



# USAC Financial Operations 499 Contributions/Billing

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# 2013 USF Contributions

March 2013

What's New for 2013 FCC Forms

499-A/499-Q

2012 FCC USF Contribution Proceedings

2013 FCC Forms 499-A/Q True Up Process

Q & A

## 2013 USF Contributions

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# **New for 2013 FCC Forms 499-A & 499-Q**

## FCC Forms & Instructions

- November 23, 2012: FCC issued a Public Notice [WC Docket No. 06-122; DA 12-1872] for comment on FCC Forms 499-A, 499-Q, and instructions proposed changes
- December 12, 2012: Notice published in Federal Register for comments on changes by January 11, 2013 (13 comments received)
- March 1, 2013: FCC issued a Public Notice [WC Docket No. 06-122; DA 13-306] releasing the 2013 Telecommunications Reporting Worksheets and accompanying instructions

## Stylistic and Estimation Factor

### Stylistic/Date/Web Changes:

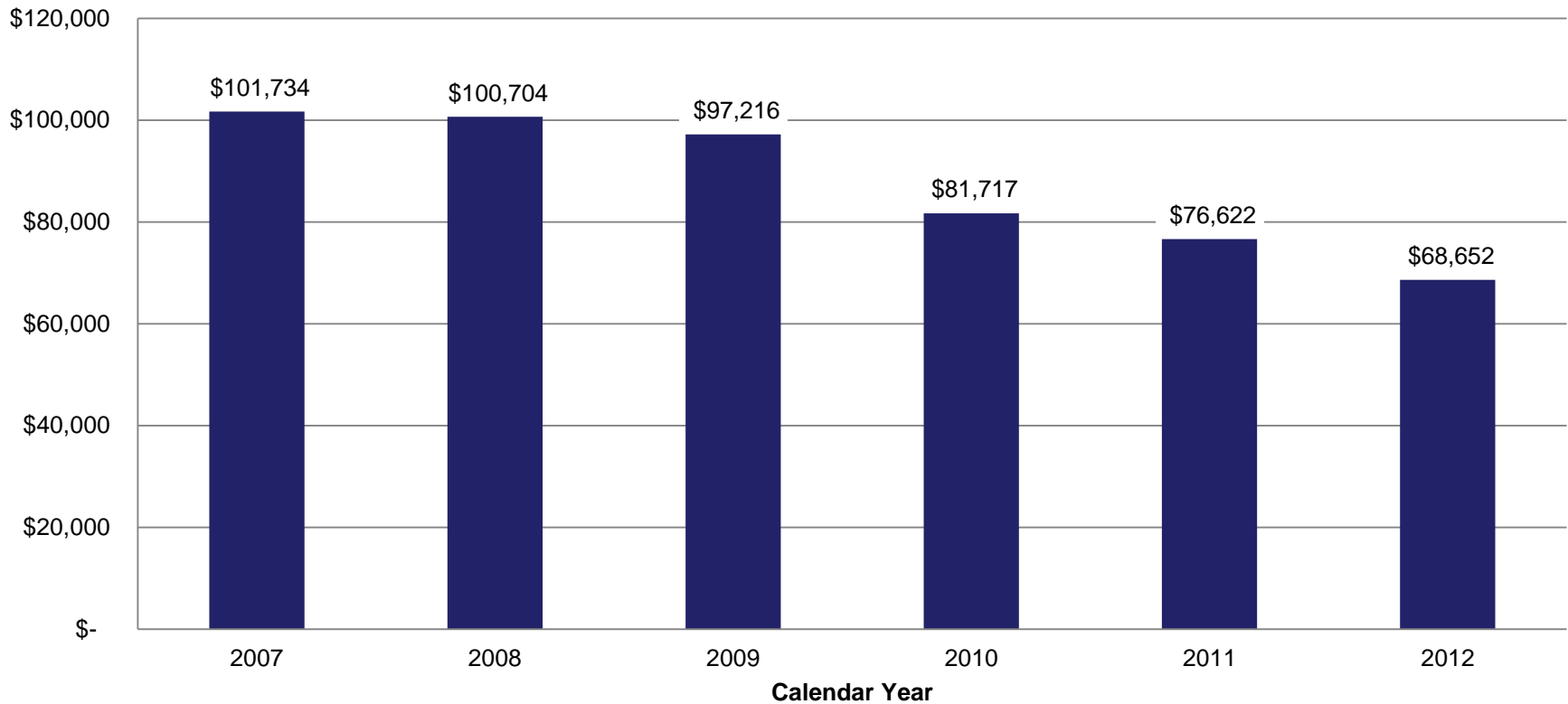
Wording, dates, and hyperlinks revised in form instructions for clarification

### Estimation Factor:

- 499-A instructions (Appendix A, Line 10)
- 499-Q instructions (Figure 1, Line 16)
- Used by filers to determine *de minimis* status
- Estimation factor for 2013: 0.162

2013 FCC Form 499-A Instructions (pg. 38)

## Minimum Interstate Revenue for USF Contributors



## Filing Schedule

Table 1 of the 2013 FCC Form 499-A instructions and Figure 2 of the 2013 FCC Form 499-Q instructions revised to clarify filing addresses for the FCC Form 499-A, FCC Form 499-Q, Traffic Studies, and the Consolidated Filer Certification

2013 FCC Form 499-A Instructions (pg. 5)

WHAT	WHEN	WHERE		
Completed FCC Form 499-A	April 1	<u>Data Collection Agent</u> c/o USAC <a href="http://forms.universalservice.org">http://forms.universalservice.org</a>		
Completed FCC Form 499-Q (contributors only)	February 1 May 1 August 1 November 1	<u>Data Collection Agent</u> c/o USAC <a href="http://forms.universalservice.org">http://forms.universalservice.org</a>		
Traffic studies relied on by providers to report interstate revenues on FCC Form 499-Q  See section III.C.3 for format and content requirements for traffic studies	February 1 May 1 August 1 November 1	<table border="0"> <tr> <td><u>File one copy with:</u> Data Collection Action c/o USAC form499@usac.org</td> <td><u>File one copy with:</u> Chief, Industry Analysis and Technology Division Wireline Competition Bureau Federal Communications Commission Room 6-A224 445 12th Street, S.W. Washington, D.C. 20554</td> </tr> </table>	<u>File one copy with:</u> Data Collection Action c/o USAC form499@usac.org	<u>File one copy with:</u> Chief, Industry Analysis and Technology Division Wireline Competition Bureau Federal Communications Commission Room 6-A224 445 12th Street, S.W. Washington, D.C. 20554
<u>File one copy with:</u> Data Collection Action c/o USAC form499@usac.org	<u>File one copy with:</u> Chief, Industry Analysis and Technology Division Wireline Competition Bureau Federal Communications Commission Room 6-A224 445 12th Street, S.W. Washington, D.C. 20554			
Consolidated filer certification. See section II.C for format and content requirements for consolidated filer certification	April 1	<u>Data Collection Agent</u> c/o USAC <a href="mailto:form499@usac.org">form499@usac.org</a>		



## Mergers

- FCC Form 499-A instructions revised to include language regarding the obligation of a successor company to report revenues for both the successor and acquired entity if acquired entity does not file its own FCC Form 499-A
- **New Language:** Where an entity obtains, by any means whatsoever, the telecommunications operations or customer base of a filer, **and the acquired company does not file its own FCC Form 499-A**, the acquiring company must report all telecommunications revenues associated with such operations or customer base including revenues billed in the calendar year prior to the date of acquisition

(2013 FCC Form 499-A Instructions – pg. 14)

## 499-A/Q True Up

- USAC will use combined FCC Form 499-Q revenues of both companies when calculating the purchasing company's FCC Form 499-A True Up if the acquired company does not file its own FCC Form 499-A
- If the acquired company does file its own FCC Form 499-A, FCC Form 499-Q revenues will be treated separately in the true-up calculations

## Ink Signature Requirement

- FCC Form 499-A instructions 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 using E-File
- **New Language:** All information provided in the Worksheet should be neatly printed in ink or typed. Please provide an original officer signature in ink on Line 606 **unless you are a company officer who has previously filed a signed paper form, in which case you may certify your form online.**

(2013 FCC Form 499-A Instructions – pg. 9)

## Rounding Percentages

- FCC Form 499-A instructions revised to delete instructions requiring revenues to be rounded to the nearest whole percent
- Consistent with the safe harbors for interstate/intrastate revenues, which are not whole numbers
- **Old Language (Removed): Percentages.** — Percentages reported in Block 3 and Block 4, columns (b) and (c), should be rounded to the nearest whole percent. For example, if the exact amount of interstate revenues for a line is not known, but the filer estimates that the ratio of interstate to total revenues was .425, then the figure 43% should be reported in column (b) and used for calculating the revenue amount reported in column (d).

## Holding Company and Affiliates

- All affiliated filers are required to have a common identifier, typically the name of a holding company or controlling entity.
- Checkbox added to 2013 FCC Form 499-A (Line 106.1) and FCC Form 499-Q (Line 105) where filers are instructed to mark the checkbox if they have no affiliate

106.1	Holding company name (All affiliated companies must show the same name on this line.)	Check if filer has no affiliates <input type="checkbox"/>
106.2	Holding company IRS employer identification number	[Enter 9 digit number]

- Definition of an affiliate has been added to FCC Forms 499-A and 499-Q instructions (same definition contained in section 3 of the Communications Act)

## Holding Company and Affiliates

**New Language:** Enter a common identifier for all affiliated filers, typically the name of the filer’s holding company or controlling entity, if any. All reporting affiliates or commonly owned entities should have the same holding company name and holding company IRS EIN appearing on Lines 106.1 and 106.2.

- Unless otherwise specifically provided, an affiliate is a “person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.” For this purpose, the term ‘owns’ means “to own an equity interest (or the equivalent thereof) of more than 10 percent.”
- If the filer has no affiliates, check the appropriate box on Line 106.

## Revenues from Affiliates

- Filers report gross billed revenues in Blocks 3 and 4 of the FCC Form 499-A and in Block 3 of the FCC Form 499-Q
- In 2005, the FCC added language to the FCC Forms 499 instructions limiting the definition of gross billed revenues
- **2005 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 purpose; or (2) the filer is providing service to an affiliate for resale and the affiliate is not a direct USF contributor.

## Revenues from Affiliates

- Revised FCC Form 499-A instructions delete this language
- Language not based on any FCC rule or decision
- Revisions will only be applied prospectively beginning with the filing of future FCC Forms 499-Q and the 2014 FCC Form 499-A that will be used to report annual revenues for 2013
- Filers excluding certain affiliate revenues from revenues projected on the 2012 FCC Forms 499-Q are not required to adjust that revenue information to reflect these revisions on the 2013 FCC Form 499-A due April 1, 2013



## Exchange Access Service

- Line 304 of the FCC Form 499-A instructions revised to list per-minute charges for originating or terminating VoIP/Public Switched Telephone Network (PSTN) traffic as a type of per-minute originating and terminating charge reportable
- Changes to the 2013 FCC Form 499-A instructions do not require filers to split reporting of charges related to VoIP-PSTN traffic
- **New Language:** Line 304 should include per-minute charges for originating or terminating calls, **including charges related to originating or terminating VoIP-PSTN traffic.**

## Bundled Services of Interconnected VoIP Providers

- FCC Form 499-A instructions for Line 404 revised to clarify appropriate treatment of revenue from bundled services by interconnected VoIP providers
- **New Language: Interconnected VoIP providers not reporting based on the safe harbor that bundle fixed local exchange service with interstate toll services at a unitary price must determine the appropriate portion of revenues to allocate to interstate and international toll service, in a manner that is consistent with their supporting books of account and records.**

## Subscriber Line Charges

- Language deleted from FCC Form 499-A instructions for Line 404 (neither the FCC's formal separations process governing how Incumbent Local Exchange Carriers (ILECs) assign their costs to intrastate and interstate jurisdictions, nor the access charge rules that govern how ILECs recover costs from customers apply to non-ILEC contributors)
- Non-ILECs not required under FCC rule or order to charge a SLC to customers

## Subscriber Line Charges

**Old Language (Removed)**: 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 404.1–404.5.

2012 FCC Form 499-A Instructions – pg. 15

## Subscriber Line Charges

**New Language:** Line 405 should include charges to end users specified in access tariffs, such as tariffed subscriber line charges (SLCs), Access Recovery Charges (ARCs), and Primary Interexchange Carrier Charges (PICCs) levied by a local exchange carrier on customers that are not presubscribed to an interexchange carrier (i.e., a no-PIC customer). Note that federal SLCs are separate from toll revenues. Line 405 should not include charges to end users for special access services (which are reported on Line 406). **The Commission does not regulate how non-incumbent LECs recover the costs of the local loop, nor does it require non-incumbents to assess a non-traffic sensitive charge for the costs of providing interstate or interstate access service from their customers through a separately stated end user charge. To the extent non-incumbent contributors choose to assess a separately stated charge for the interstate portion of fixed local exchange service or interstate exchange access, they should report such revenues on Line 405 and allocate those revenues to the interstate jurisdiction, for USF contribution reporting purposes, in a manner that is consistent with their supporting books of account and records.** Telecommunications providers that do not have SLC, ARC or PICC tariffs on file with the Commission or with a state utility commission, that are not reselling such tariffed charges, or that do not have separately stated charges for the interstate portion of fixed local exchange service or interstate exchange access should report \$0 on Line 405.

2013 FCC Form 499-A Instructions – pg. 16

## Access Recovery Charges (ARC)

- FCC Form 499-A instructions for Line 405 revised to specify that ARCs of ILECs should be reported on Line 405 and that ARC will be generally applied in the same manner as the SLC charge reported on Line 405
- **New Language:** Line 405 should include charges to end users specified in access tariffs, such as tariffed subscriber line charges (SLCs), Access Recovery Charges (ARCs), and Primary Interexchange Carrier Charges (PICCs) levied by a local exchange carrier on customers that are not presubscribed to an interexchange carrier (i.e., a no-PIC customer).

## Special Access on Common Carrier Basis

- FCC Form 499-A instructions for Line 406 revised to remind filers that revenues derived from the sale of special access services on a common carrier basis to providers of retail broadband Internet access service should be reported on Line 406
- Revisions do not require contributors to report special access provided to broadband providers on a common carriage basis separately from special access provided to other customers on a common carriage basis, nor do the instructions alter in any way the FCC's treatment of broadband Internet access service as an information service not subject to USF contribution obligations

## Special Access on Common Carrier Basis

**New Language:** Filers 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.<sup>44</sup>

Footnote <sup>44</sup> - Pursuant to the Wholesaler-Reseller Clarification Order, prior to January 1, 2014, providers may report revenues from special access services provided on a common carrier basis consistent with their reliance on reseller certifications based on the sample reseller certification language in the 2012 FCC Form 499-A instructions.

2013 FCC Form 499-A Instructions – pg. 17



## Carrier's Carrier Revenues

- FCC Form 499-A instructions revised to provide additional examples of intercarrier compensation reported in Block 3, but for which the filer is not required to retain Filer ID information or verify that the customer is a reseller

## Carrier's Carrier Revenues

- **New Language:** Except as noted below, most categories of revenues require the filer to determine whether the customer purchasing the telecommunications is a contributing reseller or instead an end user. **The following categories of revenues are intercarrier compensation (not end user revenue) and are reported in Block 3: Per-minute switched access charges and reciprocal compensation (report on Line 304); revenues received from carriers as payphone compensation for originating toll calls (report on Line 306); revenues that filers receive as universal service support from either states or the federal government (report on Line 308); revenues received from another U.S. carrier for roaming service provided to customers of that carrier (report on Line 309); charges for physical collocation of equipment pursuant to 47 U.S.C. § 251(c)(6) (report on Line 307). For these revenue items, the filer is not required to retain Filer 499 ID information or verify that the customer is a reseller.**

## Carrier's Carrier Revenues

- FCC has affirmed, clarified, and made some changes regarding reporting wholesale/reseller revenues
- For 2013 FCC Form 499-A reporting purposes, there have been no changes from the 2012 FCC Form 499-A instructions with respect to the reporting of revenues as Carrier's Carrier in Block 3
- **New Language:** Pursuant to the recent 2012 Wholesaler-Reseller Clarification Order,<sup>55</sup> providers may demonstrate a reasonable expectation through December 31, 2013, that particular customers were resellers by relying on certificates that are consistent with the sample language included in the 2012 FCC Form 499-A instructions....

<sup>55</sup> See 2012 Wholesaler-Reseller Clarification Order, FCC 12-134, at para. 41.

2013 FCC Form 499-A Instructions – pg. 23

## Consistency in Traffic Study or Safe Harbor Elections

- FCC Forms 499 instructions revised to clarify the requirement that the same election made by a filer on its FCC Forms 499-Q to use either a safe harbor or traffic studies to project revenues for a particular quarter must be used on the filer's FCC Form 499-A for reporting historical revenues for that particular quarter
- FCC Form 499-Q (line 114) revised to include a check box when filers use safe harbors for reporting revenue allocations

## Consistency in Traffic Study or Safe Harbor Elections

**New Language:** Filers should use the same methodology (traffic study or safe harbor) to report interstate and international jurisdictions on the FCC Form 499-A as used on the FCC Form 499-Qs to forecast revenue in each quarter of the applicable calendar year. For example, if a filer projected revenue based on a safe harbor for the first two quarters and based on traffic studies for the final two quarters, the amounts reported in the FCC Form 499-A for the first two quarters would be based on actual billings for those quarters and the relevant safe harbors, and the amounts reported for the final two quarters would be based on actual billings for those quarters and the traffic studies for those quarters. For filers who were not required to file the FCC Form 499-Q, the interstate and international jurisdictions reported on the FCC Form 499-A must be based on information that is current for the filing period.

2013 FCC Form 499-A Instructions – pg. 25

## Traffic Studies

- Page 26 of the FCC Form 499-A instructions revised
- Page 17 of the FCC Form 499-Q instructions revised
- Revisions made to include format headings to be used when filing traffic studies
- Helps match a particular traffic study with a filer's corresponding FCC Form 499-A or FCC 499-Q

## Traffic Studies

**New Language: 499-A instructions** – In addition, filers that rely on traffic studies must submit those studies to the [FCC] and USAC (*see Table 1* for filing instructions -including address for filing traffic studies, and filing deadlines). To enable USAC and the FCC to match traffic studies filed by contributors with their FCC Form 499 filings, please include the following identifying information at the top of each page of the traffic study: Filer ID; Company Name; Holding Company (where applicable).

## Traffic Studies

**New Language: 499-Q instructions** – To enable USAC and the FCC to match traffic studies filed by contributors with their FCC Form 499 filings, please include the following identifying information at the top of each page of the traffic study: Filer ID; Company Name; Holding Company (where applicable).

2013 FCC Form 499-A Instructions – pg. 17

**Line 114** – Use this line to indicate if filer is using safe harbors to allocate revenues (on Lines 119 and 120) between interstate and intrastate jurisdictions. Select all that apply. See instructions above for the use of safe harbors.

2013 FCC Form 499-A Instructions – pg. 17



## Percentage of Revenues Billed Per Region

- Lines 503-510 of the FCC Form 499-A require filers to report the percentage of telecom revenues billed by Local Number Portability Administration (LNPA) region
- Page 28 of the 2013 FCC Form 499-A instructions revised to clarify that filers may use customer billing addresses to calculate or estimate this percentage

## Percentage of Revenues Billed Per Region

**New Language:** Customer billing addresses may be used to calculate or estimate this percentage. The percentages in column (a), representing Block 3 revenues billed in each region of the country, should add 100% unless the filer did not provide any services for resale by other contributors to the federal universal service support mechanisms. The percentages in column (b), representing Block 4 telecommunications service revenues billed in each region of the country (excluding non-telecommunications revenues reported on Line 418) should add to 100% unless the filer did not provide any telecommunications services to end users or non-contributing carriers.

105 Holding company [All affiliated companies should show same name here.]		Check if filer has no affiliates: <input type="checkbox"/>	
105.1 Holding company IRS employer identification number		[Employer identification number]	
106 Filer's FCC Registration Number (FRN)		[Employer identification number]	
107 Complete mailing address of reporting entity, including corporate headquarters			
<b>Block 2: Contact Information</b>			
108 Person who completed this work		<div style="background-color: yellow; padding: 5px;"> <b>Line 105:</b> Added check box if filer has no affiliates  <b>Line 105.1:</b> Added holding company IRS EIN         </div>	
109 Telephone number of this person			
110 Fax number of this person		( ) -	
111 Email of this person			
112 Billing address and billing contact person: [Bills for Universal Service contributions will be sent to this address.]			
<b>Block 3: Contributor Historical and Projected Revenue Information</b>			
113 Indicate which quarterly filing this represents	<input type="checkbox"/> Filing due November 1, 2012	Historical revenues (lines 115-118) for July 1 – September 30, 2012	Projected revenues (lines 119-120) for January 1 – March 31, 2013
	<input type="checkbox"/> February 1, 2013	October 1 – December 31, 2012	April 1 – June 30, 2013
	<input type="checkbox"/> May 1, 2013	January 1 – March 31, 2013	July 1 – September 30, 2013
	<input type="checkbox"/> August 1, 2013	April 1 – June 30, 2013	October 1 – December 31, 2013
114 Check if using safe harbor to allocate interstate/intrastate revenues for each of the following (as applicable): Cellular & broadband PCS: <input type="checkbox"/> Paging: <input type="checkbox"/> Analog SMR: <input type="checkbox"/> Interconnected VoIP: <input type="checkbox"/>			

105 Holding company [All affiliated companies should show same name here.]	Check if filer has no affiliates: <input type="checkbox"/>
105.1 Holding company IRS employer identification number	[Enter 9 digit number]
106 Filer's FCC Registration Number (FRN)	[Enter 10 digit number]
107 Complete mailing address of reporting entity's corporate headquarters	

**Block 2: Contact Information**

108 Person who completed this work	<b>Line 113: Year of historical revenue information (Removed)</b> <b>Line 113: Added year to box used to indicate which quarterly filing this represents</b>
109 Telephone number of this person	
110 Fax number of this person	
111 Email of this person	
112 Billing address and billing contact person: [Bills for Universal Service contributions will be sent to this address.]	

**Block 3: Contributor Historical and Projected Revenue Information**

113 Indicate which quarterly filing this represents	<u>Filing due</u>	<u>Historical revenues (lines 115-118) for</u>	<u>Projected revenues (lines 119-120) for</u>
<input type="checkbox"/>	November 1, 2012	July 1 – September 30, 2012	January 1 – March 31, 2013
<input type="checkbox"/>	February 1, 2013	October 1 – December 31, 2012	April 1 – June 30, 2013
<input type="checkbox"/>	May 1, 2013	January 1 – March 31, 2013	July 1 – September 30, 2013
<input type="checkbox"/>	August 1, 2013	April 1 – June 30, 2013	October 1 – December 31, 2013

114 Check if using safe harbor to allocate interstate/intrastate revenues for each of the following (as applicable):

Cellular & broadband PCS:     Paging:     Analog SMR:     Interconnected VoIP:

105 Holding company [All affiliated companies should show same name here.]	Check if filer has no affiliates: <input type="checkbox"/>
105.1 Holding company IRS employer identification number	[Enter 9 digit number]
106 Filer's FCC Registration Number (FRN)	[Enter 10 digit number]
107 Complete mailing address of reporting entity's corporate headquarters	

**Block 2: Contact Information**

108 Person who completed this worksheet	First	MI	Last
109 Telephone number of this person	( ) -		
110 Fax number of this person	( ) -		
111 Email of this person			
112 Billing address and billing contact [Bills for Universal Service contributions will be sent to this address.]			

**Line 114:** Use this line to indicate if filer is using safe harbors to allocate revenues (on Lines 119 and 120) between interstate and intrastate jurisdictions – select all that apply See instructions above for use of safe harbors (Added)

**Block 3: Contributor Historical and**

113 Indicate which quarterly filing this represents	<u>Filing due</u>	<u>Historical revenues (lines 115-118) for</u>	<u>Projected revenues (lines 119-120) for</u>
<input type="checkbox"/>	November 1, 2012	July 1 – September 30, 2012	January 1 – March 31, 2013
<input type="checkbox"/>	February 1, 2013	October 1 – December 31, 2012	April 1 – June 30, 2013
<input type="checkbox"/>	May 1, 2013	January 1 – March 31, 2013	July 1 – September 30, 2013
<input type="checkbox"/>	August 1, 2013	April 1 – June 30, 2013	October 1 – December 31, 2013

114 Check if using safe harbor to allocate interstate/intrastate revenues for each of the following (as applicable): Cellular & broadband PCS: <input type="checkbox"/> Paging: <input type="checkbox"/> Analog SMR: <input type="checkbox"/> Interconnected VoIP: <input type="checkbox"/>
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# 2013 USF Contributions

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# 2012 FCC USF Contribution Proceedings

## FNPRM FCC 12-46

- April 30, 2012: FCC released Further Notice of Proposed Rulemaking (FNPRM) seeking comments (and reply) on proposals to reform the federal USF contribution system
- Comments due July 9, 2012 – reply comments due August 6, 2012
- FCC inquired regarding the following:
  - Who should contribute to the federal USF
  - How contributions should be assessed
  - How administration of the contribution system could be improved
  - Recovery of federal USF contributions from end users
- Visit FCC website for details, copies of comments, etc.
- Final FCC federal contribution reform order has not yet been issued

## **FCC Wholesaler-Reseller Clarification Order (FCC 12-134)**

November 5, 2012: FCC released Wholesaler-Reseller Clarification Order addressing requests regarding federal USF contribution obligations of wholesale providers and their customers.



## FCC Wholesaler-Reseller Clarification Order (FCC 12-134)

### Main findings:

1. FCC affirmed the definition of “reseller” in the FCC Form 499-A instructions attached to 1997 Second Order on Reconsideration
  - “Reseller” is an entity that: (1) incorporates purchased telecom into its own service offerings; and (2) can reasonably be expected to contribute to the federal USF based on revenues from those offerings.
  - In order to classify revenues from wholesale services as being carrier’s carrier revenues (and thus exempt from contributions), wholesale provider must either have “affirmative knowledge” or “reasonable expectation” that customer is itself contributing to the federal USF on revenues derived from purchased wholesale services.
  - The FCC clarified that the relevant time period for the "reasonable expectation" analysis is the period during which a wholesale provider collects and submits the revenue data at issue to USAC.

## FCC Wholesaler-Reseller Clarification Order (FCC 12-134)

2. A wholesale provider can meet the reasonable expectation standard by:
  - Complying with all guidance provided in the FCC Form 499-A instructions, which the FCC affirms constitutes a "safe harbor;" i.e., wholesale providers that comply with all of these procedures will be deemed to have satisfied the reasonable expectation requirement.
  - Demonstrating that it has "other reliable proof." "Under the "other reliable proof" standard, USAC should review all evidence submitted on a case-by-case basis to determine if a filer has presented clear and convincing evidence that it had a reasonable expectation that its customer is itself contributing to the federal USF on revenues derived from the wholesale services purchased from the filer.

## FCC Wholesaler-Reseller Clarification Order (FCC 12-134)

3. FCC provided guidance on how to proceed when a wholesale provider demonstrates reasonable expectation that customer is contributing to the federal USF on revenues derived from services incorporating wholesale input, but customer did not do so – FCC affirmed wholesale provider is NOT responsible for outstanding contribution obligations
4. FCC provided guidance on how to proceed when a wholesale provider cannot demonstrate reasonable expectation, but customer did contribute to the federal USF based on the services incorporating wholesale input – USAC should not attempt to recover additional contributions from wholesale provider

## FCC Wholesaler-Reseller Clarification Order (FCC 12-134)

### Future Changes to Reasonable Expectation Standard

- “We do not read the existing definition of "reseller" so broadly that it would enable a company to certify it is a reseller if it contributes on any of its product offerings that may incorporate wholesale inputs. Such a broad reading, in the extreme case, would allow a carrier to claim reseller status for all of its wholesale inputs even though it only contributed on a small fraction of its product offerings. For example, if a customer purchases a DS1 line and incorporates that service into an offering of broadband Internet access service, it is *not* a reseller for purposes of that line because it has no obligation to contribute on those broadband Internet access service revenues. This is true even if the customer contributes to the Fund based on revenues from other lines. In contrast, a customer is a reseller if it purchases a DS1 line and incorporates it into an offering of telephone service (and contributes on that resale), even if it also provides broadband Internet access service on that line.”

*Wholesaler-Reseller Clarification Order, FCC 12-134, Footnote 11*

## FCC Wholesaler-Reseller Clarification Order (FCC 12-134)

### Future Changes to Reasonable Expectation Standard

- The FCC will “consider it sufficient for providers to demonstrate a reasonable expectation that particular customers were resellers by relying on certificates that are consistent with the sample language in the 2012 FCC Form 499-A instructions through December 31, 2013.”

*Wholesaler-Reseller Clarification Order, FCC 12-134, at 19*

## 2013 USF Contributions

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# **2013 FCC Forms 499 A/Q True Up Process**

	Interstate Revenue (Line 423D)		International Revenue (Line 423E)		Contribution Base
2013 499-A	\$2,377,064	+	\$19,218	=	\$2,396,282
	Interstate Revenue (Line 120B)		International Revenue (Line 120C)		Contribution Base
Nov 11 499-Q	\$621,080	+	\$7,495	=	\$628,575
Feb 12 499-Q	\$603,005	+	\$4,978	=	\$607,983
May 12 499-Q	\$623,264	+	\$4,627	=	\$627,891
Aug 12 499-Q	\$639,772	+	\$4,211	=	\$643,983
2012 499-Q Contribution Base	\$2,487,121	+	\$21,311	=	\$2,508,432

## 2012 Avg. Contribution & Circularity Factors

Avg. of 2 highest FCC contribution Factors	.176500
Avg. of 2 lowest FCC Contribution Factors	.165500
Avg. of 2 FCC Circularity Factors associated with 2 high FCC Contribution Factors	.152062
Avg. of 2 FCC Circularity Factors associated with 2 low FCC Contribution Factors	.144271
Avg. of all FCC Contribution Factors	.171000
Avg. of all FCC Circularity Factors	.148166

## The Process

**Step 1:** Determine whether a company is *de minimis* for purposes of the FCC Forms 499-A/Q True Up using the following formula:

$$(499-A * .171000) - (499-A * .171000 * .148166)$$

- If result is < \$10,000, contributor is *de minimis*, and the January-December 2012 support mechanism charges will be reversed on the contributor's July 2013 invoice
- If result is > or = \$10,000, contributor is NOT *de minimis*; continue to step 2.

**Example:**  $(\$2,396,282 * .171000) - (\$2,396,282 * .171000 * .148166) = \$348,905.43$

$\$348,905.43 > \$10,000 =$  **Not De Minimis**

NOTE: For calendar year 2012, Interstate Revenues greater than **\$68,651.00** are not *de minimis*.



## The Process

**Step 2:** Determine which FCC contribution factor, and associated FCC Circularity factor, to use in True Up calculation – it will be used to replace the “Average FCC Contribution Factor” in step 3

- Average of 2 highest FCC Contribution Factors and associated average FCC Circularity Factor should be used if  $(499-A) > (Q1 + Q2 + Q3 + Q4)$
- Average of 2 lowest FCC Contribution Factors and associated average FCC Circularity Factor should be used if  $(499-A) < (Q1 + Q2 + Q3 + Q4)$
- Average of all 4 FCC Contribution Factors and associated average FCC Circularity Factor should be used if  $(499-A) = (Q1 + Q2 + Q3 + Q4)$

**Example:**  $(\$2,396,282) < (\$628,575 + \$607,983 + \$627,891 + \$643,983)$

**Average of 2 lowest FCC Contribution Factors and associated average FCC Circularity Factor should be used**

## The Process

**Step 3:** True Up formula for calculating credits or adjustments is:

$(499-A) - (Q1 + Q2 + Q3 + Q4) = \text{True Up Base}$

$(\text{True Up Base} * \text{Average FCC Contribution Factor}) - (\text{True Up Base} * \text{Average FCC Contribution Factor} * \text{Average FCC Circularity Factor}) =$   
Quarterly Credit or Adjustment

$\text{Quarterly Credit or Adjustment} / 3 = \text{Monthly Credit or Adjustment}$

**Example:**

$(\$2,396,282) - (\$628,575 + \$607,983 + \$627,891 + \$643,983) = -\$112,150$

$(-\$112,150 * .165500) - (-\$112,150 * .165500 * .144271) = -\$15,883.04$

$-\$15,883.04 / 3 = -\$5294.35$

**Company will receive three -\$5294.35 credits on July – September 2013 invoices**

**QUESTIONS?**