



# PUBLIC NOTICE

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## WIRELINE COMPETITION BUREAU RELEASES 2012 ANNUAL TELECOMMUNICATIONS REPORTING WORKSHEET (FCC FORM 499-A) AND ACCOMPANYING INSTRUCTIONS

### WC Docket No. 06-122

On March 5, 2012, the Wireline Competition Bureau released the revised annual Telecommunications Reporting Worksheet, FCC Form 499-A (the Form) and accompanying instructions (the Instructions). The revised Form and Instructions incorporate the following non-substantive modifications:

- **Date Changes:** Dates were updated throughout. References to “2011” were changed to “2012,” and references to “2010” were changed to “2011.”
- **E-mail Address for Interstate Telecommunications Service Provider (ITSP) Regulatory Fee Purposes:** The language on Line 208.1 of the Form, regarding the email address for ITSP regulatory fee purposes, was revised for clarity and readability.
- **Estimation Factor:** Appendix A of the Instructions (at Line 10) contains the estimation factor to be used by filers to determine *de minimis* status. The estimation factor for 2012 is 0.144.

*Changes Related to Section 103(b) of the Twenty-First Century Communications and Video Accessibility Act of 2010.* The revised Form and Instructions also include revisions made in accordance with the Commission’s order implementing section 103(b) of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA).<sup>1</sup> Section 103(b) requires that both interconnected *and* non-interconnected voice over Internet protocol (VoIP) service providers participate in and contribute to the Telecommunications Relay Services Fund (TRS Fund).<sup>2</sup> The revisions to the Form and Instructions for these purposes include the following:<sup>3</sup>

- Instructions for non-interconnected VoIP service providers to report revenues for TRS Fund contribution purposes.<sup>4</sup>

<sup>1</sup> *Contributions to the Telecommunications Relay Services Fund*, CG Docket No. 11-47, Report and Order, 26 FCC Rcd. 14532 (2011); see *Twenty-First Century Communications and Video Accessibility Act of 2010*, Pub. L. No. 111-260, § 103(b), 124 Stat. 2751, 2755 (2010); Amendment of *Twenty-First Century Communications and Video Accessibility Act of 2010*, Pub. L. No. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA).

<sup>2</sup> The CVAA added a new Section 715 to the Communications Act of 1934, requiring that each interconnected VoIP service provider and each provider of non-interconnected VoIP service participate in and contribute to the Telecommunications Relay Services Fund by October 8, 2011. 47 U.S.C. § 616.

<sup>3</sup> These changes were pre-approved by the Office of Management and Budget (OMB) by Notice of Action (NOA) dated May 23, 2011 (ICR Reference Number: 201103-3060-042).

<sup>4</sup> 2012 FCC Form 499-A Instructions, at 3.

- Added Line 418.4 to the Form for non-interconnected VoIP revenues not included in any other category. The Instructions describe the addition of non-interconnected VoIP revenues to Line 418 and explain how to report these revenues on Line 418.4.<sup>5</sup>
- Added Lines 512-514 to the Form for TRS Fund contribution base revenues. The Instructions explain how to report these revenues.<sup>6</sup>
- Added language to the Instructions that extends to non-interconnected VoIP service providers the same safe harbor for allocating revenue for bundled services as is applicable to interconnected VoIP service providers.<sup>7</sup>
- Added language to the Instructions that extends to non-interconnected VoIP service providers the same safe harbor for reporting interstate revenues (64.9%) as is applicable to interconnected VoIP service providers.<sup>8</sup>
- Adding a category for non-interconnected VoIP providers with no other telecommunications revenues to Table 2 of the Instructions.
- Revised Table 3 of the Instructions to reflect the addition of non-interconnected VoIP service providers as contributors to the TRS Fund.

*Limited Waiver for Reporting 2011 Revenues for Originating or Terminating VoIP – Public (PSTN) Traffic.* On October 27, 2011 the Commission adopted prospective rules specifying a default intercarrier compensation regime. One of these rules potentially affects carrier reporting on Form 499-A by permitting carriers to include, in their intrastate and interstate switched access tariffs, rates applicable to VoIP – PSTN traffic.<sup>9</sup> This new rule became effective on December 29, 2011, and therefore could have resulted in changes in revenue reportable on Form 499-A Line 304, pursuant to section 54.711 of the Commission’s rules,<sup>10</sup> for the three days in 2011 during which it was effective.<sup>11</sup> We find good cause to waive the Form 499 reporting requirements for this new rule for that limited period.<sup>12</sup> In particular, we find that applying section 54.711 to require the reporting of VoIP-PSTN access charge revenues arising

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<sup>5</sup> *Id.* at 19-20.

<sup>6</sup> *Id.* at 27.

<sup>7</sup> *Id.* at 20-21.

<sup>8</sup> *Id.* at 24.

<sup>9</sup> See 47 C.F.R. § 51.913. This rule applies to “PSTN-VoIP” traffic, which includes both interconnected VoIP, as that term is defined at 47 C.F.R § 64.601(a)(10), and other traffic exchanged between a LEC and another telecommunications carrier in Time Division Multiplexing (TDM) format and originated and/or terminated in IP format. See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, at 940 n. 1891. (rel. Nov. 18, 2011) *pets. for review pending*, *Direct Commc'ns Cedar Valley, LLC v. FCC*, No. 11-9581 (10th Cir. filed Dec. 18, 2011) (and consolidated cases).

<sup>10</sup> 47 C.F.R. § 54.711.

<sup>11</sup> See 76 FR 73830.

<sup>12</sup> Cf. *Verizon Wireless Petition for Limited Waiver of Safe Harbor Single Election Requirement and Criteria for Consolidated Filing of Universal Service Revenue Reports*, WC Docket No. 06-122, Order, 23 FCC Rcd 5212, 5214–16, paras. 5–8 (Wireline Comp. Bur. 2009).

solely because of the adoption of section 51.913 would impose burdens on the reporting public with little or no offsetting benefit. Specifically, we find that because of the short time period in 2011 during which section 51.913 was effective, any new 2011 reportable revenue amounts arising solely from this rule change are likely *de minimis*.<sup>13</sup> Accordingly, we waive, on our own motion, section 54.711 of the Commission rules to the limited extent necessary to relieve contributors of the obligation to report, as part of 2011 revenues on the 2012 FCC Form 499A, any new access charge revenue resulting solely from section 51.913 being effective during 2011.

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For further information, please contact Vickie S. Robinson, Telecommunications Access Policy Division, Wireline Competition Bureau at (202) 418-7400 or TTY (202) 418-0484.

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<sup>13</sup>.See 47 C.F.R. § 1.3; see also *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990); accord *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008) (stating that in addition to the public interest being well-served, there must also be a sufficiently “unique situation” to grant waiver). We note that contributors remain obligated to report other access charge revenue that is not revenue solely resulting from this rule being effective.