



**May 2008**

## **Report from Planet FCC**

In an order released last month, the FCC rejected a petition for reconsideration that requested the refund of monies which everyone agrees were improperly paid into the USF fund in the 1998 – 1999 period. The petitions were timely filed in 1999. The amount in controversy – about a *billion* dollars – had improperly been collected by the FCC on certain intrastate and international revenues generated by carriers, as determined by court review. Normally this would result in the improper charge being retroactively corrected. However, the Commission determined that it would be “manifestly unjust” to correct the problem retroactively since the billion had already been paid to deserving USF recipients and the carriers who paid in the money had already collected it from their customers. There was basically no way to unscramble the egg since many of the carriers who would receive the refund no longer exist, and, if they do exist, there is no assurance they would remit the refund back to their customers. So the carriers would simply get a windfall and current customers would actually have to pay *more* into the Fund to make up for the amount refunded. Of course, had the FCC simply acted on the petitions promptly in 1999 instead of sitting on them for nine years, the entire problem would have been significantly reduced or eliminated, and a refund could have been fairly distributed. So the direct result of the FCC’s procrastination is that you and we lose a billion dollars that we paid in to support USF, and the USF recipients get a corresponding windfall of unmerited support. Talk about manifest injustice!