



PUBLIC NOTICE

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WIRELINE COMPETITION BUREAU SEEKS FURTHER COMMENT ON ISSUES REGARDING SERVICE OBLIGATIONS FOR CONNECT AMERICA PHASE II AND DETERMINING WHO IS AN UNSUBSIDIZED COMPETITOR

WC Docket No. 10-90

Comment Date: March 28, 2013
Reply Comment Date: April 12, 2013

I. INTRODUCTION

1. In this Public Notice, the Wireline Competition Bureau (Bureau) seeks to further develop the record on a number of issues relating to implementation of Connect America Phase II support. Specifically, the Bureau seeks comment on how it will determine which census blocks are served by an unsubsidized competitor, how price cap carriers will demonstrate they are meeting the Commission's requirements for reasonable comparability, and what other providers will need to demonstrate to be deemed unsubsidized competitors.

II. BACKGROUND

2. On November 18, 2011, the Commission released the *USF/ICC Transformation Order*, which comprehensively reforms and modernizes the universal service and intercarrier compensation systems. As part of the reform, the Commission adopted a framework for providing ongoing support to areas served by price cap carriers, including areas lacking broadband-capable infrastructure, known as Phase II of the Connect America Fund.¹

3. The Commission delegated to the Bureau the task of developing a forward-looking cost model to determine, among other things, which areas are eligible for support.² Following the adoption of the cost model, each incumbent carrier will be given the opportunity to accept, for each state it serves, a model-derived support amount in exchange for offering voice and broadband service meeting specified standards, for a period of five years.³

4. Specifically, by the end of the third year, those price cap carriers must offer at least 4 Mbps/1 Mbps broadband service to at least 85 percent of their high-cost locations covered by the state-level commitment. By the end of the fifth year, those carriers must offer at least 4 Mbps/1 Mbps broadband service to all supported locations, and at least 6 Mbps/1.5 Mbps to a number of supported

¹ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*), *pets. for review pending sub nom.* In re: *FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 18, 2011).

² *USF/ICC Transformation Order*, 26 FCC Rcd at 17737, para. 192.

³ *Id.* at 17729, para. 171.

locations to be specified.⁴ The companies that accept a state-level commitment also must offer service with latency suitable for real-time applications, such as Voice over Internet Protocol (VoIP), and with usage capacity reasonably comparable to that available for comparable offerings in urban areas.⁵ Voice and broadband in rural areas must be offered at rates reasonably comparable to the rates for those services in urban areas.⁶

5. The Commission concluded that “it would be appropriate to exclude any area served by an unsubsidized competitor,” and it delegated to the Bureau “the task of implementing the specific requirements of this rule.”⁷ Phase II support is excluded for “areas where an unsubsidized competitor offers broadband service that meets the broadband performance requirements.”⁸ Thus, to constitute an unsubsidized competitor, a provider would need to show *all* three performance metrics are met – speed, latency, *and* capacity.

6. The Commission directed the Wireline Competition Bureau and Wireless Telecommunications Bureau (Bureaus) to conduct a survey of residential urban rates for voice services.⁹ The Commission also delegated “authority to conduct an annual survey of urban broadband rates, if necessary, in order to derive a national range of rates for broadband service”¹⁰ and “to monitor urban broadband offerings, including by conducting an annual survey, in order to specify an appropriate minimum for usage allowances and to adjust such a minimum over time.”¹¹

7. On December 27, 2012, the Bureau proposed procedures for parties to challenge whether census blocks identified as eligible to receive Phase II support are in fact unserved by an unsubsidized competitor.¹² We now seek comment on additional issues relating to the challenge process.

III. DISCUSSION

8. *Unserved Areas.* The Commission directed the Bureau to determine what areas the forward looking cost model should treat as unserved by an unsubsidized competitor “as of a specified future date as close as possible to the completion of the model.”¹³ To that end, the next version of the Connect America Cost Model will incorporate June 2012 State Broadband Initiative (SBI) data to assist in determining what areas have access to broadband-capable infrastructure meeting specified speed thresholds.¹⁴ We recognize that in some particular instances, it is possible that providers have completed network expansion into unserved areas since submitting the June 2012 SBI data, but it is necessary now

⁴ *Id.* at 17726, para. 160.

⁵ *Id.*

⁶ *Id.* at 17694, 17708, paras. 84, 113.

⁷ *Id.* at 17729, para. 171.

⁸ *Id.* at 17729, para. 170.

⁹ *Id.* at 17694, para. 85.

¹⁰ *Id.* at 17708, para. 114

¹¹ *Id.* at 17699, para. 99.

¹² See *Wireline Competition Bureau Seeks Comment on Procedures Relating to Areas Eligible for Funding and Election to Make a Statewide Commitment in Phase II of the Connect America Fund*, WC Docket No. 10-90, Public Notice, 27 FCC Rcd 15970 (Wireline Comp. Bur. 2012). Comments in response to this Public Notice were due on February 13, 2013, and replies are due March 4, 2013.

¹³ *USF/ICC Transformation Order*, 26 FCC Rcd at 17729, para. 170.

¹⁴ These data are reflected in the National Broadband Map released by NTIA in January 2013.

to incorporate an existing nationwide data set into the next version of the model, which currently is under development.

9. The Bureau seeks to further develop the record on what speed threshold in the June 2012 SBI data should be utilized as a proxy for 4 Mbps/1 Mbps when the Bureau identifies those census blocks that are served by an unsubsidized competitor meeting the specified speed requirement in the model.¹⁵ In the Phase I context, several commenters argue that using 3 Mbps/768 kbps as a proxy for 4 Mbps/1Mbps excludes some areas from support even though those areas in fact lack 4 Mbps/1 Mbps service.¹⁶ For purposes of Phase II, should the model treat an area as unserved if it is shown on the National Broadband Map as lacking broadband with speeds of at least 6 Mbps/1.5 Mbps, instead of using 3 Mbps/768 kbps as a proxy? That would presumably result in a greater number of census blocks becoming eligible for funding under Phase II than a 3 Mbps/768 kbps threshold. Commenters are encouraged to address the implications of using the National Broadband Map data regarding availability of broadband providing at least a 6 Mbps/1.5 Mbps speed to identify census blocks that would be deemed served by an unsubsidized competitor under Phase II. If we were to determine the presence of an unsubsidized competitor based on a 6 Mbps/1.5 Mbps threshold, to create parity between unsubsidized competitors and Phase II buildout requirements, should we also require that Phase II support recipients be required to provide broadband with speeds of 6 Mbps/1.5 Mbps to all supported locations? This would prevent a scenario in which a carrier could use Phase II funds to overbuild an existing 4 Mbps/1 Mbps network with its own 4 Mbps/1 Mbps network.

10. To the extent any interested parties wish to bring to our attention any information they believe should supplement the reported June SBI 2012 data, they are invited to submit comments by the deadline specified for this Public Notice.¹⁷ We particularly encourage input from state SBI grantees and other state authorities that may have relevant information.

11. For ease of administration, the Bureau proposes to exclude from support calculations in the adopted model any census block that is served by a cable broadband provider that provides service meeting the defined speed threshold,¹⁸ with that rebuttable presumption subject to challenge in a challenge process.¹⁹ Given the wide variance in service offerings from fixed wireless providers, we do not propose to establish a similar presumption for fixed wireless providers. Instead, we propose to address whether a fixed wireless providers meets the requirements to be an unsubsidized competitor in a

¹⁵ The Commission has previously concluded that because data on 4 Mbps/1 Mbps broadband is not widely available, SBI and FCC Form 477 data regarding availability of 3 Mbps/768 kbps may be used as a proxy for 4 Mbps/1 Mbps. *See USF/ICC Transformation Order*, 26 FCC Rcd at 17701, para. 103 n.168. For download speeds, the closest available data sets are for broadband with speeds 3 Mbps and 6 Mbps. For upload speeds, the closest available data sets are 768 kbps and 1.5 Mbps.

¹⁶ *See, e.g.*, Comments of CenturyLink, WC Docket No. 10-90, at 9-10 (filed Jan. 9, 2013).

¹⁷ For purposes of Connect America, SBI data will be utilized to assist in determining the speeds of broadband providers. However, there are other metrics that are pertinent to Connect America (capacity, latency, and price) that are not reported in SBI data. Commenters thus may still wish to bring matters regarding these metrics to the attention of the Commission.

¹⁸ The Connect America Cost Model version 2 has the capability to calculate support amounts excluding census blocks that have cable broadband (SBI technology of transmission 40 (Docsis 3.0) or 41 (Docsis other)).

¹⁹ Thus, while we would assume that a cable provider that meets the speed threshold also would meet the price, capacity, and latency requirements discussed below, this is a rebuttable presumption. A party may challenge whether a cable provider should qualify as an unsubsidized competitor on the grounds that it does not, in fact, meet the necessary requirements (capacity, speed, latency, or price). A challenge may be raised on any or all of these required performance metrics.

challenge process. A fixed wireless provider could demonstrate it is an unsubsidized competitor by making an affirmative showing that it meets the necessary speed, latency, capacity, and price criteria. That affirmative showing would be subject to rebuttal by other parties. We seek comment on this proposal. Should mobile providers also be allowed to participate in the challenge process, giving them the opportunity to qualify as unsubsidized competitors and exclude areas from support if they are able to meet the performance and pricing requirements?

12. We seek comment on whether determinations in the challenge process of whether an unsubsidized competitor meets the specified service requirements (speed, latency, usage, price) should be based on a company's offerings as of June 30, 2012, or some later date. Alternatives could include the date on which we release an order adopting the forward looking model, or 30 days prior to that release. We seek comment on these alternatives.

13. *Pricing and Usage Allowances.* We need to specify pricing and associated minimum usage allowances that will apply to price cap carriers that make a statewide commitment to offer voice and extend broadband in exchange for model-determined support for a period of five years.²⁰ We also need to specify what is required for another provider to be deemed an unsubsidized competitor that would preclude an area from receiving any support.

14. With respect to pricing, we seek to further develop the record on a proposal to presume that "a broadband provider that offers national pricing for its broadband service offerings is offering those services in rural and urban areas at reasonably comparable rates."²¹ Should a Phase II recipient be allowed to demonstrate that its rates are reasonably comparable between urban and rural areas by showing that it offers the same rates, terms, and conditions on a nationwide basis? Would such a presumption be a reasonable way to implement the statutory goal of reasonably comparable rates, while implementing Phase II quickly?²² Should we specify a level at which a provider's rate is too high to be considered reasonable, even if the provider offers the same rate in both urban and rural areas?

15. Should the presumption apply if a carrier offered different pricing plans in different regions of the country, so long as its rates are uniform within a region across both rural and urban areas? Should such a presumption apply for carriers that operate only in one state? In the latter case, would it be sufficient if the provider offered uniform pricing within its footprint, so long as that included urban areas? If we were to take such an approach, consistent with our proposal for the urban rate survey, we propose to define "urban" as all 2010 Census urban areas and urban clusters that sit within a Metropolitan Statistical Area.²³ We seek comment on this proposal.

16. The Bureau has proposed an urban rate survey instrument to gather data relating to fixed voice and fixed broadband prices and associated usage allowances, if any, in the urban areas,²⁴ but

²⁰ The Commission has delegated authority to the Bureaus "to monitor urban broadband offerings, including by conducting an annual survey, in order to specify an appropriate minimum for usage allowances and to adjust such a minimum over time." *USF/ICC Transformation Order*, 26 FCC Rcd at 17699, para. 99.

²¹ See Comments of AT&T, WC Docket No. 10-90 et al., at 25-26, 28 (filed Jan. 18, 2012).

²² This is similar to the approach the Commission took in Phase I of the Mobility Fund. See *Mobility Fund Phase I Auction Scheduled for September 27, 2012; Notice and Filing Requirements and Other Procedures for Auction 901*, AU Docket No. 12-25, Public Notice, 27 FCC Rcd 4725, 4772, para. 175 (Wireless Telecomms. Bur. and Wireline Comp. Bur. 2012).

²³ *Wireline Competition Bureau Seeks Comment on Proposed Urban Rates Survey and Issues Relating to Reasonable Comparability Benchmarks and the Local Rate Floor*, WC Docket No. 10-90, Public Notice, 27 FCC Rcd 8332, 8333, para. 7 (Wireline Comp. Bur. 2012).

²⁴ See *id.*

we do not anticipate those data will be available by the time the Bureau implements Phase II in the months ahead. In the absence of data from a rate survey, should we establish an interim reasonable comparability benchmark that a competitive provider would need to meet in order to be deemed an unsubsidized competitor? The Bureau recently sought comment on potential benchmarks that could be used for the Remote Areas Fund, at least on an interim basis until rate survey data become available.²⁵ We now seek comment on benchmarks to use for determining who is an unsubsidized competitor in the near term for Phase II implementation in areas that will not be served by the Remote Areas Fund.

17. In particular, the Commission's prior reasonable comparability benchmark for voice service for non-rural carriers was \$36.52.²⁶ Would it be reasonable to presume any provider offering voice service at or below \$37 meets the reasonable comparability requirement for voice service, at least for purposes of determining whether a particular census block should be excluded from the state-level offer of support?

18. We note that several large fixed terrestrial providers offer broadband at speeds close to the Commission's 4 Mbps downstream/1 Mbps upstream benchmark at prices ranging from \$45 to \$49.95 per month.²⁷ Would setting a reasonable comparability benchmark for broadband service at a somewhat higher level, such as \$60,²⁸ be a reasonable approach for determining who is an unsubsidized competitor when identifying census blocks that would be excluded from the state-level offer of support in Phase II?²⁹ Should that figure be lower or higher?

19. With respect to the Commission's usage requirement, we propose to set a uniform minimum usage allowance that would apply both to price cap carriers that make a statewide commitment as well as to unsubsidized competitors that would preclude a census block from being funded. We seek comment on this proposal.

20. We propose to adopt a minimum usage allowance for purposes of finalizing the locations that will receive support to be offered to price cap carriers in Connect America Phase II. This minimum usage allowance would be associated with the rate established for the reasonable comparability benchmark for broadband service; consumers in supported areas would be free to purchase additional gigabytes of data above the required minimum usage allowance. We seek comment on this proposal.

²⁵ See *Wireline Competition Bureau Seeks Further Comment on Issues Regarding the Design of the Remote Areas Fund*, WC Docket No. 10-90, Public Notice, 28 FCC Rcd 265 (Wireline Comp. Bur. 2013) (*Remote Areas Fund PN*).

²⁶ WIRELINE COMPETITION BUREAU, FCC, REFERENCE BOOK OF RATES Table 1.13 (2008), at http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-284934A1.pdf.

²⁷ According to a report on international broadband prices, AT&T was offering a 6 Mbps downstream/768 kbps upstream DSL service in San Francisco for \$48 per month, Comcast was offering a 6 Mbps downstream/1 Mbps upstream service in the Washington, D.C. area for \$49.95, CenturyLink was offering a 7 Mbps downstream/896 kbps upstream service in Denver for \$45, and Windstream was offering a 6 Mbps downstream service for \$44.99. See *International Broadband Data Report*, IB Docket No. 10-171, GN Docket No. 11-121, Third Report, 27 FCC Rcd 9884, 9904 (Int'l Bur. 2012).

²⁸ We note that in the voice context, the Commission has presumed that a rate is reasonably comparable if it falls within two standard deviations of the national average. The reasonable comparability benchmark for voice was \$36.52, more than \$10 above the average urban voice rate of \$25.62. REFERENCE BOOK OF RATES at I-2.

²⁹ Under such a proposal, a competitive provider would need to establish that it offered a voice telephony service at a rate no greater than \$37, and a broadband service that provided at least 4 Mbps downstream/1 Mbps upstream (or specified proxy) at a rate no higher than \$60, in order to be deemed an unsubsidized competitor that would preclude funding for a particular census block.

21. One way to set a minimum usage allowance would be to estimate the amount of data needed to accomplish various user activities that the Connect America Fund will advance. A similar approach was used to set the minimum broadband speed requirements for Connect America.³⁰ Chart 1 below provides estimates of what activities are possible under varying data allowances, taking into account potential activities relating to education, health, employment, e-commerce, and civic engagement. Chart 1 shows the cumulative illustrative activities a household could undertake under various data allowances. We seek comment on this analysis.

Chart 1						
Critical Use Category	Activity ³¹	Data Allowance				
		20 GB	40 GB	60 GB	80 GB	100 GB
Online College Coursework	Hours per week of interactive video courses	3	6	9	12	15
	Websites loaded per day for course work	45	90	135	180	225
	Emails per day for coursework	20	40	60	80	100
Secondary Schooling	Hours per week of educational video	6	12	18	24	30
	Websites loaded per day for homework or learning management systems	30	60	90	120	150
	Emails per day	20	40	60	80	100
Household's Other Critical Uses	Online medical consultations (30 min.) every two months	1	2	3	4	5
	Websites loaded per day for job searching, government services, news, or banking	55	110	165	220	275
	Emails per adult per day	20	40	60	80	100

22. Given the calculations in Chart 1, would 100 GB be a reasonable upper bound for a minimum usage allowance? Using a higher figure, such as 100 GB, would account for the growth in video usage for education and communication purposes over the next five years. It would also allow for other new and unanticipated uses that Chart 1 does not account for. Alternatively, should we instead adopt a lower value, such as 60 GB, but increase that requirement over time to reflect growing average data consumption, as discussed below?

³⁰ See *USF/ICC Transformation Order*, 26 FCC Rcd at 17696-97, para. 93.

³¹ The calculations in Chart 1 rely on the following assumed data usage rates for each activity: Interactive video – 590 MB per hour of video; All websites – 512 kB per website loaded; All email – 358 kB per email sent/received; Educational video – 354 MB per hour of video; Medical consultation – 295 MB per consultation. The figures for interactive video courses and online medical consultations were based on Comcast’s Data Use Calculator for a video VoIP call. See Xfinity Data Calculator, at <http://datacalculator.comcast.net/> (last visited Feb. 19, 2013). All other figures were taken from the MTS Data Use Calculator. See Internet Data Usage Calculator – MTS, at <http://www.mts.ca/mts/personal/support/internet/high+speed+internet/internet+data+usage+calculator> (last visited Feb. 19, 2013). As is apparent from Chart 1, video is the driver of broadband data consumption. A single hour of video consumes as much data as sending or receiving over 1,000 email messages.

23. As an alternative to setting the minimum usage allowance based on a set of potential user activities, we could set the minimum usage allowance based on current average usage. We note that according to one source, during the second half of 2012, the median monthly data consumption for fixed services in North America was 16.8 GB per subscriber.³² According to the most recent Commission speed testing data released in February 2013, the median weighted consumption of volunteers participating in the Measuring Broadband America (MBA) program for all fixed terrestrial technologies was 32.3 GB per month,³³ with approximately 90 percent of surveyed digital subscriber line (DSL) subscribers in September 2012 using less than 100 GB per month.³⁴ Should we set the Phase II minimum usage allowance based on such data? Given that the vast majority of DSL users in the MBA program today use less capacity than 100 GB per month, would that be an appropriate usage allowance requirement for carriers electing to make a statewide commitment in Phase II and for other providers to be deemed an unsubsidized competitor? Is such data representative of typical users, and if not, is there an alternative data source we should consider? What would be the implications of setting the minimum usage allowance higher or lower? In particular, what are the technical constraints that limit the capacity providers are able to offer, and what are the factors that would raise or lower deployment costs if we raise or lower the minimum usage allowance requirement? We assume some percentage of an average household's data is consumed in entertainment purposes. Should that be factored into our calculations? To the extent commenters believe the required minimum usage allowance should be higher or lower, they should provide specific data and analyses in support of their positions.

24. Should we set an initial usage allowance that would be required for the first year of Phase II implementation, but require that usage allowance to grow in future years, consistent with the growth in consumer usage observed in the marketplace? We note that Cisco projects that North American consumer usage will grow by 14 percent in 2014, 21 percent in 2015, and 25 percent in 2016.³⁵ The model developed by Commission staff for the Broadband Plan assumed that customer usage of fixed broadband would grow by approximately 30 percent annually.³⁶ How could such a requirement be structured to provide sufficient clarity to providers at the time they make a statewide commitment of how their obligations would evolve over time? What objective metric or external data source should determine the growth in usage allowances over time? If we were to adopt such an approach, should the usage level be adjusted annually, bi-annually, or on some other schedule?

³² SANDVINE INTELLIGENT BROADBAND NETWORKS, GLOBAL INTERNET PHENOMENA REPORT 2H 2012, 6 (2012), at http://www.sandvine.com/downloads/documents/Phenomena_2H_2012/Sandvine_Global_Internet_Phenomena_Report_2H_2012.pdf.

³³ See Chart 20 in MEASURING BROADBAND AMERICA FEBRUARY 2013 REPORT, 48 (calculated as a weighted average of median cable, DSL, and fiber data consumption using underlying chart data), at <http://data.fcc.gov/download/measuring-broadband-america/2013/chart20-feb-2013.xls>.

³⁴ See *id.*

³⁵ CISCO, VISUAL NETWORKING INDEX: FORECAST AND METHODOLOGY, 2011-2016, 8 (2012), at http://www.cisco.com/en/US/solutions/collateral/ns341/ns525/ns537/ns705/ns827/white_paper_c11-481360.pdf.

³⁶ See FCC, THE BROADBAND AVAILABILITY GAP - OBI TECHNICAL PAPER NO. 1, 53 (2010), at <http://download.broadband.gov/plan/the-broadband-availability-gap-obi-technical-paper-no-1.pdf>. In 2010, Sandvine reported that median fixed broadband data consumption in North America for the second half of 2010 was 4 GB. See SANDVINE INTELLIGENT BROADBAND NETWORKS, FALL 2010 GLOBAL INTERNET PHENOMENA REPORT, 18, at <http://www.sandvine.com/downloads/documents/2010%20Global%20Internet%20Phenomena%20Report.pdf>. In the second half of 2012, that figure had risen to 16.8 GB. GLOBAL INTERNET PHENOMENA REPORT 2H 2012, 6. This represents an annual growth rate of approximately 105 percent.

25. *Latency.* The *USF/ICC Transformation Order* requires ETCs to provide latency sufficient for real time applications, such as VoIP.³⁷ In adopting this requirement, the Commission noted that broadband testing results showed most terrestrial wireline technologies can reliably provide round trip latency of less than 100 milliseconds (ms).³⁸ The June 2012 testing results show that the average peak period round trip UDP latency for all wireline terrestrial technologies is less than 60 ms.³⁹

26. To implement the Commission's latency requirement when offering support to price cap carriers in Phase II and determining who is an unsubsidized competitor in Phase II, should we establish a specific numerical latency standard?⁴⁰ Because performance during peak usage is important to ensuring the consumers have adequate service, we believe a testing under load standard would be appropriate, if we adopt a specific standard. For instance, would it meet the Commission's requirements if an average of 95 percent of all measurements of network round trip latency under load during peak period (defined as weeknights between 7:00 pm to 11:00 pm local time)⁴¹ between the customer premises (or as close to the customer premises as technically possible) to the provider's transit or peering interconnection point (often referred to as an Internet exchange point) were at or below 60 ms? Should that number be set lower or higher, and if so, why?⁴² To provide a factual basis for a price cap carrier or potential unsubsidized carrier to establish it is meeting the Commission's requirements, should a latency test be conducted over a minimum of two consecutive weeks during peak hours for at least 50 randomly-selected customer premises using existing network management systems, ping tests, or other commonly available network measurement tools? Should the testing period be longer or shorter? Should the number of customer premise be higher or lower? We seek comment on whether this approach would provide

³⁷ 47 C.F.R. § 54.312(b)(4). The International Telecommunication Union standard for mouth-to-ear latency for VoIP is 150 ms. Int'l Telecomm. Union, G.114, SERIES G: TRANSMISSION SYSTEMS AND MEDIA, DIGITAL SYSTEMS AND NETWORKS, INTERNATIONAL TELEPHONE CONNECTIONS AND CIRCUITS – GENERAL RECOMMENDATIONS ON THE TRANSMISSION QUALITY FOR AN ENTIRE INTERNATIONAL TELEPHONE CONNECTION 2 (2003). However, it would be difficult for parties to certify as to mouth-to-ear latency, due to issues of measuring latency once a packet enters the cloud.

³⁸ *USF/ICC Transformation Order*, 26 FCC Rcd at 17698, para. 96. The 100 ms figure referenced in the *USF/ICC Transformation Order* was based on the measured round trip time of user datagram protocol (UDP) packets between the Whitebox and a target test node at a major Internet exchange point. See FCC, MEASURING BROADBAND AMERICA AUGUST 2011 REPORT, Technical Appendix 24, at http://transition.fcc.gov/cgb/measuringbroadbandreport/technical_appendix/Technical_Appendix_Full.pdf.

³⁹ See MEASURING BROADBAND AMERICA FEBRUARY 2013 REPORT 31. UDP latency is defined as the average round trip time of a series of randomly transmitted UDP packets distributed over a long timeframe. This test measures latency where there was no load at the customer premise. Most VoIP traffic currently uses UDP, potentially making it the appropriate protocol by which to measure latency given the Commission's focus on real-time applications.

⁴⁰ The Bureau has separately sought comment on whether a more relaxed latency standard would be appropriate for the Remote Areas Fund. See *Remote Areas Fund PN*, 28 FCC Rcd at 276, paras. 47-49.

⁴¹ This is the definition of peak period used in the Measuring Broadband America Report. MEASURING BROADBAND AMERICA FEBRUARY 2013 REPORT, Technical Appendix 28.

⁴² According to Cisco's Cloud Readiness Tool, latency of less than 160 ms is necessary for basic cloud applications, such as VoIP, web conferencing, and streaming of basic video. Advanced cloud applications, such as group video calling, connected education/medicine, and HD video conferencing, require latency less than 100 ms. Cisco Cloud Readiness Tool, at http://www.cisco.com/en/US/netsol/ns1208/networking_solutions_sub_sub_solution.html (last visited Feb. 13, 2013) (Concurrency Tab, Information for Basic and Advanced Applications). The Cisco data do not indicate what is the endpoint for the latency measurement.

sufficient clarity to potential support recipients and unsubsidized providers regarding their service obligations.

IV. PROCEDURAL MATTERS

A. Initial Regulatory Flexibility Act Analysis

27. The *USF/ICC Transformation Order* included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. § 603, exploring the potential impact on small entities of the Commission's proposal.⁴³ We invite parties to file comments on the IRFA in light of this additional notice.

B. Initial Paperwork Reduction Act of 1995 Analysis

28. This document seeks comment on a potential new or revised information collection requirement. If the Commission adopts any new or revised information collection requirement, the Commission will publish a separate notice in the Federal Register inviting the public to comment on the requirement, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. §§ 3501-3520). In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. § 3506(c)(4), the Commission seeks specific comment on how it might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

C. Filing Requirements

29. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments are to reference **WC Docket No. 10-90 and DA 13-284** and may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (May 1, 1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington, DC 20554.

⁴³ *USF/ICC Transformation Order*, 26 FCC Rcd at 18364-95, App. P; see 76 Fed. Reg. 78384, 78430-42 (Dec. 16, 2011).

In addition, we request that one copy of each pleading be sent to each of the following:

(1) Ryan Yates, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-B441A, Washington, DC 20554; e-mail: Ryan.Yates@fcc.gov;

(2) Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW, Room 5-A452, Washington, DC 20554; e-mail: Charles.Tyler@fcc.gov.

30. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

31. This matter shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.⁴⁴ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s *ex parte* rules.

32. For further information, please contact Ryan Yates, Telecommunications Access Policy Division, Wireline Competition Bureau at 202-418-0886; or at TTY (202) 418-0484.

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⁴⁴ 47 C.F.R. §§ 1.1200-1.1216.