



## FCC ISSUES ORDER ON USF CONTRIBUTIONS BY WHOLESALE PROVIDERS AND RESELLER CUSTOMERS

On **November 5**, the FCC issued an Order clarifying Universal Service Fund contribution obligations of wholesale carriers and their reseller customers.

Under the current rules, wholesale carriers generally do not contribute to USF on revenues from sales to customers who contribute to USF for services that incorporate the wholesale service (carrier's carrier revenues), but do contribute on revenues earned from sales to customers that do not contribute to USF for services that incorporate the wholesale service (end-user revenues). This general rule has caused confusion and consequently the Universal Service Administrative Company (USAC) requested guidance regarding the contribution requirements of specific wholesalers and their reseller customers.

The Order clarifies the rules in four ways:

1. Clarifies the definition of "reseller" in Form 499-A to be an entity that incorporates purchased telecommunications into its own service offerings **and** can reasonably be expected to contribute to USF based on revenues from those offerings. In order to classify revenues from wholesale services as being carrier's carrier revenues, wholesale providers must have affirmative knowledge or a reasonable expectation that the reseller customer is contributing to USF on those revenues.
2. Confirms that a wholesale provider is not responsible for any outstanding contribution when it demonstrates a reasonable expectation that its reseller customers are contributing to USF on those revenues incorporating the wholesale service, even if the reseller did not contribute.
3. Confirms that USAC should not attempt to recover additional contributions from a wholesale provider when the wholesale provider cannot demonstrate a reasonable expectation that its reseller customer contributed to USF even though the reseller customer did in fact contribute.
4. Clarifies that a wholesale provider may demonstrate a reasonable expectation by complying with the guidance in the Form 499-A instructions, which constitutes a "safe harbor," or by demonstrating that it has "other reliable proof," which will be reviewed on a case-by-case basis.

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