

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
Support Mechanism)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45

ORDER

Adopted: April 16, 2010

Released: April 16, 2010

By the Acting Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we deny the request of the National Association of State Utility Consumer Advocates (NASUCA) to reduce the contribution factor for the third quarter of 2009.¹ NASUCA requests that the Commission lower the contribution factor for the third quarter of 2009 by using funds held by the Universal Service Administrative Company (USAC) as “assets held for the Federal [universal service fund]” and by using unused funds from the schools and libraries universal service support mechanism.² For the reasons stated below, we deny this request as moot.

II. BACKGROUND

2. The assessment of universal service contributions is governed by the statutory framework established by Congress in the Communications Act of 1934, as amended by the Telecommunications Act of 1996.³ 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.”⁴ Contributions to the federal universal service support mechanisms are determined using a quarterly contribution factor calculated by the Commission.⁵ The Commission calculates the quarterly contribution factor based on the ratio of total projected quarterly costs of the

¹ See Request of the National Association of State Utility Consumer Advocates for Interim Emergency Relief to Reduce the Universal Service Fund Contribution Factor, WC Docket No. 05-337, CC Docket No. 96-45 (filed June 9, 2009) (NASUCA Request).

² NASUCA Request at 1–2.

³ See 47 U.S.C. § 254; Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁴ See 47 U.S.C. § 254(d). See also 47 U.S.C. § 254(b)(4), (5) (providing that Commission policy on universal service shall be based, in part, on the principles that contributions should be equitable and nondiscriminatory, and support mechanisms should be specific, predictable, and sufficient). The Commission adopted the additional principle that federal support mechanisms should be competitively neutral, neither unfairly advantaging nor disadvantaging particular service providers or technologies. See *Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, 12 FCC Rcd 8776, 8801–03, paras. 46–51 (1997) (subsequent history omitted).

⁵ See 47 C.F.R. § 54.709(a).

universal service support mechanisms to contributors' total projected collected end-user interstate and international telecommunications revenues, net of projected contributions.⁶

3. On June 12, 2009, the Commission's Office of the Managing Director (OMD) released a public notice announcing that the contribution factor for the third quarter of 2009 would be 12.9 percent.⁷ In response, NASUCA filed the instant petition, requesting that the Commission lower the contribution factor for the third quarter of 2009 by using: (1) funds held by USAC as "assets held for the Federal [universal service fund]"; and (2) unused funds from the schools and libraries universal service support mechanism.⁸

III. DISCUSSION

4. We deny NASUCA's request as moot. The public notice announcing the contribution factor for the third quarter of 2009 stated that "[i]f the Commission takes no action regarding the projections of demand and administrative expenses and the proposed contribution factor within the 14-day period following release of this Public Notice, they shall be deemed approved by the Commission."⁹ This public notice was released on June 12, 2009, and the 12.9 percent contribution factor became final 14 days later, on June 26, 2009. Accordingly, the NASUCA request is moot.¹⁰

IV. ORDERING CLAUSES

5. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 254, and 403, and pursuant to authority in sections 0.91, 0.291, and 54.709 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.709, that the request filed by the National Association of State Utility Consumer Advocates on June 9, 2009 IS DENIED.

6. IT IS FURTHER ORDERED, pursuant to section 1.102(b)(1) of the Commission's rules, 47 C.F.R. §1.102(b)(1), that this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Jennifer K. McKee
Acting Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

⁶ See 47 C.F.R. § 54.709(a)(2).

⁷ See *Proposed Third Quarter 2009 Universal Service Contribution Factor*, Public Notice, CC Docket No. 96-45, 24 FCC Rcd 7871 (Office of Managing Dir. 2009) (*Third Quarter 2009 Contribution Factor Public Notice*).

⁸ NASUCA Request at 1-2.

⁹ *Third Quarter 2009 Contribution Factor Public Notice*, 24 FCC Rcd at 7874 (citing to 47 C.F.R. § 54.709(a)(3)).

¹⁰ The unused funds from the schools and libraries universal service support mechanism are to be used as support disbursements under that program. See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Order, 24 FCC Rcd 10164 (Wireline Comp. Bur. 2009).