providing any payment or gift to respondents.

10. The Commission will allow respondents to certify that data contained in their submissions are privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the entity filing the Worksheet. If the Commission receives a request for or proposes to disclose the information, the respondent would be required to make the full showing pursuant to the Commission's rules for withholding from public inspection information submitted to the Commission.

11. The information collection does not address any matters of a sensitive nature.

12. The following represents the hour burden on the collections of information discussed herein. Below we provide burden estimates for filing the 499-A and 499-Q and separate burden estimates for wireless and interconnected VoIP providers filing traffic studies, as well as burden estimates for recordkeeping, notification, and third party disclosure associated with these reporting requirements.

*Filing Forms 499-A:*

(1) Number of respondents: There are approximately 5,800 telecommunications carriers and other providers of telecommunications that may be subject to the filing requirements.

(2) Frequency of response: Annual reporting requirement. Based on the estimated number of respondents and the frequency of responses, we estimate that the annual total number of responses will be 5,800 for this form.

(3) Annual hour burden per respondent: 13.5 hours per respondent. Total annual burden: 78,300 hours (5,800 respondents x 13.5 hours per respondent for the annual filing). This average includes estimates for the time needed to identify, compile, and in some cases, estimate information at the requested level of detail. We also note that the estimate provided is an average, with some respondents requiring more time to complete the worksheets and others requiring less time. The burden estimate is based on our prior experience with the Worksheet.

(4) Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$3,523,500.

(5) Explanation of the calculation: \$3,523,500. As explained above, we estimate that 5,800 carriers and other providers of telecommunications will file the annual report, taking an average of 13.5 hours to complete the annual report. We assume that respondents will use some combination of staff and in house attorney services (blended rate of \$45/hour) when preparing the Worksheets. Thus 5,800 (number of respondents) x 13.5 (hours per respondent for the annual filing) x \$45 (per hour cost) = \$3,523,500.

*Filing Forms 499-Q:*

(1) Number of respondents: There are approximately 3,600 telecommunications carriers and other providers of telecommunications that may be subject to the filing requirements.

(2) Frequency of response: Quarterly reporting requirement. Approximately 3,600 of the respondents may have to file the FCC Form 499-Q.

(3) Annual hour burden per respondent: 10 hours per respondent. Total annual burden: 144,000 hours (3,600 respondents x 10 hours per respondent for the annual filing x 4 quarterly filings = 144,000). This average includes estimates for the time needed to identify, compile, and in some cases, estimate information at the requested level of detail. We also note that the estimate provided is an average, with some respondents requiring more time to complete the worksheets and others requiring less time. The burden estimate is based on our prior experience with the Worksheet.

(4) Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$6,480,000.

(5) Explanation of the calculation: \$6,480,000. As explained above, we estimate that approximately 3,600 may be required to file four quarterly reports, taking an average of 10 hours to complete each quarterly report. We assume that respondents will use some combination of staff and in house attorney services (blended rate of \$45/hour) when preparing the Worksheets. Thus, 3600 (number of respondents) x 4 (quarterly filings) x 10 (hours per respondent for the annual filing) x \$45 (per hour cost) = \$6,480,000.

*Filing Traffic Studies (Wireless and Interconnected VoIP Providers):*

(1) Number of respondents: There are approximately 914 wireless and interconnected VoIP providers (453 wireless providers and 461 interconnected VoIP providers) that may be subject to the filing requirements. Of those 914, we expect 272 to provide traffic studies as the basis for reporting revenues (180 wireless providers and 72 interconnected VoIP providers).

(2) Frequency of response: Annually; quarterly reporting requirements. The estimated 272 respondents that elect to file traffic studies would be required to complete those studies annually and quarterly.

(3) Annual hour burden per respondent: We estimate 25 hours per respondent. Thus 25 (hours per submission) x 272 (number of respondents) x 5 (for each quarterly plus

one annual filing) = 34,000 hours (total ongoing burden). In addition, we estimate that for 92 of the 272 respondents that are likely to file traffic studies will either be filing new or substantially revised traffic studies. Respondents filing new or substantially revised traffic studies will have an initial one-time additional burden of 186 hours per respondent to establish procedures, analyze data, and document and audit records for their traffic studies. Thus  $186$  (one time additional burden hours)  $\times$   $92$  (new or substantially revised traffic studies) =  $17,112$  (total one-time burden for these respondents). Total annual burden hours:  $34,000$  (ongoing burden) +  $17,112$  (one-time burden) = **51,112** hours. This average includes estimates for the time needed to identify, compile, and estimate traffic levels. We note that the estimate provided is an average, with some respondents requiring more time to complete the worksheets and others requiring less time.

(4) Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$2,300,040.

(5) Explanation of the calculation: \$2,300,040. As explained above, we estimate that 272 wireless and interconnected VoIP providers will file traffic studies on an annual and quarterly basis, taking an average of 25 hours to complete the annual traffic study and taking 25 hours to complete each quarterly and annual traffic study. We assume that respondents will use some combination of staff and in house attorney services (blended rate of \$45/hour) when preparing the traffic studies. Thus total annual burden hours **51,112** (total burden hours)  $\times$  \$45 (per hour cost) = \$2,300,040.

*Recordkeeping Requirement:*

(1) Number of respondents: There are approximately 5,800 telecommunications carriers and other provider of telecommunications that must maintain records in connection with their filings. Because all traffic study filers file the Form 499-Q and Form 499-Q respondents file the Form 499-A, the total number of respondents required to keep records is equal to the number of Form 499-A respondents (i.e., 5,800).

(2) Frequency of response: Recordkeeping requirement. Approximately 21,560 occurrences when a telecommunications carrier and other providers of telecommunications must maintain records in connections to their filings. Thus, 5,800 (Form 499-A responses) + 14,400 (Form 499-A responses + 1,360 traffic study submissions) = 21,560 responses.

(3) Annual hour burden per respondent: .25 hours per occurrence (21,560 occurrences. Total annual burden hours: .25 (hours per occurrence)  $\times$  5,800 (total occurrences annually and quarterly) = 5,390 hours. This average includes estimates for the time needed to maintain records and documentation to support the filed information. We also note that the estimate provided is an average, with some respondents requiring more time to complete the requirement and others requiring less time. The burden estimate is based on our prior experience with recordkeeping.

(4) Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$242,550.

(5) Explanation of the calculation: \$242,550. As explained above, we estimate that approximately 21,560 occurrences when a telecommunications carrier and other provider of telecommunications must maintain records in connection with its filing, taking an average of .25 hours to complete each response. The 21,560 occurrences include maintaining records for the annual filing, four quarterly filings, and five (one annual and four quarterly) traffic study filings. We assume that respondents will use some combination of staff and in house attorney services (blended rate of \$45/hour) when preparing the Worksheets. Thus 21, 560 (total annual and quarterly responses) x .25 (hours per occurrence) x \$45 (per hour cost) = \$242,550.

*Notification Requirement:*

(1) Number of respondents: There are approximately 1,451 telecommunications carriers and other providers of telecommunications that may be required to file a notification to report information such as new filer status, changed registration information, changed designated agent for service of process information, or revised revenue information.

(2) Frequency of response: On occasion reporting requirement. Approximately 1,451 of the respondents may be required to file a notification.

(3) Annual hour burden per respondent: 2 hours per respondent. Total annual burden hours: 2,902 hours (2 hours per respondent x 1,451 respondents. This average includes estimates for the time needed to identify, compile, and in some cases, estimate information at the requested level of detail. We also note that the estimate provided is an average, with some respondents requiring more time to complete the notification and others requiring less time. The burden estimate is based on our prior experience with the Worksheet.

(4) Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$130,590.

(5) Explanation of the calculation: \$130,590. As explained above, we estimate that approximately 1,451 telecommunications carriers and other providers of telecommunications may be required to file a notification, taking an average of 2 hours to complete the notification. We assume that respondents will use some combination of staff and in house attorney services (blended rate of \$45/hour) when preparing the Worksheets. Thus 2 (hours per respondent) x 1,451 (respondents) x 1 (number of required submissions) x \$45 (per hour cost) = \$130,590.

*Third Party Disclosure Requirement:*

(1) Number of respondents: There are approximately 3 telecommunications carriers and other providers of telecommunications that may chose to respond to a third party disclosure request.

(2) Frequency of response: Third party disclosure requirement. Approximately 3 of the respondents may respond to a third party disclosure request.

(3) Annual hour burden per respondent: 2 hours per respondent for an on-occasion response. Total annual burden hours: 6 hours (3 respondents x 2 burden hours per respondent). This average includes estimates for the time needed to identify, compile, and respond to the third party disclosure request. We also note that the estimate provided is an average, with some respondents requiring more time to complete the response and others requiring less time. The burden estimate is based on our prior experience with third party disclosure requests.

(4) Total estimate of annualized cost to respondents for the hour burdens for collection of information: \$270.

(5) Explanation of the calculation: \$270. As explained above, we estimate that approximately 3 telecommunications carriers and other providers of telecommunications may respond to a third party disclosure request, taking an average of 2 hours to complete each response. We assume that respondents will use some combination of staff and in house attorney services (blended rate of \$45/hour) when preparing the Worksheets. Thus 3 (number of respondents) x 2 (burden hours) x 1 (number of required submissions) x \$45 (per hour cost) = \$270.

Summary of Burden Hours

<u>Requirements for 499</u>	Revised Hours	In Current
	<u>Burden Estimates</u>	<u>Inventory</u>
FCC Forms 499-A/Q	222,300	176,938
Recordkeeping Requirement	5,390	4,350
Third Party Disclosure	6	6
Voluntary Survey	-0-	-0-
Notification	<u>2,902</u>	<u>2,530</u>
Subtotal	230,598	182,300
<u>Requirements for Traffic Studies</u>	Revised Hours	In Current
	<u>Burden Estimates</u>	<u>Inventory</u>
Traffic Studies	<u>51,112</u>	<u>89,305</u>
Subtotal	51,112	89,305
<b>Total (499 + Traffic Studies)</b>	<b>281,710</b>	<b>273,129</b>

13. The following represents the Commission’s estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information.

(1) Total capital start-up costs component annualized over its expected useful life: \$0. The collections will not result in additional capital expenditures such as computers or software. Respondents may voluntarily use an online filing mechanism. The Commission assumes that respondents will not use this system if it increases their



costs of filing. The Commission will address the potential costs of mandatory electronic filing if it subsequently adopts such an approach.

(2) Total operation and maintenance and purchase of services component: All respondents will file the worksheet at least annually, so operation and maintenance costs will be limited to postage, ink, etc., which are costs incurred in the normal course of doing business. Additionally, costs to respondents that file traffic studies will also be limited to postage, ink, etc., which are costs incurred in the normal course of doing business. As stated in Item 3: Worksheets are filed with the Administrator and may be filed electronically.

14. There will be few, if any costs to the Commission because notice and enforcement requirements are already part of the Commission's duties. Moreover, there will be minimal cost to the federal government since outside parties administer the mechanisms.

15. We have increased our estimate of the total annual burden of these collections by 8,581 hours. The net increase reflects a re-estimate of the number of responses and burden hours for the 499-A, 499-Q, Traffic Studies and Recordkeeping collection requirements.

16. The Commission does not anticipate publishing all of the information collected. Several data items captured in the Worksheet, however, such as the names of the carriers that file, the regions in which they operate, the carrier type categories checked, the corporate headquarters addresses, the mechanisms contributed to, the telephone numbers provided for customer inquiries, the categories of revenue filed, agent for service of process information, etc., will be made available to the public.

17. The Commission seeks continued approval not to display the expiration date of OMB approval on the form at issue. Display of the expiration date on the Form 499 would not be in the Commission's interest because the Commission would have to destroy all of the unused forms previously printed. The Commission would also have to update the electronic version of the Form 499. This would constitute waste and would not be cost effective. Therefore, the Commission seeks to continue the current practice of using an edition date in lieu of the OMB expiration date. We also note that the OMB control number, expiration date, and title are referenced in section 0.408 of the Commission's rules. See 47 C.F.R. § 0.408.

18. Applicants claiming the *de minimis* exemption are required to retain the Form 499 for 3 calendar years.

**B. Collections of Information Employing Statistical Methods:**

The Commission does not anticipate that the collection of information will employ statistical methods.