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Question 1: Rules for Customer USF Fees

What kinds of requirements/rules are imposed on passing USF fees through to customers' invoices?

Federal USF Fee Orderid: 2166903	1.50
Service from 03/16/2003 to 04/16/2003	
	---------
7 — Total Current Charges	61.45
	=========
8 — Account Balance	61.45

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Answer 1

- The FCC has adopted a series of requirements known as the "Truth in Billing" rules.
- The Truth in Billing rules include a number of requirements for providers choosing to pass USF fees through to customers in the form of a separate line item surcharge.
- Importantly, any USF line item recovery must:
  - **Not be marked up above the effective quarterly USF contribution factor** (in other words, if the contribution rate is 17.4%, provider can only collect 17.4% x assessable revenue, not a fraction of a % more)
  - **Not assess any individual customer an amount for USF that is greater than the provider's actual USF contribution for that customer** (the line item must not be greater than the total interstate (& in some cases international) end-user telecom/I-VoIP revenues on that customer's invoice times the applicable contribution factor)
  - **Not be described as a mandatory recovery fee or "tax"** (should be accurately described as a "Universal Service Fund Charge" or "USF Fee")

Question 2: Calculating USF Fees

How do the USF safe harbor rates translate to a customer's invoice?

2015 Instructions to the Telecommunications Reporting Worksheet, FCC Form 499-A

information that is current for the filing period. Information supporting good-faith estimates must be made available to either the FCC or to the administrators upon request. Using the good-faith estimate, calculate the amount of interstate revenues as the amount in column (a) times the percentage in column (b), and calculate the amount of international revenues as the amount in column (a) times the percentage in column (c). Enter zero dollars in columns (d) and (e) if and only if there were no interstate or international revenues for the line for the reporting period.

The FCC provides the following safe harbor percentages of interstate revenues associated with Line 309, Line 409, and Line 410:[65]

37.1% of cellular and broadband PCS telecommunications revenues
12.0% of paging revenues
1.0% of analog SMR dispatch revenues

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Answer 2

- If a provider uses a safe harbor to jurisdictionalize revenues (i.e. wireless or I-VoIP service revenues), USAC expects the provider to collect no more than **the effective quarterly contribution factor times the interstate end-user telecom/I-VoIP revenues (as determined by the application of the safe harbor) on each customer invoice.** In other words, effective contribution factor x "assessable revenue" reflected on invoice.
- Example: if an end-user customer purchases $100 of I-VoIP services from a provider, and the provider uses the safe harbor to jurisdictionalize revenues for reporting purposes, USAC expects the provider to collect no more than **$11.29** in USF fees from that customer.
  - *$100 (retail revenue) x .649 (apply safe harbor to arrive at "assessable revenue") x .174 (current USF contribution factor) = $11.29.*

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Question 3- Taxation of Dark Fiber Lease in North Carolina

What are the North Carolina General Sales Tax consequences of the lease of dark fiber [paid either on a monthly basis or up front as part of an Indefeasible Right of Use (IRU) agreement]?

Answer 3

- There is no formal guidance from the North Carolina Dept. of Revenue on this issue.
- We have been advised informally that a lease of dark fiber is likely to be considered a lease of tangible personal property and therefore <u>taxable for sales tax purposes</u>.
- If, however, the fiber in question is permanently attached to real property, it could escape taxation.
  - *North Carolina defines tangible personal property as "all personal property that is not intangible and that is not permanently affixed to real property."*
  - *While many states have clarified whether wires/cables qualify as real property, North Carolina has not.*
- In order to receive definitive guidance, you would have to request and receive a private letter ruling from the Department of Revenue.

Question 4 – LIRE Qualification

Is LIRE, once lost, forever lost?

Or is the exemption reviewed annually?

For example, can a company qualify for LIRE one year, then lose the exemption the following year, but be able to re-qualify for LIRE in a subsequent year?

Limited International Revenue Exemption (LIRE)

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Answer 4

- LIRE is actually evaluated on a quarterly basis.
  - *USAC looks at the interstate and international end-user revenues of a filer and all filer affiliates (10% or greater common ownership) with every Form 499-Q filing to determine whether the carrier qualified for LIRE that quarter.*
  - *Once lost, LIRE is <u>not</u> lost forever. Because it is evaluated on a quarterly basis, a filer can qualify for LIRE one quarter, fail to qualify the next, then qualify again the third quarter (for example).*
  - *BUT, once LIRE is lost and USAC issues series of 3 invoices, those invoices must be paid in full, EVEN IF provider regains LIRE status in time for annual 499-A "true-up."*

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Question 5 – Definition of "Affiliates" for LIRE Qualification Purposes

If a U.S. telecom entity has foreign "affiliates," would the revenue of these foreign affiliates be considered in evaluating the group's LIRE qualification?

- *If included, would only the foreign affiliates' international revenue be considered?*
- *Does the answer depend on whether the foreign affiliate's customer is located in the U.S.?*

Answer 5

For purposes of determining LIRE qualification, the FCC considers only the interstate and international end-user telecom/I-VoIP revenue of all affiliated **FILERS** – filers listing an affiliated "filer" or holding company on Line 106 of the Form 499-A.

- *International revenue includes all revenue that either originates or terminates in the U.S.*
  - If a company derives revenue from U.S. origination or termination services (even when provided to a non-U.S. customer), the company is required to have a 214 license, 499 and must file 499s/pay USF on assessable revenue
- *Both international and interstate revenue of an "affiliate group" is pooled to determine if the group, as a whole, qualifies for LIRE*

SIDE NOTE: If your company is ever in jeopardy of losing LIRE, contact us *BEFORE* you lose it. We know of options for enhancing LIRE qualification, but these must be explored before LIRE is lost to mitigate risks.

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2015 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting 2014 Revenues)

>>> Please read instructions before completing.<<<

Annual Filing -- due April 1, 2015

Block 1: Contributor Identification Information	During the year, filers must refile Blocks 1, 2 and 6 if there are any changes in Lines 104 or 112. Se

101	Filer 499 ID [If you don't know your number, contact the administrator at (888) 641-8722. If you are a new filer, write "NEW" in this block and a Filer 499 ID will be assigned to you.]	
102	Legal name of filer	
103	IRS employer identification number	[Enter 9 digit number]
104	Name filer is doing business as	

105 Telecommunications activities of filer [Select up to 5 boxes that best describe the reporting entity. Enter numbers starting with "1" to show the order of importance -- see instructi

☐ Audio Bridging (teleconferencing) Provider ☐ CAP/CLEC ☐ Cellular/PCS/SMR (wireless telephony inc. b

☐ Coaxial Cable ☐ Incumbent LEC ☐ Interconnected VoIP ☐ Interexchange Carrier (IXC) ☐ Lo

☐ Non-Interconnected VoIP ☐ Operator Service Provider ☐ Paging & Messaging ☐ Payphone Service Provider ☐ Pr

☐ Private Service Provider ☐ Satellite Service Provider ☐ Shared-Tenant Service Provider / Building LEC ☐ SM

☐ Toll Reseller ☐ Wireless Data ☐ Other Local ☐ Other Mobile ☐ Ot

If Other Local, Other Mobile or Other Toll is checked
describe carrier type / services provided:

106.1	Affiliated Filers Name/Holding Company Name (All affiliated companies must show the same name on this line.)	Check if filer has no affiliates ☐
106.2	Affiliated Filers Name/Holding Company Name IRS employer identification number	[Enter 9 digit number]
107	FCC Registration Number (FRN) [https://fjallfoss.fcc.gov/coresWeb/publicHome.do] [For assistance, contact the CORES help desk at 877-480-3201 or CORES@fcc.gov]	[Enter 10 digit number]
108	Management company [if filer is managed by another entity]	
109	Complete mailing address of reporting entity corporate headquarters	Street1 Street2

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Question 6 – Reporting of Private Carriage Revenues

- Is a private carrier that sells dedicated circuits (MPLS, Ethernet etc.) required to report the revenue of such services on Line 406 and contribute to the USF on this revenue?

- Does the company's private carrier status exempt it from reporting and contributing to the USF on this revenue?

Answer 6

- A carrier is not "exempt" from reporting revenues on the Form 499-A because it is a private carrier. Revenue from private carriage telecommunications is subject to USF contributions.
  - *However, revenue* <u>*is exempt*</u> *from the other Title II Funding mechanisms (TRS, NANP, LNP).*
  - *FCC Regulatory Fees??*
- Private carriage and "private line" service are two distinct concepts. We will discuss private line reporting in response to some of the other questions raised.
- Private carriage questionnaire.

Question 7 – Reporting of Private Line Revenues

If a private carrier must report revenue from dedicated circuits (MPLS, Ethernet etc.) as special access services on line 406, would the company report services that may originate or terminate outside the U.S. as international?

- *Or, would they be reported in Line 415?*

Answer 7

For circuits with one end point in the U.S. and one endpoint abroad, there are a couple of approaches to jurisdictionalizing the revenue associated with provisioning services over the circuit.

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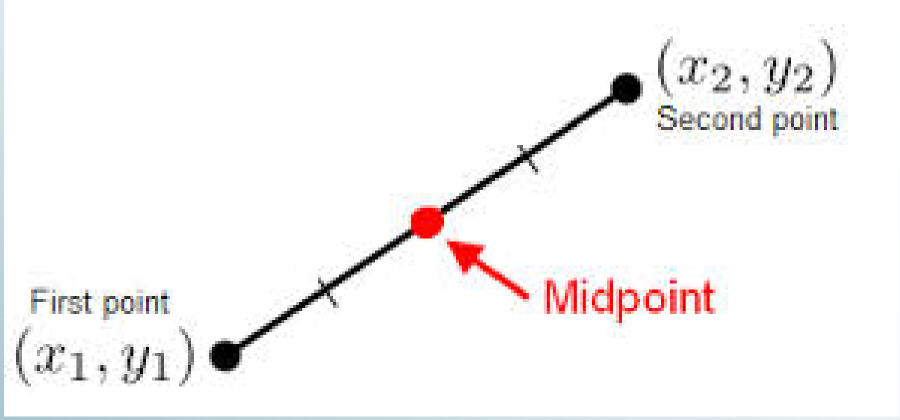
Answer 7 – Option 1

- Option 1: Report using the **theoretical mid-point approach.**
  - *Under this approach, half of the revenue from the circuit is attributed to the U.S. end point to the mid point and treated as interstate revenue.*
  - *The revenue from the other half of the circuit is considered foreign revenue and reported on Line 418.3.*
  - *The interstate portion would be reported on Line 415.*



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2015 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting 2014

Block 4-A: Continued

		Total Revenues (a)
Toll services		
411	Prepaid calling card (including card sales to customers) and non-carrier distributors) reported at face value of cards	
412	International calls that both originate and terminate in foreign points	
413	Operator and toll calls with alternative billing arrangements (credit card, collect, international call-back, etc.) other than revenues reported on Line 412	
	Ordinary long distance (direct-dialed MTS, customer toll-free (800/888 etc.) service, "10-10" calls, associated monthly account maintenance, PICC pass-through, and other switched services not reported above)	
414.1	All, other than interconnected VoIP, including, but not limited to, itemized toll on wireline and wireless bills	
414.2	All interconnected VoIP long distance, including, but not limited to, itemized toll	
415	Long distance private line services	
416	Satellite services	
417	All other long distance services	
	Revenues other than U.S. telecommunications revenues, including information services, inside wiring maintenance, billing and collection, customer premises equipment, published directory, dark fiber, Internet access, cable TV program transmission, foreign carrier operations, and non-telecommunications revenues (See instructions)	
418.1	bundled with circuit switched local exchange service	
418.2	bundled with interconnected VoIP local exchange service	
418.3	Other	
418.4	non-interconnected VoIP revenues not included in any other category	

Answer 7 - Option 2

Option 2: Allocate revenues based **<u>on an end-to-end analysis.</u>**

- *FCC precedent supports relying on the general "end-to-end" analysis for reporting revenue.*
- *However, there are some Form 499-A instructions that contradict the traditional "end-to-end" approach.*
  - First, with respect to a circuit located in the U.S. that connects to a circuit overseas, the instructions indicate that the revenues from that circuit with A and Z points in the U.S. would be interstate.
  - Second, when it comes to a circuit with A and Z points within a state, USAC/the FCC will look to transmission endpoints to pull that revenue into the interstate bucket.
  - For example, if a private line circuit located physically within a state carries Internet traffic – the revenue is interstate. If that circuit carries interstate long distance phone calls, same thing. But if that circuit then connects to an overseas circuit, somehow the instructions point you back to physical endpoints of the circuit.

Question 8 – Jurisdictionalization of Private Lines

Can private line service having end points located in the same state reasonably be classified as "intrastate service" for purposes of USF revenue classification and reporting?

- *Why or why not?*

Answer 8

- Not necessarily.
- USAC will **<u>reject</u>** an end-to-end jurisdictionalization approach **<u>unless</u>** the Company has a reasonable and documented basis for determining that the traffic on the circuit remains within the state.
- It is a good practice for companies to separate out their intrastate circuits into two categories:

  (1) those for which there is evidence that all (or more than 90%) of the traffic is intrastate <u>and</u>

  (2) those that carry jurisdictionally mixed traffic.

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Answer 8 - Continued

- To support reporting **100% of the revenue as intrastate,** you should identify whether several factors are true. These include:
  - Whether the circuit is configured as a closed network
  - Whether the circuit interfaces with the company's POP
  - Whether the network connects to the Internet
  - Where you can produce a traffic study showing that 90% or more of the traffic is intrastate
  - Whether you can obtain customer certification that 90% or more of the traffic is intrastate etc.
- For circuits that carry jurisdictionally mixed traffic, you can either report 100% of the revenue as interstate OR you could employ an allocation between jurisdictions.
- Absent certifications or other documentary evidence (such as a traffic study), a 50/50 split could be used – but this approach is not without risk and run the chance of rejection from USAC.

Question 9

On what Line of the Form 499-A should a carrier report revenues from services that originate and terminate in foreign points?

- *What revenues are reported on line 412 (i.e. what does the Form 499-A instruction mean by "international calls that traverse the US but both originate and terminate in foreign points")?*

Revenues from Services that Originate and Terminate in Foreign Points

Answer 9

- If it does not pass through the U.S., then traffic (from any service) that originates and terminates outside the U.S. would not be separately reported on the Form.
- Traffic that both originates and terminates outside of the U.S., but merely runs through the U.S. (for example, via a switch located in the U.S.) would be reported in Line 412.

2015 FCC Form 499-A Telecommunications Reporting Worksheet (Reporting 2014

Block 4-A: Continued

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418.4	non-interconnected VoIP revenues not included in any other category	

Question 10 – Private Service Provider Reporting

- Are private service providers required to file an “International Traffic Data Report” and/or the FCC PIU Certification to report for Prepaid Calling Card sales?
  - *If not, why?*

Answer 10

- International Traffic Report: Only common carriers must file.
  - *Private, non-common carriers that hold a 214 Authorization have to complete the FCC website filing (which is basically a contact update survey). But they do not have to report any data to the FCC.*
- PIU Certifications: These have been phased out, so there is no need for Prepaid Calling Card providers to file the PIU Certification.
  - *There is an FUSF Certification requirement still in effect, but this is only applicable to filers that have a history of late filing of 499s or late payment of FUSF contributions.*
    - The FUSF Certification would still apply to Prepaid Calling Card Providers if they do not have a 2-year track record of compliance.
    - If applicable, the certification applies to both private service providers and common carriers.

Questions?

We Have Answers

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