

December 18, 2012

## Federal Communications Commission

### Explanation of Non-Substantive Changes to OMB Control Number: 3060-0855:

- FCC Form 499-A
  - FCC Form, 499-Q
  - Instructions to FCC Form 499-A
  - Instructions to FCC Form 499-Q
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**Purpose of this Submission:** This submission is being made for proposed non-substantive revisions to an existing information collection pursuant to 44 U.S.C. § 3507. This submission seeks to revise (i) FCC Form 499-A; (ii) the accompanying instructions to FCC Form 499-A; (iii) FCC Form 499-Q; and (iv) the accompanying instructions to FCC Form 499-Q. On November 23, 2012, the Commission issued a Public Notice seeking comment on the proposed revisions (DA 12-872).

#### Summary of Proposed Revisions to Form 499-A

- **Stylistic Changes:** In several instances, wording in the instructions was revised for clarification purposes, without changing the substance. For example, on page 1, the following text was revised: Previously read as follows: “Use an additional sheet if necessary.” Now reads as follows: “Use additional sheets if necessary.”
- **Date Changes:** Dates were updated throughout. References to “2012” were changed to “2013,” and references to “2011” were changed to “2012.”
- **Holding Company and Affiliates:** Form 499-A (Line 106.1) was revised to include a checkbox for filers to indicate whether they have affiliates. [Note: A similar change was made to the Form 499-A Instructions, Form 499-Q, and the Form 499-Q Instructions.]
- **“Reseller” Sample Certification Language:** Consistent with the recently adopted *2012 Wholesaler-Reseller Clarification Order* (FCC 12-134), page 4 of Form 499-A was revised to delete the suggested procedure to check the Commission’s website to ascertain whether a carrier customer is a contributor to the USF, because such action, by itself, is insufficient to satisfy the reasonable expectation standard. [Note: A similar change was made to the Form 499-A Instructions.]

#### Summary of Proposed Revisions to Form 499-A Instructions

- **Stylistic Changes:** In several instances, wording in the instructions was revised for clarification purposes, without changing the substance. For example, on page 4, the following text was revised: Previously read as follows: “In contrast, although telecommunications carriers providing telecommunications services on a common-carriage basis that meet the *de minimis* standard need not contribute to the universal service support mechanism, they must nevertheless file this Worksheet because they must contribute to other support mechanisms.” Now reads as follows: “In contrast, telecommunications carriers providing telecommunications services on a common-

carriage basis that meet the *de minimis* standard need not contribute to the universal service support mechanism, but they must file this Worksheet because they must contribute to other support mechanisms (TRS, NANPA or LNPA).”

- **Date Changes:** Dates were updated throughout. References to “2012” were changed to “2013,” and references to “2011” were changed to “2012.”
- **Web Pages:** Hyperlinks were revised as appropriate throughout the Form 499-A Instructions.
- **Estimation Factor:** Appendix A of the Form 499-A Instructions (at Line 10) contains the estimation factor to be used by filers to determine *de minimis* status. The Form 499-A Instructions were revised to indicate that the estimation factor for 2013 is 0.162. [Note: A similar change was made to the Form 499-Q Instructions.]
- **Charges Allowed by *USF/ICC Transformation Order*:** In the *USF/ICC Transformation Order* (26 FCC Rcd 17663), the Commission allowed incumbent local exchange carriers (LECs) to charge an access recovery charge (ARC) on wireline telephone service to partially offset intercarrier compensation revenue declines resulting from the transition of certain switched access rates adopted as part of the comprehensive intercarrier compensation reform. The Form 499-A Instructions were revised at page 17 (Line 405) to list the ARC as a type of charge to end users (specified in access tariffs) reportable under Line 405. Similarly, the *USF/ICC Transformation Order* allows per-minute charges for originating or terminating voice over Internet Protocol (VoIP) / public switched telephone traffic. The Form 499-A Instructions were revised at page 16 (Line 304) to list such charges as a type of per-minute originating and terminating charge reportable on Line 304.
- **Filing Schedule:** Table 1 of the Form 499-A Instructions was revised to clarify the filing addresses for Form 499-A, Form 499-Q, Traffic Studies, and the Consolidated Filer Certification. [Note: A similar change was made to the Form 499-Q Instructions.]
- **Mergers:** Pages 9 and 14 of the Form 499-A Instructions were revised to clarify the procedures for successor companies to report the revenues of acquired entities.
- **Holding Company and Affiliates:** Page 11 of the Form 499-A Instructions was revised to include a checkbox for filers to indicate whether they have affiliates. Affiliates should list the same holding company on Form 499-A and Form 499-Q. [Note: A similar change was made to Form 499-A, Form 499-Q, and the Form 499-Q Instructions.]
- **Definition of Affiliate:** The definition of the term affiliate was added on pages 10-11 of the Form 499-A Instructions. This definition is the same as the definition contained in Appendix A of the Form 499-A Instructions. [Note: A similar change was made to the Form 499-Q Instructions.]
- **Ink Signature Requirement:** Page 9 of the Form 499-A Instructions was revised to clarify that an original ink signature is required from an officer when he or she first files a form. Subsequent forms signed by the same officer may be signed electronically. [Note: A similar change was made to the Form 499-Q Instructions.]
- **Subscriber Line Charges and Exchange Access Service:** In order to better reflect Commission precedent and rules, we are deleting the following language from the

discussion of Line 404 in the Form 499-A Instructions: “Note that federal subscriber line charges typically represent the interstate portion of fixed local exchange service; these amounts are separate from toll revenues and correspond to the revenues received by incumbent telephone companies to recover part of the cost of networks that allow customers to originate and terminate interstate calls. Filers without subscriber line charge revenue must identify the interstate portion of fixed local exchange service revenues in column (d) of the appropriate line 404.1.” We consolidated on page 17 of the Form 499-A Instructions the description of what federal subscriber line charges (SLCs) are and added language clarifying that carriers that elect to charge end users for the provision of interstate exchange access service through a separately stated charge (*e.g.*, a SLC) should report such revenues on Line 405. [Note: A similar change was made to the Form 499-Q Instructions.]

- **Special Access on Common Carrier Basis:** Page 18 of the Form 499-A Instructions was revised to remind filers that they should report, on Line 406, revenues derived from the sale of special access on a common carrier basis to providers of retail broadband Internet access service.
- **Definition of “Toll Services” for Wireless Providers:** Pages 19-20 of the Form 499-A Instructions were revised to include a cross reference to Commission orders defining “toll services” for wireless providers.
- **Carrier’s Carrier Revenues:** Pages 22-23 of the Form 499-A Instructions were revised to provide additional examples of intercarrier compensation that should be reported in Block 3 (carrier’s carrier revenues) and not in Block 4 (end user revenues).
- **Traffic Studies:** Page 28 of the Form 499-A Instructions was revised to include format headings to be used when filing traffic studies, to assist in administrative processing. These headings are intended to help identify each filer submitting traffic studies in order to properly match the traffic study with such filer’s Form 499-A and Form 499-Q filings. [Note: A similar change was made to the Form 499-A Instructions.]
- **Consistency in Traffic Study or Safe Harbor Elections:** Page 27 of the Form 499-A Instructions was revised to clarify the requirement that the same election made by a filer on its Form 499-Q filings to use either a safe harbor or traffic studies to project revenues for a particular quarter must be used on the filer’s Form 499-A for reporting historical revenues for that particular quarter. [Note: A similar change was made to Form 499-Q and the Form 499-Q Instructions.]
- **Percentage of Revenues Billed Per Region:** Lines 503 through 510 of Form 499-A currently require filers to report the percentage of telecommunications revenues billed by LNPA region. Page 30 of the Form 499-A Instructions was revised to clarify that filers may use customer billing addresses to calculate or estimate this percentage.
- **“Reseller” Sample Certification Language:** Consistent with the recently adopted *2012 Wholesaler-Reseller Clarification Order* (FCC 12-134), pages 22-25 of the Form 499-A Instructions were revised to clarify that providers may rely on reseller certificates that are consistent with the sample language contained in the 2012 FCC Forms 499 instructions, and included herein for illustrative purposes, through December 31, 2013. [Note: A similar change was made to the Form 499-Q Instructions.] The Instructions were also revised to delete the suggested procedure to check the Commission’s website to ascertain whether a carrier customer is a contributor to the USF, because such action, by itself, is

insufficient to satisfy the reasonable expectation standard. [Note: A similar change was made to Form 499-A.] Pages 24-25 of the Form 499-A Instructions were revised to include new sample certification language that providers may utilize to satisfy the reasonable expectation standard, pending adoption of any rule changes in the pending universal service contribution reform rulemaking.

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

#### Summary of Proposed Revisions to Form 499-Q

- **Stylistic Changes:** In several instances, wording in the instructions was revised for clarification purposes, without changing the substance. For example, on page 1, Line 103, the following text was revised: Previously read as follows: “IRS employer identification number.” Now reads as follows: “Filer’s IRS employer identification number.”
- **Date Changes:** Dates were updated throughout. References to “2012” were changed to “2013,” and references to “2011” were changed to “2012.”
- **Filing Schedule:** Form 499-Q (Line 113) was revised to allow filers to check the applicable quarter for which the form is being filed.
- **Holding Company and Affiliates:** Form 499-Q (Line 105) was revised to include a checkbox for filers to indicate whether they have affiliates. Affiliates should list the same holding company on Form 499-A and Form 499-Q. Form 499-Q (Line 105.1) was revised to include the Internal Revenue Service (IRS) employer identification number (EIN) for the filer’s holding company. [Note: A similar change was made to Form 499-A, the Form 499-A Instructions, and the Form 499-Q Instructions.]
- **Consistency in Traffic Study or Safe Harbor Elections:** Form 499-Q (Line 114) was revised to include a check box when filers use safe harbors for reporting revenue allocations. [Note: A similar change was made to the Form 499-A Instructions and the Form 499-Q Instructions.]

#### Summary of Proposed Revisions to Form 499-Q Instructions

- **Stylistic Changes:** In several instances, wording in the instructions was revised for clarification purposes, without changing the substance. For example, on page 12, added

the following header, in italics -- *Revenues from Resellers* -- to the paragraph that reads “For the purpose of completing Line (115) a “reseller” is a telecommunications carrier....” And, added the following header, in italics – *Revenues from Entities Exempt from USF Contributions* – to the paragraph that reads “For the purposes of filing out this Worksheet – and for calculating contributions to the universal service support mechanisms – certain telecommunications carriers and service providers may be exempt....”

- **Date Changes:** Dates were updated throughout. References to “2012” were changed to “2013,” and references to “2011” were changed to “2012.”
- **Web Pages:** Hyperlinks were revised as appropriate throughout the Form 499-Q.
- **Estimation Factor:** Figure 1 of the Form 499-Q Instructions (at Line 16) contains the estimation factor to be used by filers to determine *de minimis* status. The Form 499-Q Instructions were revised to indicate that the estimation factor for 2013 is 0.162. [Note: A similar change was made to the Form 499-A Instructions.]
- **Filing Schedule:** Figure 2 of the Form 499-Q Instructions was revised to clarify the filing addresses for Form 499-A, Form 499-Q, Traffic Studies, and the Consolidated Filer Certification. [Note: A similar change was made to the Form 499-A Instructions.] Form 499-Q (Line 113) was revised to allow filers to check the applicable quarter for which the form is being filed.
- **Holding Company and Affiliates:** Page 11 of the Form 499-Q Instructions was revised to include a checkbox for filers to indicate whether they have affiliates. Affiliates should list the same holding company on Form 499-A and Form 499-Q. [Note: A similar change was made to Form 499-A, the Form 499-A Instructions, and Form 499-Q.]
- **Definition of Affiliate:** The definition of the term affiliate is added on page 10 of the Form 499-Q Instructions. This definition is the same as the definition contained in Figure 1 of the Form 499-Q Instructions. [Note: A similar change was made to the Form 499-A Instructions.]
- **Ink Signature Requirement:** Page 19 of the Form 499-Q Instructions was revised to clarify that an original ink signature is required from an officer when he or she first files a form. Subsequent forms signed by the same officer may be signed electronically. [Note: A similar change was made to the Form 499-A Instructions.]
- **Subscriber Line Charges and Exchange Access Service:** We added language on page 14 of the Form 499-Q Instructions clarifying that carriers that elect to charge end users for the provision of interstate exchange access service through a separately stated charge (*e.g.*, a SLC) the must allocate those revenues to the interstate jurisdiction, for USF contribution reporting purposes, in a manner that is consistent with their supporting books of accounts and records. [Note: A similar change was made to the Form 499-A Instructions.]
- **Traffic Studies:** Page 16 of the Form 499-Q Instructions was revised to include format headings to be used when filing traffic studies, to assist in administrative processing. These headings are intended to help identify each filer submitting traffic studies in order to properly match the traffic study with such filer’s Form 499-A and Form 499-Q filings. [Note: A similar change was made to the Form 499-A Instructions.]

- **Consistency in Traffic Study or Safe Harbor Elections:** Pages 15-17 of the Form 499-Q Instructions were revised to clarify the requirement that the same election made by a filer on its Form 499-Q filings to use either a safe harbor or traffic studies to project revenues for a particular quarter must be used on the filer’s Form 499-A for reporting historical revenues for that particular quarter. . [Note: A similar change was made to the Form 499-A Instructions and Form 499-Q.]
- **“Reseller” Sample Certification Language:** Consistent with the recently adopted *2012 Wholesaler-Reseller Clarification Order* (FCC 12-134) pages 11-12 of the Form 499-Q Instructions were revised to clarify that providers may rely on reseller certificates that are consistent with the sample language contained in the 2012 FCC Forms 499 instructions, and included herein for illustrative purposes, through December 31, 2013. [Note: A similar change was made to the Form 499-A Instructions.]
- **Deleted Language:**
  - o Revenues from Affiliates: In order to better reflect Commission precedent and rules, page 13 of the Form 499-Q Instructions was revised to delete the following language: “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.” [Note: A similar change was made to the Form 499-A Instructions.]

**Line By Line Changes:** Line by line changes to the forms and instructions are shown in the attached documents (in redline form):

- Attachment 1: Proposed revisions to Form 499-A
- Attachment 2: Proposed revisions to Form 499-A Instructions
- Attachment 3: Proposed revisions to Form 499-Q
- Attachment 4: Proposed revisions to Form 499-Q Instructions