

FCC CARRIER'S CARRIER RULE COMPLIANCE MANUAL



Sample

Guide for Telecommunications Services and
Interconnected VoIP Provider Compliance with
FCC Carrier's Carrier Rule

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GUIDE TO COMPLIANCE WITH THE FEDERAL COMMUNICATIONS COMMISSION'S
WHOLESALE-RESELLER UNIVERSAL SERVICE FUND EXEMPTION REQUIREMENTS
("Carrier's Carrier Rule")

The following is an informational Guide that describes the Federal Communications Commission's ("FCC" or "Commission") revenue reporting and Universal Service Fund ("USF") Exemption Certification processes applicable to providers of wholesale telecommunications services and their reseller customers. The contents of this Guide do not constitute legal advice and are solely for informational purposes.¹

Our firm prepared this Guide to explain the revenue reporting duties arising from the sale of wholesale telecommunications services to reseller customers. All telecommunications carriers must register with the FCC and obtain a 499 Filer ID. Further, carriers must report revenues received on an annual and quarterly basis via FCC Forms 499-A and 499-Q respectively. The revenues reported in these forms serve as the basis for carriers' contribution responsibilities into the FCC's universal service programs, including the USF. The FCC has charged a separate quasi-governmental agency—the Universal Service Administrative Company ("USAC")—with collection and review of these forms and administration of the USF.

The FCC created the USF in 1997 to implement a requirement in the 1996 Telecommunications Act to extend reasonably priced telecommunications service to low-income and rural users, as well as to schools, libraries and medical facilities. To fund the initiative, the FCC required telecommunications services providers to pay a percentage of end-user revenues into the USF.

Over the years, as the telecommunications industry has evolved, the process of reporting and contributing to the Fund has become increasingly complex and burdensome. Since the creation of the Fund, various types of services have emerged, including new forms of prepaid telephony, IP telephony and new distribution models. The Commission has generally failed to keep pace with these developments, and has instead relied upon USAC, its administrative agent, to ensure the stability and success of the Fund. USAC has seized the opportunity by extending contribution requirements via its application of the instructions (issued by the FCC's Wireless Competition Bureau ("Bureau")) to FCC Form 499-A ("Instructions").

One of the more complex and challenging aspects of the USF contribution system for wholesale providers, resellers and End Users to telecommunications has been the so-called Carrier's Carrier Rule ("CCR"). The CCR exempts wholesalers from contributing on the basis of "wholesale" sales if they are "reasonably" certain that their reseller customers are themselves contributing to the USF, based on the telecommunications purchased from the wholesaler. However, if the wholesaler does not have a reasonable expectation that the reseller is contributing to the Fund and the reseller fails to pay, the wholesaler becomes liable for the payment through a vicarious liability mechanism derived from the Form 499 Instructions. The CCR also has important implications for resellers. If a reseller contributes directly to the USF and fails to prove exemption from USF pass-through charges, it is likely to be assessed USF

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