

**APPENDIX I - FINAL RULES  
AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS**

Parts 36, 54, and 69 of Title 47 of the Code of Federal Regulations are amended as follows:

**PART 36 -- JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES.**

1. The authority citation for Part 36 is revised to read as follows:

AUTHORITY: 47 USC Secs. 151, 154(i) and (j), 205, 221(c), 254, 403 and 410.

2. Section 36.125 is amended by removing and reserving paragraphs (c), (d), and (e), adding paragraphs (3), (4) and (5) to paragraph (a), and revising paragraphs (b) and (f) to read as follows:

**§ 36.125 Local Switching Equipment - Category 3.**

(a) \* \* \*

(3) Dial equipment minutes of use (DEM) is defined as the minutes of holding time of the originating and terminating local switching equipment. Holding time is defined in the Glossary.

(4) The interstate allocation factor is the percentage of local switching investment apportioned to the interstate jurisdiction.

(5) The interstate DEM factor is the ratio of the interstate DEM to the total DEM. A weighted interstate DEM factor is the product of multiplying a weighting factor, as defined in paragraph (f) of this section, to the DEM factor. The state DEM factor is the ratio of the state DEM to the total DEM.

(b) Beginning January 1, 1993, Category 3 investment for study areas with 50,000 or more access lines is apportioned to the interstate jurisdiction on the basis of the interstate DEM factor. Category 3 investment for study areas with 50,000 or more access lines is apportioned to the state jurisdiction on the basis of the state DEM factor.

(c) Reserved.

(d) Reserved.

(e) Reserved.

(f) Beginning January 1, 1993 and ending December 31, 1997, for study areas with fewer than 50,000 access lines, Category 3 investment is apportioned to the interstate jurisdiction by the application of an interstate allocation factor that is the lesser of either .85 or the product of the interstate DEM factor specified in paragraph (a)(5) of this section multiplied by a weighting factor, as determined by the table below. Beginning January 1, 1998, for study areas with fewer than 50,000 access lines, Category 3 investment is apportioned to the interstate jurisdiction by the application of an interstate allocation factor that is the lesser of either .85 or the sum of the interstate DEM factor specified in paragraph (a)(5) of this section and the difference between the 1996 weighted interstate DEM factor and the 1996 interstate DEM factor. The Category 3 investment that is not assigned to the interstate jurisdiction pursuant to this paragraph is assigned to the state jurisdiction.

NUMBER OF ACCESS LINES WEIGHTING IN SERVICE IN STUDY AREA	FACTOR
0 - 10,000 .....	3.0
10,001 - 20,000 .....	2.5
20,001 - 50,000 .....	2.0
50,001 - or above .....	1.0

\* \* \* \* \*

3. Section 36.601 is amended by revising paragraphs (a) and (c) to read as follows:

**§ 36.601 General.**

(a) The term Universal Service Fund in this subpart refers only to the support for loop-related costs included in § 36.621. The term Universal Service in part 54 refers to the comprehensive discussion of the Commission's rules implementing § 254 of the Communications Act of 1934, as amended, 47 U.S.C. § 254, which addresses universal service support for rural, insular, and high cost areas, low-income consumers, schools and libraries, and health care providers. The expense adjustment calculated pursuant to this subpart F shall be added to interstate expenses and deducted from state expenses after expenses and taxes have been apportioned pursuant to subpart D of this part.

\* \* \* \* \*

(c) The annual amount of the total nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total loop cost expense adjustment for the immediately preceding calendar year, increased by a rate equal to the rate of increase in the total number of working loops during the calendar year preceding the July 31st filing. The total loop cost expense adjustment shall consist of the loop cost expense adjustments, including

amounts calculated pursuant to §§ 36.612(a) and 36.631. The rate of increase in total working loops shall be based upon the difference between the number of total working loops on December 31 of the calendar year preceding the July 31st filing and the number of total working loops on December 31 of the second calendar year preceding that filing, both calculated pursuant to § 36.611(a)(8). Beginning January 1, 1999, non-rural carriers shall no longer receive support pursuant to this Subpart F. Beginning January 1, 1999, the total loop cost expense adjustment shall not exceed the total amount of the loop cost expense adjustment provided to rural carriers for the immediately preceding calendar year, adjusted to reflect the rate of change in the total number of working loops of rural carriers during the calendar year preceding the July filing. In addition, effective on January 1 of each year, beginning January 1, 1999, the maximum annual amount of the total loop cost expense adjustment for rural carriers must be further increased or decreased to reflect:

(1) The addition of lines served by carriers that were classified as non-rural in the prior year but which, in the current year, meet the definition of "rural telephone company;" and

(2) The deletion of lines served by carriers that were classified as rural in the prior year but which, in the current year, no longer meet the definition of "rural telephone company." A rural carrier is defined as a carrier that meets the definition of a "rural telephone company" in § 51.5 of this chapter. Limitations imposed by this subsection shall apply only to amounts calculated pursuant to this Subpart F.

4. Section 36.611 is amended by revising paragraph (a) to read as follows:

**§ 36.611 Submission of information to the National Exchange Carrier Association (NECA).**

In order to allow determination of the study areas that are entitled to an expense adjustment, each incumbent local exchange carrier (ILEC) must provide the National Exchange Carrier Association (NECA) (established pursuant to Part 69 of this chapter) with the information listed below for each of its study areas. This information is to be filed with the Association by July 31st of each year. The information filed on July 31st of each year will be used in the jurisdictional allocations underlying the cost support data for the access charge tariffs to be filed the following October. An incumbent local exchange carrier is defined as a carrier that meets the definition of an "incumbent local exchange carrier" in § 51.5 of this chapter.

(a) Unseparated, i.e., state and interstate, gross plant investment in Exchange Line Cable and Wire Facilities (C&WF) Subcategory 1.3 and Exchange Line Central Office (CO) Circuit Equipment Category 4.13. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(b) Unseparated accumulated depreciation and noncurrent deferred federal income taxes, attributable to Exchange Line C&WF Subcategory 1.3 investment, and Exchange Line CO Circuit Equipment Category 4.13 investment. These amounts shall be calculated as of December

31st of the calendar year preceding each July 31st filing, and shall be stated separately.

(c) Unseparated depreciation expense attributable to Exchange Line C&WF Subcategory 1.3 investment, and Exchange Line CO Circuit Equipment Category 4.13 investment. This amount shall be the actual depreciation expense for the calendar year preceding each July 31st filing.

(d) Unseparated maintenance expense attributable to Exchange Line C&WF Subcategory 1.3 investment and Exchange Line CO Circuit Equipment Category 4.13 investment. This amount shall be the actual repair expense for the calendar year preceding each July 31st filing.

(e) Unseparated corporate operations expenses, operating taxes, and the benefits and rent portions of operating expenses. The amount for each of these categories of expense shall be the actual amount for that expense for the calendar year preceding each July 31st filing. The amount for each category of expense listed shall be stated separately.

(f) Unseparated gross telecommunications plant investment. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(g) Unseparated accumulated depreciation and noncurrent deferred federal income taxes attributable to total unseparated telecommunications plant investment. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(h) The number of working loops for each study area. For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. This figure shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

5. Section 36.612 is amended by revising the introductory text of paragraph (a) to read as follows:

**§ 36.612 Updating information submitted to the National Exchange Carrier Association.**

(a) Any telecommunications company may update the information submitted to the National Exchange Carrier Association pursuant to § 36.611(a)(1) through (a)(8) of this part one or more times annually on a rolling year basis. Carriers wishing to update the preceding calendar year data filed July 31st may:

\* \* \* \* \*

6. Section 36.613 is amended by revising the first sentence of the introductory text of paragraph

(a) to read as follows:

**§ 36.613 Submission of information by the National Exchange Carrier Association.**

(a) On October 1 of each year, the National Exchange Carrier Association shall file with the Commission and any other party designated as the Permanent Administrator the information listed below.

\* \* \* \* \*

7. Section 36.621 is amended by adding a last sentence to paragraph (a)(4) to read as follows:

**§ 36.621 Study area total unseparated loop cost.**

(a) \* \* \*

(4) Corporate Operations Expenses, Operating Taxes and the benefits and rent portions of operating expenses, as reported in § 36.611(a)(5) attributable to investment in C&WF Category 1.3 and COE Category 4.13. This amount is calculated by multiplying the total amount of these expenses and taxes by the ratio of the unseparated gross exchange plant investment in C&WF Category 1.3 and COE Category 4.13, as reported in § 36.611(a)(1), to the unseparated gross telecommunications plant investment, as reported in § 36.611(a)(6). Total Corporate Operations Expense, for purposes of calculating universal service support payments beginning January 1, 1998, shall be limited to the lesser of:

(i) The actual average monthly per-line Corporate Operations Expense; or

(ii) A per-line amount computed according to paragraphs (a)(4)(ii)(A) and (a)(4)(ii)(B) of this section. To the extent that some carriers' corporate operations expenses are disallowed pursuant to these limitations, the national average unseparated cost per loop shall be adjusted accordingly.

(A) For study areas of 10,000 or fewer working loops; [\$27.12 minus (.002 times the number of working loops)] times 1.15.

(B) For study areas of more than 10,000 working loops; \$7.12 times 1.15, which equals \$8.19.

8. Section 36.622 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

**§ 36.622 National and study area average unseparated loop costs.**

\* \* \* \* \*

(c) The National Average Unseparated Loop Cost per Working Loop shall be the greater of:

(1) The amount calculated pursuant to the method described in paragraph (a) of this section; or

(2) An amount calculated to produce the maximum total Universal Service Fund allowable pursuant to § 36.601(c).

(d) Beginning January 1, 2000, the National Average Unseparated Loop Cost per Working Loop shall be the greater of:

(1) The 1997 national-average unseparated loop cost per working loop plus an annual inflation adjustment. The annual inflation adjustment shall be based on the Gross Domestic Product Chained Price Index (GDP-CPI) of the year which the loop costs are reported pursuant to § 36.611. As an example, the inflation-adjusted nationwide average loop cost for the year 2000 shall be calculated in the following manner:

$$\frac{1998 \text{ GDP-CPI}}{1997 \text{ GDP-CPI}} \times 1997 \text{ nationwide average loop cost} = 2000 \text{ inflation-adjusted nationwide average loop cost.}$$

or

(2) An amount calculated to produce the maximum total Universal Service Fund allowable pursuant to § 36.601(c).

9. In § 36.701, paragraph (c) is added to read as follows:

**§ 36.701      General**

\* \* \* \* \*

(c) This subpart shall be effective through December 31, 1997. On January 1, 1998, Lifeline Connection Assistance shall be provided in accordance with Part 54, subpart E of this chapter.

10. Part 54 of Title 47 of the Code of Federal Regulations is added to read as follows:

**PART 54 -- UNIVERSAL SERVICE**  
**Subpart A - General Information**

<b>Sec.</b>	
<b>54.1</b>	<b>Basis and purpose.</b>
<b>54.5</b>	<b>Terms and definitions.</b>

**54.7 Intended use of federal universal service support.**

**Subpart B - Services Designated for Support**

**54.101 Supported services for rural, insular and high cost areas.**

**Subpart C - Carriers Eligible for Universal Service Support**

**54.201 Designation of eligible telecommunications carriers, generally.**

**54.203 Designation of eligible telecommunications carriers for unserved areas.**

**54.205 Relinquishment of universal service.**

**54.207 Service areas.**

**Subpart D - Universal Service Support for High Cost Areas**

**54.301 Local switching support.**

**54.303 Long term support.**

**54.305 Sale or transfer of exchanges.**

**54.307 Support to a competitive eligible telecommunications carrier.**

**Subpart E - Universal Service Support for Low Income Consumers**

**54.400 Terms and definitions.**

**54.401 Lifeline defined.**

**54.403 Lifeline support amount.**

**54.405 Carrier obligation to offer Lifeline.**

**54.407 Reimbursement for offering Lifeline.**

**54.409 Consumer qualification for Lifeline.**

**54.411 Link up program defined.**

**54.413 Reimbursement for revenue forgone in offering a Link Up**

**program.**

**54.415 Consumer qualification for Link Up.**

**54.417 Transition to the new Lifeline and Link Up programs.**

**Subpart F - Universal Service Support for Schools and Libraries**

**54.500 Terms and definitions.**

**54.501 Eligibility for services provided by telecommunications carriers.**

**54.502 Supported telecommunications services.**

**54.503 Other supported special services.**

**54.504 Requests for service.**

**54.505 Discounts.**

**54.507 Cap.**

**54.509 Adjustments to the discount matrix.**

- 54.511        **Ordering services.**
- 54.513        **Resale.**
- 54.515        **Distributing support.**
- 54.516        **Auditing.**
- 54.517        **Services provided by non-telecommunications carriers.**

**Subpart G - Universal Service Support for Health Care Providers**

- 54.601        **Eligibility.**
- 54.603        **Competitive bidding.**
- 54.605        **Determining the urban rate.**
- 54.607        **Determining the rural rate.**
- 54.609        **Calculating support.**
- 54.611        **Distributing support.**
- 54.613        **Limitations on supported services for rural health care providers.**
- 54.615        **Obtaining services.**
- 54.617        **Resale.**
- 54.619        **Audit program.**
- 54.621        **Access to advanced telecommunications and information services.**
- 54.623        **Cap.**

**Subpart H - Administration**

- 54.701        **Administrator of universal service support mechanisms.**
- 54.703        **Contributions.**
- 54.705        **De minimis exemption.**
- 54.707        **Audit controls.**

AUTHORITY: 47 USC Secs. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

**Subpart A - General Information**

**§ 54.1        Basis and purpose.**

(a) Basis. These rules are issued pursuant to the Communications Act of 1934, as amended.

(b) Purpose. The purpose of these rules is to implement § 254 of the Communications Act of 1934, as amended, 47 USC § 254.

**§ 54.5        Terms and definitions.**

Terms used in this part have the following meanings:

Act. The term "Act" refers to the Communications Act of 1934, as amended.

Administrator. The "administrator" is the entity that administers the universal service support mechanisms in accord with subpart H of this part.

Competitive eligible telecommunications carrier. A "competitive eligible telecommunications carrier" is a carrier that meets the definition of an "eligible telecommunications carrier" below and does not meet the definition of an "incumbent local exchange carrier" in § 51.5 of this chapter.

Eligible telecommunications carrier. "Eligible telecommunications carrier" means a carrier designated as such by a state commission pursuant to § 54.201.

Incumbent local exchange carrier. "Incumbent local exchange carrier" or "ILEC" has the same meaning as that term is defined in § 51.5 of this chapter.

Information service. "Information service" is the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

Internet access. "Internet access" includes the following elements:

- (1) The transmission of information as common carriage;
- (2) The transmission of information as part of a gateway to an information service, when that transmission does not involve the generation or alteration of the content of information, but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access information services, and that do not affect the presentation of such information to users; and
- (3) Electronic mail services (e-mail).

Interstate telecommunication. "Interstate telecommunication" is a communication or transmission:

- (1) From any State, Territory, or possession of the United States (other than the Canal zone), or the District of Columbia, to any other State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia,
- (2) From or to the United States to or from the Canal Zone, insofar as such communications or transmission takes place within the United States, or
- (3) Between points within the United States but through a foreign country.

Interstate transmission. "Interstate transmission" is the same as interstate telecommunication.

Intrastate telecommunication. "Intrastate telecommunication" is a communication or transmission from within any State, Territory, or possession of the United States, or the District of Columbia to a location within that same State, Territory, or possession of the United States, or the District of Columbia.

Intrastate transmission. "Intrastate transmission" is the same as intrastate telecommunication.

LAN. "LAN" is a local area network, which is a set of high-speed links connecting devices, generally computers, on a single shared medium, usually on the user's premises.

Rural area. A "rural area" is a nonmetropolitan county or county equivalent, as defined in the Office of Management and Budget's (OMB) Revised Standards for Defining Metropolitan Areas in the 1990s, 55 FR 12154 (March 30, 1990), and identifiable from the most recent Metropolitan Statistical Area (MSA) list released by OMB, or any contiguous non-urban Census Tract or Block Numbered Area within an MSA-listed metropolitan county identified in the most recent Goldsmith Modification published by the Office of Rural Health Policy of the U.S. Department of Health and Human Services.

Rural telephone company. "Rural telephone company" has the same meaning as that term is defined in § 51.5 of this chapter.

State commission. The term "state commission" means the commission, board or official (by whatever name designated) that, under the laws of any state, has regulatory jurisdiction with respect to intrastate operations of carriers.

Technically feasible. "Technically feasible" means capable of accomplishment as evidenced by prior success under similar circumstances. For example, preexisting access at a particular point evidences the technical feasibility of access at substantially similar points. A determination of technical feasibility does not consider economic, accounting, billing, space or site except that space and site may be considered if there is no possibility of expanding available space.

Telecommunications. "Telecommunications" is the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

Telecommunications carrier. A "telecommunications carrier" is any provider of telecommunications services, except that such term does not include aggregators of telecommunications services as defined in § 226 of the Act. A telecommunications carrier shall be treated as a common carrier under the Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage. This definition includes cellular mobile radio service (CMRS) providers, interexchange carriers (IXCs) and, to

the extent they are acting as telecommunications carriers, companies that provide both telecommunications and information services. Private mobile radio service (PMRS) providers are telecommunications carriers to the extent they provide domestic or international telecommunications for a fee directly to the public.

Telecommunications channel. "Telecommunications channel" means a telephone line, or, in the case of wireless communications, a transmittal line or cell site.

Telecommunications service. "Telecommunications service" is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

#### **§ 54.7 Intended use of federal universal service support.**

A carrier that receives federal universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

### **Subpart B - Services Designated for Support**

#### **§ 54.101 Supported services for rural, insular and high cost areas.**

(a) Services Designated for Support. The following services or functionalities shall be supported by Federal universal service support mechanisms:

(1) Voice grade access to the public switched network. "Voice grade access" is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signalling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call. For purposes of this Part, voice grade access shall occur within the frequency range of between approximately 500 Hertz and 4,000 Hertz, for a bandwidth of approximately 3,500 Hertz;

(2) Local usage. "Local usage" means an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users;

(3) Dual tone multi-frequency signaling or its functional equivalent. "Dual tone multi-frequency" (DTMF) is a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time;

(4) Single-party service or its functional equivalent. "Single-party service" is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;

(5) Access to emergency services. "Access to emergency services" includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code "911," to call emergency services through a Public Service Access Point (PSAP) operated by the local government. "Enhanced 911" is defined as 911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALI), which permits emergency service providers to identify the geographic location of the calling party. "Access to emergency services" includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems;

(6) Access to operator services. "Access to operator services" is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;

(7) Access to interexchange service. "Access to interexchange service" is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;

(8) Access to directory assistance. "Access to directory assistance" is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and

(9) Toll limitation for qualifying low-income consumers. Toll limitation for qualifying low-income consumers is described in subpart E of this part.

(b) Requirement to Offer all Designated Services. An eligible telecommunications carrier must offer each of the services set forth in paragraph (a) of this section in order to receive Federal universal service support.

(c) Additional Time to Complete Network Upgrades. A state commission may grant the petition of a telecommunications carrier that is otherwise eligible to receive universal service support under § 54.201 requesting additional time to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation. If such petition is granted, the otherwise eligible telecommunications carrier will be permitted to receive universal service support for the duration of the period designated by the state commission. State commissions should grant such a request only upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing single-party service, access to enhanced 911 service, or toll limitation. The period should extend only as long as the relevant state commission finds that exceptional circumstances exist and should not extend beyond the time that the state commission deems necessary for that eligible telecommunications carrier to complete network upgrades. An otherwise eligible telecommunications carrier that is incapable of offering one or more of these three specific

universal services must demonstrate to the state commission that exceptional circumstances exist with respect to each service for which the carrier desires a grant of additional time to complete network upgrades.

### **Subpart C - Carriers Eligible for Universal Service Support**

#### **§ 54.201 Designation of eligible telecommunications carriers, generally.**

(a) Carriers eligible to receive support.

(1) Beginning January 1, 1998, only eligible telecommunications carriers designated under paragraphs (b) through (d) of this section shall receive universal service support distributed pursuant to part 36 and part 69 of this chapter, and subparts D and E of this part.

(2) Only eligible telecommunications carriers designated under paragraphs (b) through (d) of this section shall receive universal service support distributed pursuant to subpart G of this part. This paragraph does not apply to support distributed pursuant to § 54.621(a).

(3) This paragraph does not apply to support distributed pursuant to subpart F of this part.

(b) A state commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (d) of this section as an eligible telecommunications carrier for a service area designated by the state commission.

(c) Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

(d) A common carrier designated as an eligible telecommunications carrier under this section shall be eligible to receive universal service support in accordance with § 254 of the Act and shall, throughout the service area for which the designation is received:

(1) Offer the services that are supported by federal universal service support mechanisms under subpart B of this part and § 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(2) Advertise the availability of such services and the charges therefore using media of general distribution.

(e) For the purposes of this section, the term "facilities" means any physical components of the telecommunications network that are used in the transmission or routing of the services that are designated for support pursuant to subpart B of this part.

(f) For the purposes of this section, the term "own facilities" includes, but is not limited to, facilities obtained as unbundled network elements pursuant to part 51 of this title, provided that such facilities meet the definition of the term "facilities" under this subpart.

(g) A state commission shall not require a common carrier, in order to satisfy the requirements of paragraph (d)(1) of this section, to use facilities that are located within the relevant service area, as long as the carrier uses facilities to provide the services designated for support pursuant to subpart B of this part within the service area.

(h) A state commission shall designate a common carrier that meets the requirements of this section as an eligible telecommunications carrier irrespective of the technology used by such carrier.

(i) A state commission shall not designate as an eligible telecommunications carrier a telecommunications carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services.

**§ 54.203 Designation of eligible telecommunications carriers for unserved areas.**

(a) If no common carrier will provide the services that are supported by federal universal service support mechanisms under § 254(c) of the Act and subpart B of this part to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services, or a state commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof.

(b) Any carrier or carriers ordered to provide such service under this section shall meet the requirements of § 54.201(d) and shall be designated as an eligible telecommunications carrier for that community or portion thereof.

**§ 54.205 Relinquishment of universal service.**

(a) A state commission shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible

telecommunications carrier shall give advance notice to the state commission of such relinquishment.

(b) Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the state commission shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The state commission shall establish a time, not to exceed one year after the state commission approves such relinquishment under this section, within which such purchase or construction shall be completed.

**§ 54.207 Service areas.**

(a) The term "service area" means a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms. A service area defines the overall area for which the carrier shall receive support from federal universal service support mechanisms

(b) In the case of a service area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the states, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of the Act, establish a different definition of service area for such company.

(c) If a state commission proposes to define a service area served by a rural telephone company to be other than such company's study area, the Commission will consider that proposed definition in accordance with the procedures set forth in this paragraph.

(1) A state commission or other party seeking the Commission's agreement in redefining a service area served by a rural telephone company shall submit a petition to the Commission. The petition shall contain:

(i) The definition proposed by the state commission; and

(ii) The state commission's ruling or other official statement presenting the state commission's reasons for adopting its proposed definition, including an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company.

(2) The Commission shall issue a Public Notice of any such petition within fourteen (14) days of its receipt.

(3) The Commission may initiate a proceeding to consider the petition within ninety (90) days of the release date of the Public Notice.

(i) If the Commission initiates a proceeding to consider the petition, the proposed definition shall not take effect until both the state commission and the Commission agree upon the definition of a rural service area, in accordance with paragraph (b) of this section and § 214(e)(5) of the Act.

(ii) If the Commission does not act on the petition within ninety (90) days of the release date of the Public Notice, the definition proposed by the state commission will be deemed approved by the Commission and shall take effect in accordance with state procedures.

(d) The Commission may, on its own motion, initiate a proceeding to consider a definition of a service area served by a rural telephone company that is different from that company's study area. If it proposes such different definition, the Commission shall seek the agreement of the state commission according to this paragraph.

(1) The Commission shall submit a petition to the state commission according to that state commission's procedures. The petition submitted to the relevant state commission shall contain:

(i) The definition proposed by the Commission; and

(ii) The Commission's decision presenting its reasons for adopting the proposed definition, including an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rural telephone company.

(2) The Commission's proposed definition shall not take effect until both the state commission and the Commission agree upon the definition of a rural service area, in accordance with paragraph (b) of this section and § 214(e)(5) of the Act.

(e) The Commission delegates its authority under paragraphs (c) and (d) of this section to the Chief, Common Carrier Bureau.

## **Subpart D - Universal Service Support for High Cost Areas**

### **§ 54.301 Local switching support.**

Beginning January 1, 1998, eligible rural telephone company study areas with 50,000 or fewer access lines shall receive support for local switching costs, defined as Category 3 local switching costs under part 36, using the following formula: the carrier's annual unseparated local switching revenue requirement shall be multiplied by the local switching support factor.

The local switching support factor shall be defined as the difference between the 1996 weighted interstate DEM factor, calculated pursuant to § 36.125(f) of this chapter, and the 1996 unweighted interstate DEM factor. If the number of a study area's access lines increases such that, under § 36.125(f) of this chapter, the weighted interstate DEM factor for 1997 or any successive year would be reduced, that lower weighted interstate DEM factor shall be applied to the carrier's 1996 unweighted interstate DEM factor to derive a new local switching support factor. Beginning January 1, 1998, the sum of the unweighted interstate DEM factor and the local switching support factor shall not exceed .85. If the sum of those two factors would exceed .85, the local switching support factor must be reduced to a level that would reduce the sum of the factors to .85.

**§ 54.303 Long term support.**

Beginning January 1, 1998, eligible telephone companies that participate in the NECA Carrier Common Line pool and competitive eligible local telecommunications carriers will receive Long Term Support. Long Term Support shall be the equivalent of the difference between the projected Carrier Common Line revenue requirement of association Common Line tariff participants and the projected revenue recovered by the association Common Carrier Line charge as calculated pursuant to § 69.105(b)(1) of this chapter. For calendar years 1998 and 1999, the Long Term Support for each eligible service area shall be adjusted each year to reflect the annual percentage change in the actual nationwide average loop cost as filed by the fund administrator in the previous calendar year, pursuant to § 36.622 of this chapter. Beginning January 1, 2000, the Long Term Support shall be adjusted each year to reflect the annual percentage change in the Department of Commerce's Gross Domestic Product-Chained Price Index (GDP-CPI).

**§ 54.305 Sale or transfer of exchanges.**

A carrier that acquires telephone exchanges from an unaffiliated carrier shall receive universal service support for the acquired exchanges at the same per-line support levels for which those exchanges were eligible prior to the transfer of the exchanges. A carrier that has entered into a binding commitment to buy exchanges prior to May 7, 1997 will receive support for the newly acquired lines based upon the average cost of all of its lines, both those newly acquired and those it had prior to execution of the sales agreement.

**§ 54.307 Support to a competitive eligible telecommunications carrier.**

(a) Calculation of support. A competitive eligible telecommunications carrier shall receive universal service support to the extent that the competitive eligible telecommunications carrier captures an incumbent local exchange carrier's (ILEC) subscriber lines or serves new subscriber lines in the ILEC's service area.

(1) A competitive eligible telecommunications carrier shall receive support for each line it serves based on the support the ILEC receives for each line.

(2) The ILEC's per-line support shall be calculated by dividing the ILEC's universal service support by the number of loops served by that ILEC at its most recent annual loop count.

(3) A competitive eligible telecommunications carrier that uses switching functionalities purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported services shall receive the lesser of the unbundled network element price for switching or the per-line DEM support of the ILEC, if any. A competitive eligible telecommunications carrier that uses loops purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported services shall receive the lesser of the unbundled network element price for the loop or the ILEC's per-line payment from the high cost loop support and LTS, if any. The ILEC providing nondiscriminatory access to unbundled network elements to such competitive eligible telecommunications carrier shall receive the difference between the level of universal service support provided to the competitive eligible telecommunications carrier and the per-customer level of support previously provided to the ILEC.

(4) A competitive eligible telecommunications carrier that provides the supported services using neither unbundled network elements purchased pursuant to § 51.307 of this chapter nor wholesale service purchased pursuant to § 251(c)(4) of the Act will receive the full amount of universal service support previously provided to the ILEC for that customer.

(b) Submission of information to the Administrator. In order to receive universal service support, a competitive eligible telecommunications carrier must provide the Administrator on or before July 31st of each year the number of working loops it serves in a service area. For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. This figure shall be calculated as of December 31st of the year preceding each July 31st filing.

## **Subpart E - Universal Service Support for Low-Income Consumers**

### **§ 54.400 Terms and definitions.**

As used in this subpart, the following terms shall be defined as follows:

(a) Qualifying low-income subscriber. A "qualifying low-income subscriber" is a subscriber who meets the low-income eligibility criteria established by the state commission, or, in states that do not provide state Lifeline support, a subscriber who participates in one of the following programs: Medicaid; food stamps; supplemental security income; federal public housing assistance; or Low-Income Home Energy Assistance Program.

(b) Toll blocking. "Toll blocking" is a service provided by carriers that lets consumers

elect not to allow the completion of outgoing toll calls from their telecommunications channel.

(c) Toll control. "Toll control" is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

(d) Toll limitation. "Toll limitation" denotes both toll blocking and toll control.

**§ 54.401 Lifeline defined.**

(a) As used in this subpart, "Lifeline" means a retail local service offering:

(1) That is available only to qualifying low-income consumers;

(2) For which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in § 54.403; and

(3) That includes the services or functionalities enumerated in § 54.101(a)(1) through (a)(9). The carriers shall offer toll limitation to all qualifying low-income consumers at the time such consumers subscribe to Lifeline service. If the consumer elects to receive toll limitation, that service shall become part of that consumer's Lifeline service.

(b) Eligible telecommunications carriers may not disconnect Lifeline service for non-payment of toll charges.

(1) State commissions may grant a waiver of this requirement if the local exchange carrier can demonstrate that:

(i) It would incur substantial costs in complying with this requirement;

(ii) It offers toll limitation to its qualifying low-income consumers without charge; and

(iii) Telephone subscribership among low-income consumers in the carrier's service area is greater than or equal to the national subscribership rate for low-income consumers. For purposes of this paragraph, a "low-income consumer" is one with an income below the poverty level for a family of four residing in the state for which the carrier seeks the waiver. The carrier may reapply for the waiver.

(2) A carrier may file a petition for review of the state commission's decision with the Commission within 30 days of that decision. If a state commission has not acted on a petition for a waiver of this requirement within 30 days of its filing, the carrier may file that petition with the Commission on the 31st day after that initial filing.

(c) Eligible telecommunications carriers may not collect a service deposit in order to initiate Lifeline service, if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available. If toll blocking is unavailable, the carrier may charge a service deposit.

(d) The state commission shall file or require the carrier to file information with the Administrator demonstrating that the carrier's Lifeline plan meets the criteria set forth in this subpart and stating the number of qualifying low-income consumers and the amount of state assistance. Lifeline assistance shall be made available to qualifying low-income consumers as soon as the Administrator certifies that the carrier's Lifeline plan satisfies the criteria set out in this Subpart.

**§ 54.403 Lifeline support amount.**

(a) The federal baseline Lifeline support amount shall equal \$3.50 per qualifying low-income consumer. If the state commission approves an additional reduction of \$1.75 in the amount paid by consumers, additional federal Lifeline support in the amount of \$1.75 will be made available to the carrier providing Lifeline service to that consumer. Additional federal Lifeline support in an amount equal to one-half the amount of any state Lifeline support will be made available to the carrier providing Lifeline service to a qualifying low-income consumer if the state commission approves an additional reduction in the amount paid by that consumer equal to the state support multiplied by 1.5. The federal Lifeline support amount shall not exceed \$7.00 per qualifying low-income consumer.

(b) Eligible carriers that charge federal End-User Common Line charges or equivalent federal charges shall apply the federal baseline Lifeline support to waive Lifeline consumers' federal End-User Common Line charges. Such carriers shall apply any additional federal support amount to a qualifying low-income consumer's intrastate rate, if the state has approved of such additional support. Other carriers shall apply the federal baseline Lifeline support amount, plus the additional support amount, where applicable, to reduce their lowest tariffed (or otherwise generally available) residential rate for the services enumerated in § 54.101(a)(1) through (a)(9), and charge Lifeline consumers the resulting amount.

(c) Lifeline support for providing toll limitation shall equal the eligible telecommunications carrier's incremental cost of providing either toll blocking or toll control, whichever is selected by the particular consumer.

**§ 54.405 Carrier obligation to offer Lifeline.**

All eligible telecommunications carriers shall make available Lifeline service, as defined in § 54.401, to qualifying low-income consumers.

**§ 54.407 Reimbursement for offering Lifeline.**

(a) Universal service support for providing Lifeline shall be provided directly to the eligible telecommunications carrier, based on the number of qualifying low-income consumers it serves, under administrative procedures determined by the Administrator.

(b) The eligible telecommunications carrier may receive universal service support reimbursement for each qualifying low-income consumer served. For each consumer receiving Lifeline service, the reimbursement amount shall equal the federal support amount, including the support amount described in § 54.403(c). The eligible telecommunications carrier's universal service support reimbursement shall not exceed the carrier's standard, non-Lifeline rate.

(c) In order to receive universal service support reimbursement, the eligible telecommunications carrier must keep accurate records of the revenues it forgoes in providing Lifeline in conformity with § 54.401. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this subpart.

#### **§ 54.409 Consumer qualification for Lifeline.**

(a) To qualify to receive Lifeline service in states that provide state Lifeline service support, a consumer must meet the criteria established by the state commission. The state commission shall establish narrowly targeted qualification criteria that are based solely on income or factors directly related to income.

(b) To qualify to receive Lifeline in states that do not provide state Lifeline support, a consumer must participate in one of the following programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or Low-Income Home Energy Assistance Program. In states not providing state Lifeline support, each carrier offering Lifeline service to a consumer must obtain that consumer's signature on a document certifying under penalty of perjury that consumer receives benefits from one of the programs mentioned in this paragraph and identifying the program or programs from which that consumer receives benefits. On the same document, a qualifying low-income consumer also must agree to notify the carrier if that consumer ceases to participate in the program or programs.

#### **§ 54.411 Link Up program defined.**

(a) For purposes of this subpart, the term "Link Up" shall describe the following assistance program for qualifying low-income consumers, which an eligible telecommunications carrier shall offer as part of its obligation set forth in §§ 54.101(a)(9) and 54.101(b):

(1) A reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. The reduction shall be half of the customary charge or \$30.00, whichever is less; and

(2) A deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges not assessed to the consumer shall be for connection charges of up to \$200.00 that are deferred for a period not to exceed one year. Charges assessed for commencing service include any charges that the carrier customarily assesses to connect subscribers to the network. These charges do not include any permissible security deposit requirements.

(b) A qualifying low-income consumer may choose one or both of the programs set forth in paragraph (a) of this section.

(c) A carrier's Link Up program shall allow a consumer to receive the benefit of the Link Up program for a second or subsequent time only for a principal place of residence with an address different from the residence address at which the Link Up assistance was provided previously.

**§ 54.413 Reimbursement for revenue forgone in offering a Link Up program.**

(a) Eligible telecommunications carriers may receive universal service support reimbursement for the revenue they forgo in reducing their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the charges assessed for commencing service for which the consumer does not pay interest, in conformity with § 54.411.

(b) In order to receive universal service support reimbursement for providing Link Up, eligible telecommunications carriers must keep accurate records of the revenues they forgo in reducing their customary charge for commencing telecommunications service and for providing a deferred schedule for payment of the charges assessed for commencing service for which the consumer does not pay interest, in conformity with § 54.411. Such records shall be kept in the form directed by the Administrator and provided to the Administrator at intervals as directed by the Administrator or as provided in this Subpart. The forgone revenues for which the eligible telecommunications carrier may receive reimbursement shall include only the difference between the carrier's customary connection or interest charges and the charges actually assessed to the participating low-income consumer.

**§ 54.415 Consumer qualification for Link Up.**

(a) In states that provide state Lifeline service, the consumer qualification criteria for Link Up shall be the same criteria that the state established for Lifeline qualification in accord with § 54.409(a).

(b) In states that do not provide state Lifeline service, the consumer qualification criteria for Link Up shall be the same as the criteria set forth in § 54.409(b).

**§ 54.417 Transition to the new Lifeline and Link Up programs.**

The rules in this subpart shall take effect on January 1, 1998.

## **Subpart F - Universal Service Support for Schools and Libraries**

### **§ 54.500 Terms and definitions.**

Terms used in this subpart have the following meanings:

(a) Elementary school. An "elementary school" is a non-profit institutional day or residential school that provides elementary education, as determined under state law.

(b) Internal connections. A given service is eligible for support as a component of the institution's internal connections only if it is necessary to transport information to individual classrooms. Thus, internal connections includes items such as routers, hubs, network file servers, and wireless LANs and their installation and basic maintenance because all are needed to switch and route messages within a school or library.

(c) Library. A "library" includes:

- (1) A public library;
- (2) A public elementary school or secondary school library;
- (3) An academic library;
- (4) A research library, which for the purposes of this definition means a library that:

(i) Makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

(ii) Is not an integral part of an institution of higher education; and

(5) A private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.

(d) Library consortium. A "library consortium" is any local, statewide, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries. For the purposes of these rules, references to library will also refer to library consortium.

(e) Lowest corresponding price. "Lowest corresponding price" is the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular school, library, or library consortium for similar services.

(f) National school lunch program. The "national school lunch program" is a

program administered by the U.S. Department of Agriculture and state agencies that provides free or reduced price lunches to economically disadvantaged children. A child whose family income is between 130 percent and 185 percent of applicable family size income levels contained in the nonfarm poverty guidelines prescribed by the Office of Management and Budget is eligible for a reduced price lunch. A child whose family income is 130 percent or less of applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget is eligible for a free lunch.

(g) Pre-discount price. The "pre-discount price" means, in this subpart, the price the service provider agrees to accept as total payment for its telecommunications or information services. This amount is the sum of the amount the service provider expects to receive from the eligible school or library and the amount it expects to receive as reimbursement from the universal service support mechanisms for the discounts provided under this subpart.

(h) Secondary school. A "secondary school" is a non-profit institutional day or residential school that provides secondary education, as determined under state law. A secondary school does not offer education beyond grade 12.

#### **§ 54.501 Eligibility for services provide by telecommunications carriers.**

(a) Telecommunications carriers shall be eligible for universal service support under this subpart for providing supported services to eligible schools, libraries, and consortia including those entities.

(b) Schools.

(1) Only schools meeting the statutory definitions of "elementary school," as defined in 20 U.S.C. § 8801(14), or "secondary school," as defined in 20 U.S.C. § 8801(25), and not excluded under paragraphs (a)(2) or (a)(3) of this section shall be eligible for discounts on telecommunications and other supported services under this subpart.

(2) Schools operating as for-profit businesses shall not be eligible for discounts under this subpart.

(3) Schools with endowments exceeding \$50,000,000 shall not be eligible for discounts under this subpart.

(c) Libraries

(1) Only libraries eligible for assistance from a State library administrative agency under the Library Services and Technology Act (Public Law 104-208) and not excluded under paragraphs (b)(2) or (b)(3) of this section shall be eligible for discounts under this subpart.

(2) A library's eligibility for universal service funding shall depend on its funding

as an independent entity. Only libraries whose budgets are completely separate from any schools (including, but not limited to, elementary and secondary schools, colleges, and universities) shall be eligible for discounts as libraries under this subpart.

(3) Libraries operating as for-profit businesses shall not be eligible for discounts under this subpart.

(d) Consortia.

(1) For purposes of seeking competitive bids for telecommunications services, schools and libraries eligible for support under this subpart may form consortia with other eligible schools and libraries, with health care providers eligible under subpart G, and with public sector (governmental) entities, including, but not limited to, state colleges and state universities, state educational broadcasters, counties, and municipalities, when ordering telecommunications and other supported services under this subpart. With one exception, eligible schools and libraries participating in consortia with ineligible private sector members shall not be eligible for discounts for interstate services under this subpart. A consortium may include ineligible private sector entities if the pre-discount prices of any services that such consortium receives from ILECs are generally tariffed rates.

(2) For consortia, discounts under this subpart shall apply only to the portion of eligible telecommunications and other supported services used by eligible schools and libraries.

(3) State agencies may receive discounts on the purchase of telecommunications and information services that they make on behalf of and for the direct use of eligible schools and libraries, as through state networks.

(4) Service providers shall keep and retain records of rates charged to and discounts allowed for eligible schools and libraries -- on their own or as part of a consortium. Such records shall be available for public inspection.

**§ 54.502 Supported telecommunications services.**

For the purposes of this subpart, supported telecommunications services provided by telecommunications carriers include all commercially available telecommunications services.

**§ 54.503 Other supported special services.**

For the purposes of this subpart, other supported special services provided by telecommunications carriers include Internet access and installation and maintenance of internal connections.

**§ 54.504 Requests for service.**

(a) Competitive Bidding Requirement. All eligible schools, libraries, and consortia including those entities shall participate in a competitive bidding process, pursuant to the requirements established in this subpart, but this requirement shall not preempt state or local competitive bidding requirements.

(b) Posting of Requests for Service.

(1) Schools, libraries, and consortia including those entities wishing to receive discounts for eligible services under this subpart shall submit requests for services to a subcontractor designated by the administrator for this purpose. Requests for services shall include, at a minimum, the following information, to the extent applicable to the services requested:

(i) The computer equipment currently available or budgeted for purchase for the current, next, or other future academic years, as well as whether the computers have modems and, if so, what speed modems;

(ii) The internal connections, if any, that the school or library has in place or has budgeted to install in the current, next, or future academic years, or any specific plans for an organized voluntary effort to connect the classrooms;

(iii) The computer software necessary to communicate with other computers over an internal network and over the public telecommunications network currently available or budgeted for purchase for the current, next, or future academic years;

(iv) The experience of, and training received by, the relevant staff in the use of the equipment to be connected to the telecommunications network and training programs for which funds are committed for the current, next, or future academic years;

(v) Existing or budgeted maintenance contracts to maintain computers;  
and

(vi) The capacity of the school's or library's electrical system in terms of how many computers can be operated simultaneously without creating a fire hazard.

(2) The request for services shall be signed by the person authorized to order telecommunications and other supported services for the school or library and shall include that person's certification under oath that:

(i) The school or library is an eligible entity under §§ 254(h)(4) and 254(h)(5) of the Act and the rules adopted under this subpart;

(ii) The services requested will be used solely for educational purposes;

(iii) The services will not be sold, resold, or transferred in consideration for money or any other thing of value;

(iv) If the services are being purchased as part of an aggregated purchase with other entities, the request identifies all co-purchasers and the services or portion of the services being purchased by the school or library;

(v) All of the necessary funding in the current funding year has been budgeted and approved to pay for the "non-discount" portion of requested connections and services as well as any necessary hardware, software, and to undertake the necessary staff training required to use the services effectively;

(vi) The school, library, or consortium including those entities has complied with all applicable state and local procurement processes; and

(vii) The school, library, or consortium including those entities has a technology plan that has been certified by its state or an independent entity approved by the Commission.

(3) After posting a description of services from a school, library, or consortium of these entities on the school and library website, the administrator's subcontractor shall send confirmation of the posting to the entity requesting services. That entity shall then wait at least four weeks from the date on which its description of services is posted on the website before making commitments with the selected providers of services. The confirmation from the administrator shall include the date after which the requestor may sign a contract with its chosen provider(s).

(c) Rate Disputes. Schools, libraries, and consortia including those entities, and service providers may have recourse to the Commission, regarding interstate rates, and to state commissions, regarding intrastate rates, if they reasonably believe that the lowest corresponding price is unfairly high or low.

(1) Schools, libraries, and consortia including those entities may request lower rates if the rate offered by the carrier does not represent the lowest corresponding price.

(2) Service providers may request higher rates if they can show that the lowest corresponding price is not compensatory, because the relevant school, library, or consortium including those entities is not similarly situated to and subscribing to a similar set of services to the customer paying the lowest corresponding price.

#### **§ 54.505      Discounts.**

(a) Discount Mechanism. Discounts for eligible schools and libraries shall be set as a percentage discount from the pre-discount price.

(b) Discount Percentages. The discounts available to eligible schools and libraries shall range from 20 percent to 90 percent of the pre-discount price for all eligible services provided by eligible providers, as defined in this subpart. The discounts available to a particular school, library, or consortium of only such entities shall be determined by indicators of poverty and high cost.

(1) For schools and school districts, the level of poverty shall be measured by the percentage of their student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism. School districts applying for eligible services on behalf of their individual schools may calculate the district-wide percentage of eligible students using a weighted average. For example, a school district would divide the total number of students in the district eligible for the national school lunch program by the total number of students in the district to compute the district-wide percentage of eligible students. Alternatively, the district could apply on behalf of individual schools and use the respective percentage discounts for which the individual schools are eligible.

(2) For libraries and library consortia, the level of poverty shall be based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program or a federally-approved alternative mechanism in the public school district in which they are located. If the library is not in a school district then its level of poverty shall be based on an average of the percentage of students eligible for the national school lunch program in each of the school districts that children living in the library's location attend. Library systems applying for discounted services on behalf of their individual branches shall calculate the system-wide percentage of eligible families using an unweighted average based on the percentage of the student enrollment that is eligible for a free or reduced price lunch under the national school lunch program in the public school district in which they are located for each of their branches or facilities.

(3) The administrator shall classify schools and libraries as "urban" or "rural" based on location in an urban or rural area, according to the following designations.

(i) Schools and libraries located in metropolitan counties, as measured by the Office of Management and Budget's Metropolitan Statistical Area method, shall be designated as urban, except for those schools and libraries located within metropolitan counties identified by census block or tract in the Goldsmith Modification.

(ii) Schools and libraries located in non-metropolitan counties, as measured by the Office of Management and Budget's Metropolitan Statistical Area method, shall be designated as rural. Schools and libraries located in rural areas within metropolitan counties identified by census block or tract in the Goldsmith Modification shall also be designated as rural.

(c) Matrix. The administrator shall use the following matrix to set a discount rate to be applied to eligible interstate services purchased by eligible schools, school districts, libraries, or

library consortia based on the institution's level of poverty and location in an "urban" or "rural" area.

SCHOOLS & LIBRARIES DISCOUNT MATRIX	DISCOUNT LEVEL	
	urban discount	rural discount
HOW DISADVANTAGED?  % of students eligible for national school lunch program		
< 1	20	25
1-19	40	50
20-34	50	60
35-49	60	70
50-74	80	80
75-100	90	90

(d) Consortia. Consortia applying for discounted services on behalf of their members shall calculate the portion of the total bill eligible for a discount using a weighted average based on the share of the pre-discount price for which each eligible school or library agrees to be financially liable. Each eligible school, school district, library or library consortia will be credited with the discount to which it is entitled.

(e) Interstate and Intrastate Services. Federal universal service support for schools and libraries shall be provided for both interstate and intrastate services.

(1) Federal universal service support under this subpart for eligible schools and libraries in a state is contingent upon the establishment of intrastate discounts no less than the discounts applicable for interstate services.

(2) A state may, however, secure a temporary waiver of this latter requirement based on unusually compelling conditions.

**§ 54.507 Cap.**

(a) Amount of the Annual Cap. The annual cap on federal universal service support for schools and libraries shall be \$2.25 billion per funding year, and all funding authority for a given funding year that is unused shall be carried forward into subsequent years for use in accordance

with demand, as determined by the administrator, with two exceptions. First, no more than \$1 billion shall be collected or spent for the funding period from January 1, 1998 through June 30, 1998. Second, no more than half of the unused portion of the funding authority for calendar year 1998 shall be spent in calendar year 1999, and no more than half of the unused funding authority from calendar years 1998 and 1999 shall be used in calendar year 2000.

(b) Funding Year. The funding year for purposes of the schools and libraries cap shall be the calendar year.

(c) Requests. Funds shall be available to fund discounts for eligible schools and libraries and consortia of such eligible entities on a first-come-first-served basis, with requests accepted beginning on the first of July prior to each funding year. The administrator's subcontractor shall maintain a running tally of the funds that the administrator has already committed for the existing funding year on the school and library website.

(d) Annual Filing Requirement. Schools and libraries, and consortia of such eligible entities shall file new funding requests for each funding year no sooner than the July 1 prior to the start of that funding year.

(e) Long Term Contracts. If schools and libraries enter into long term contracts for eligible services, the administrator shall only commit funds to cover the pro rata portion of such a long term contract scheduled to be delivered during the funding year for which universal service support is sought.

(f) Rules of Priority. When expenditures in any funding year reach the level where only \$250 million remains before the cap will be reached, funds shall be distributed in accordance to the following rules of priority:

(1) The administrator's subcontractor shall post a message on the school and library website, notify the Commission, and take reasonable steps to notify the educational and library communities that commitments for the remaining \$250 million of support will only be made to the most economically disadvantaged schools and libraries (those in the two most disadvantaged categories) for the next 30 days or the remainder of the funding year, whichever is shorter.

(2) The most economically disadvantaged schools and libraries (those in the two most disadvantaged categories) that have not received discounts from the universal service support mechanism in the previous or current funding years shall have exclusive rights to secure commitments for universal service support under this subpart for a 30-day period or the remainder of the funding year, whichever is shorter. If such schools and libraries have received universal service support only for basic telephone service in the previous or current funding years, they shall remain eligible for the highest priority once spending commitments leave only \$250 million remaining before the funding cap is reached.

(3) Other economically disadvantaged schools and libraries (those in the two most disadvantaged categories) that have received discounts from the universal service support mechanism in the previous or current funding years shall have the next highest priority, if additional funds are available at the end of the 30-day period or the funding year, whichever is shorter.

(4) If funds still remain after all requests submitted by schools and libraries described in paragraphs (f)(2) and (f)(3) of this section during the 30-day period have been met, the administrator shall allocate the remaining available funds to all other eligible schools and libraries in the order in which their requests have been received, until the \$250 million is exhausted or the funding year ends.

**§ 54.509      Adjustments to the discount matrix.**

(a) Estimating future spending requests. When submitting their requests for specific amounts of funding for a funding year, schools, libraries, library consortia, and consortia including such entities shall also estimate their funding requests for the following funding year to enable the administrator to estimate funding demand for the following year.

(b) Reduction in Percentage Discounts. If the estimates schools and libraries make of their future funding needs lead the Administrator to predict that total funding requests for a funding year will exceed the available funding then the Administrator shall calculate the percentage reduction to all schools and libraries, except those in the two most disadvantaged categories, necessary to permit all requests in the next funding year to be fully funded. The administrator must then request the Commission's approval of the recommended adjustments.

(c) Remaining Funds. If funds remain under the cap at the end of the funding year in which discounts have been reduced below those set in the matrices above, the administrator shall consult with the Commission to establish the best way to distribute those funds.

**§ 54.511      Ordering services.**

(a) Selecting a Provider of Eligible Services. In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers.

(b) Lowest Corresponding Price. Providers of eligible services shall not charge schools, school districts, libraries, library consortia, and consortia including any of those entities a price above the lowest corresponding price for supported services, unless the Commission, with respect to interstate services or the state commission with respect to intrastate services, finds that the lowest corresponding price is not compensatory.

(c) Schools and libraries bound by existing contracts. Schools and libraries bound by

existing contracts for service shall not be required to breach those contracts in order to qualify for discounts under this subpart during the period for which they are bound. This exemption from competitive bidding requirements, however, shall not apply to voluntary extensions of existing contracts.

**§ 54.513 Resale.**

(a) Prohibition on Resale. Eligible services purchased at a discount under this subpart shall not be sold, resold, or transferred in consideration of money or any other thing of value.

(b) Permissible Fees. This prohibition on resale shall not bar schools, school districts, libraries, and library consortia from charging either computer lab fees or fees for classes in how to navigate over the Internet. There is no prohibition on the resale of services that are not purchased pursuant to the discounts provided in this subpart.

**§ 54.515 Distributing support.**

(a) A telecommunications carrier providing services eligible for support under this subpart to eligible schools and libraries shall treat the amount eligible for support under this subpart as an offset against the carrier's universal service support obligation for the year in which the costs for providing eligible services were incurred.

(b) If the total amount of support owed to a carrier, as set forth in paragraph (a) of this section, exceeds its universal service obligation, calculated on an annual basis, the carrier may receive a direct reimbursement in the amount of the difference.

(c) Any reimbursement due a carrier shall be made after the offset is credited against that carrier's universal service obligation.

(d) Any reimbursement due a carrier shall be submitted to that carrier no later than the end of the first quarter of the calendar year following the year in which the costs were incurred and the offset against the carrier's universal service obligation was applied.

**§ 54.516 Auditing.**

(a) Recordkeeping Requirements. Schools and libraries shall be required to maintain for their purchases of telecommunications and other supported services at discounted rates the kind of procurement records that they maintain for other purchases.

(b) Production of Records. Schools and libraries shall produce such records at the request of any auditor appointed by a state education department, the administrator, or any state or federal agency with jurisdiction.

(c) Random Audits. Schools and libraries shall be subject to random compliance audits

to evaluate what services they are purchasing and how such services are being used.

**§ 54.517 Services provided by non-telecommunications carriers.**

(a) Non-telecommunications carriers shall be eligible for universal service support under this subpart for providing covered services for eligible schools, libraries and consortia including those entities.

(b) Supported services. Non-telecommunications carriers shall be eligible for universal service support under this subpart for providing Internet access and installation and maintenance of internal connections.

(c) Requirements. Such services provided by non-telecommunications carriers shall be subject to all the provisions of this subpart, except §§ 54.501(a), 54.502, 54.503, 54.515.

**Subpart G - Universal Service Support for Health Care Providers**

**§ 54.601 Eligibility.**

(a) Health care providers.

(1) Only an entity meeting the definition of "health care provider" as defined in this section shall be eligible to receive supported services under this subpart.

(2) For purposes of this subpart, a "health care provider" is any:

- (i) Post-secondary educational institution offering health care instruction, including a teaching hospital or medical school;
- (ii) Community health center or health center providing health care to migrants;
- (iii) Local health department or agency;
- (iv) Community mental health center;
- (v) Not-for-profit hospital;
- (vi) Rural health clinic; or
- (vii) Consortium of health care providers consisting of one or more entities described in paragraphs (a)(2)(i) through (a)(2)(vi) of this section.

(3) Only public or non-profit health care providers shall be eligible to receive supported services under this subpart.

(4) Except with regard to those services provided under § 54.621, only a rural health care provider shall be eligible to receive supported services under this subpart. A "rural health care provider" is a health care provider located in a rural area, as defined in this part.

(5) Each separate site or location of a health care provider shall be considered an individual health care provider for purposes of calculating and limiting support under this subpart.

(b) Consortia.

(1) An eligible health care provider may join a consortium with other eligible health care providers; with schools, libraries, and library consortia eligible under subpart F; and with public sector (governmental) entities to order telecommunications services. With one exception, eligible health care providers participating in consortia with ineligible private sector members shall not be eligible for supported services under this subpart. A consortium may include ineligible private sector entities if such consortium is only receiving services at tariffed rates or at market rates from those providers who do not file tariffs.

(2) For consortia, universal service support under this subpart shall apply only to the portion of eligible services used by an eligible health care provider.

(3) Telecommunications carriers shall carefully maintain complete records of how they allocate the costs of shared facilities among consortium participants in order to charge eligible health care providers the correct amounts. Such records shall be available for public inspection.

(4) Telecommunications carriers shall calculate and justify with supporting documentation the amount of support for which each member of a consortium is eligible.

(c) Services.

(1) Any telecommunications service of a bandwidth up to and including 1.544 Mbps that is the subject of a properly completed bona fide request by a rural health care provider shall be eligible for universal service support, subject to the limitations described in this subpart. The length of a supported telecommunications service may not exceed the distance between the health care provider and the point farthest from that provider on the jurisdictional boundary of the nearest large city as defined in § 54.605(c).

(2) Limited toll-free access to an Internet service provider shall be eligible for universal service support under § 54.621.

**§ 54.603 Competitive bidding.**

(a) Competitive bidding requirement. To select the telecommunications carriers that will provide services eligible for universal service support to it under this subpart, each eligible health care provider shall participate in a competitive bidding process pursuant to the requirements established in this subpart and any additional and applicable state, local, or other procurement requirements.

(b) Posting of requests for service.

(1) Health care providers seeking to receive telecommunications services eligible for universal service support under this subpart shall submit a description of the services requested. Requests shall be signed by the person authorized to order telecommunications services for the health care provider and shall include that person's certification under oath that:

(i) The requester is a public or non-profit entity that falls within one of the seven categories set forth in the definition of health care provider, listed in § 54.601(a);

(ii) The requester is physically located in a rural area, unless the health care provider is requesting services provided under § 54.621;

(iii) If the health care provider is requesting services provided under § 54.621, that the requester cannot obtain toll-free access to an Internet service provider;

(iv) The requested service or services will be used solely for purposes reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide under the law in the state in which such health care services or instruction are provided;

(v) The requested service or services will not be sold, resold or transferred in consideration of money or any other thing of value; and

(vi) If the service or services are being purchased as part of an aggregated purchase with other entities or individuals, the full details of any such arrangement, including the identities of all co-purchasers and the portion of the service or services being purchased by the health care provider.

(2) The Administrator shall post each request for eligible services that it receives from an eligible health care provider on its website designated for this purpose.

(3) After posting a description of services from a health care provider on the website, the Administrator shall send confirmation of the posting to the entity requesting services. That health care provider shall then wait at least 28 days from the date on which its description of services is posted on the website before making commitments with the selected telecommunications carrier(s).

(4) After selecting a telecommunications carrier, the health care provider shall certify to the Administrator that it is selecting the most cost-effective method of providing the requested service or services, where the most cost-effective method of providing a service is defined as the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services. The health care provider shall

submit to the Administrator paper copies of other responses or bids received in response to the request for services.

(5) The confirmation from the Administrator shall include the date after which the requester may sign a contract with its chosen telecommunications carrier(s).

**§ 54.605 Determining the urban rate.**

(a) If a rural health care provider requests an eligible service to be provided over a distance that is less than or equal to the "standard urban distance," as defined in paragraph (d) of this section, for the state in which it is located, the urban rate for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a similar service provided over the same distance in the nearest large city in the state, calculated as if it were provided between two points within the city.

(b) If a rural health care provider requests an eligible service to be provided over a distance that is greater than the "standard urban distance" for the state in which it is located, the urban rate shall be no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a similar service provided over the standard urban distance in the nearest large city in the state, calculated as if the service were provided between two points within the city.

(c) The "nearest large city" is the city located in the eligible health care provider's state, with a population of at least 50,000, that is nearest to the health care provider's location, measured point to point, from the health care provider's location to the point on that city's jurisdictional boundary closest to the health care provider's location.

(d) The "standard urban distance" for a state is the average of the longest diameters of all cities with a population of 50,000 or more within the state, calculated by the Administrator.

**§ 54.607 Determining the rural rate.**

(a) The rural rate shall be the average of the rates actually being charged to commercial customers, other than health care providers, for identical or similar services provided by the telecommunications carrier providing the service in the rural area in which the health care provider is located. The rates included in this average shall be for services provided over the same distance as the eligible service. The rates averaged to calculate the rural rate must not include any rates reduced by universal service support mechanisms. The "rural rate" shall be used as described in this subpart to determine the credit or reimbursement due to a telecommunications carrier that provides eligible telecommunications services to eligible health care providers.

(b) If the telecommunications carrier serving the health care provider is not providing any identical or similar services in the rural area, then the rural rate shall be the average of the

tariffed and other publicly available rates, not including any rates reduced by universal service programs, charged for the same or similar services in that rural area over the same distance as the eligible service by other carriers. If there are no tariffed or publicly available rates for such services in that rural area, or if the carrier reasonably determines that this method for calculating the rural rate is unfair, then the carrier shall submit for the state commission's approval, for intrastate rates, or the Commission's approval, for interstate rates, a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner.

(1) The carrier must provide, to the state commission, for intrastate rates, or to the Commission, for interstate rates, a justification of the proposed rural rate, including an itemization of the costs of providing the requested service.

(2) The carrier must provide such information periodically thereafter as required, by the state commission for intrastate rates or the Commission for interstate rates. In doing so, the carrier must take into account anticipated and actual demand for telecommunications services by all customers who will use the facilities over which services are being provided to eligible health care providers.

#### **§ 54.609      Calculating support.**

(a) Except with regard to services provided under § 54.621 and subject to the limitations set forth in this subpart, the amount of universal service support for an eligible service provided to a rural health care provider shall be the difference, if any, between the urban rate and the rural rate charged for the service, as defined herein.

(b) Except with regard to services provided under § 54.621, a telecommunications carrier that provides telecommunications service to a rural health care provider participating in an eligible health care consortium must establish the applicable rural rate for the health care provider's portion of the shared telecommunications services, as well as the applicable urban rate. Absent documentation justifying the amount of universal service support requested for health care providers participating in a consortium, the Administrator shall not allow telecommunications carriers to offset, or receive reimbursement for, the amount eligible for universal service support.

#### **§ 54.611      Distributing support.**

(a) A telecommunications carrier providing services eligible for support under this subpart to eligible health care providers shall treat the amount eligible for support under this subpart as an offset against the carrier's universal service support obligation for the year in which the costs for providing eligible services were incurred.

(b) If the total amount of support owed to a carrier, as set forth in paragraph (a) of this section, exceeds its universal service obligation, calculated on an annual basis, the carrier may receive a direct reimbursement in the amount of the difference.

(c) Any reimbursement due a carrier shall be made after the offset is credited against that carrier's universal service obligation.

(d) Any reimbursement due a carrier shall be submitted to that carrier no later than the end of the first quarter of the calendar year following the year in which the costs were incurred and the offset against the carrier's universal service obligation was applied.

**§ 54.613      Limitations on supported services for rural health care providers.**

(a) Upon submitting a bona fide request to a telecommunications carrier, each eligible rural health care provider is entitled to receive the most cost-effective, commercially-available telecommunications service using a bandwidth capacity of 1.544 Mbps, at a rate no higher than the highest urban rate, as defined in this subpart, at a distance not to exceed the distance between the eligible health care provider's site and the farthest point from that site that is on the jurisdictional boundary of the nearest large city, as defined in § 54.605(c).

(b) The rural health care provider may substitute any other service or combination of services with transmission capacities of less than 1.544 Mbps transmitted over the same or a shorter distances, so long as the total annual support amount for all such services combined, calculated as provided in this subpart, does not exceed what the support amount would have been for the service described in paragraph (a) of this section. If the rural health care provider is located in an area where a service using a bandwidth capacity of 1.544 Mbps is not available, then the total annual support amount for that provider shall not exceed what the support amount would have been under paragraph (a) of this section, calculated using the rural rate for a service of that capacity in another area of the state.

(c) This section shall not affect a rural health care provider's ability to obtain supported services under § 54.621.

**§ 54.615      Obtaining services.**

(a) Selecting a provider. In selecting a telecommunications carrier, a health care provider shall consider all bids submitted and select the most cost-effective alternative.

(b) Receiving supported rate. Except with regard to services provided under § 54.621, upon receiving a bona fide request for an eligible service from an eligible health care provider, as set forth in paragraph (c) of this section, a telecommunications carrier shall provide the service at a rate no higher than the urban rate, as defined in § 54.605, subject to the limitations set forth in this subpart.

(c) Bona fide request. In order to receive services eligible for universal service support under this subpart, an eligible health care provider must submit a request for services to the telecommunications carrier, signed by an authorized officer of the health care provider, and shall include that person's certification under oath that:

(1) The requester is a public or non-profit entity that falls within one of the seven categories set forth in the definition of health care provider, listed in § 54.601(a);

(2) The requester is physically located in a rural area, unless the health care provider is requesting services provided under § 54.621;

(3) If the health care provider is requesting services provided under § 54.621, that the requester cannot obtain toll-free access to an Internet service provider;

(4) The requested service or services will be used solely for purposes reasonably related to the provision of health care services or instruction that the health care provider is legally authorized to provide under the law in the state in which such health care services or instruction are provided;

(5) The requested service or services will not be sold, resold or transferred in consideration of money or any other thing of value;

(6) If the service or services are being purchased as part of an aggregated purchase with other entities or individuals, the full details of any such arrangement, including the identities of all co-purchasers and the portion of the service or services being purchased by the health care provider; and

(7) The requester is selecting the most cost-effective method of providing the requested service or services, where the most cost-effective method of providing a service is defined as the method that costs the least after consideration of the features, quality of transmission, reliability, and other factors that the health care provider deems relevant to choosing a method of providing the required health care services.

(d) Annual renewal. The certification set forth in paragraph (c) of this section shall be renewed annually.

**§ 54.617      Resale.**

(a) Prohibition on resale. Services purchased pursuant to universal service support mechanisms under this subpart shall not be sold, resold, or transferred in consideration for money or any other thing of value.

(b) Permissible fees. The prohibition on resale set forth in paragraph (a) of this section shall not prohibit a health care provider from charging normal fees for health care services, including instruction related to such services rendered via telecommunications services purchased under this subpart.

**§ 54.619      Audit program.**

(a) Recordkeeping requirements. Health care providers shall maintain for their purchases of services supported under this subpart the same kind of procurement records that they maintain for other purchases.

(b) Production of records. Health care providers shall produce such records at the request of any auditor appointed by the Administrator or any other state or federal agency with jurisdiction.

(c) Random audits. Health care providers shall be subject to random compliance audits to ensure that requesters are complying with the certification requirements set forth in § 54.615(c) and are otherwise eligible to receive universal service support and that rates charged comply with the statute and regulations.

(d) Annual report. The Administrator shall use the information obtained under paragraph (a) of this section to evaluate the effects of the regulations adopted in this subpart and shall report its findings to the Commission on the first business day in May of each year.

**§ 54.621 Access to advanced telecommunications and information services.**

(a) Each eligible health care provider that cannot obtain toll-free access to an Internet service provider shall be entitled to receive the lesser of the toll charges incurred for 30 hours of access per month to an Internet service provider or \$180 per month in toll charge credits for toll charges imposed for connecting to an Internet service provider.

(b) Both telecommunications carriers designated as eligible telecommunications carriers pursuant to § 54.201(d) and telecommunications carriers not so designated that provide services described in paragraph (a) of this section shall be eligible for universal service support under this section.

**§ 54.623 Cap.**

(a) Amount of the Annual Cap. The annual cap on federal universal service support for health care providers shall be \$400 million per funding year.

(b) Funding Year. The funding year for purposes of the health care providers cap shall be the calendar year.

(c) Requests. Funds shall be available to eligible health care providers on a first-come-first-served basis, with requests accepted beginning on the first of July prior to each funding year.

(d) Annual Filing Requirement. Health care providers shall file new funding requests for each funding year.

(e) Long Term Contracts. If health care providers enter into long term contracts for eligible services, the Administrator shall only commit funds to cover the portion of such a long term contract scheduled to be delivered during the funding year for which universal service support is sought.

## **Subpart H - Administration**

### **§ 54.701 Administrator of universal service support mechanisms.**

(a) A Federal Advisory Committee (Committee) shall recommend a neutral, third-party administrator of the universal service support programs to the Commission within six months of the Committee's first meeting. The Commission shall act upon that recommendation within six months. The Administrator must:

(1) Be neutral and impartial;

(2) Not advocate specific positions before the Commission in non-universal service administration proceedings related to common carrier issues, except that membership in a trade association that advocates positions before the Commission will not render it ineligible to serve as the Administrator;

(3) Not be an affiliate of any provider of telecommunications services; and

(4) Not issue a majority of its debt to, nor derive a majority of its revenues from any provider(s) of telecommunications services. This prohibition also applies to any affiliates of the Administrator.

(b) If the Administrator has a Board of Directors that includes members with direct financial interests in entities that contribute to or receive support from the universal service support programs, no more than a third of the Board members may represent any one category (e.g., local exchange carriers, interexchange carriers, wireless carriers, schools, libraries) of contributing carriers or support recipients, and the Board's composition must reflect the broad base of contributors to and recipients of universal service.

(1) An individual does not have a direct financial interest in entities that contribute to or receive support from the universal service support programs if he or she is not an employee of a telecommunications carrier or of a recipient of universal service support programs funds, does not own equity interests in bonds or equity instruments issued by any telecommunications carrier, and does not own mutual funds that specialize in the telecommunications industry. If a mutual fund invests more than 50 percent of its money in telecommunications stocks and bonds, then it specializes in the telecommunications industry.

(2) An individual's ownership interest in entities that contribute to or receive

support from the universal service support programs is de minimis if in aggregate the individual, spouse, and minor children's impermissible interests do not exceed \$5,000.

(c) The Administrator chosen by the Committee shall begin administering the support programs within six months of its appointment. The Administrator's performance shall be reviewed by the Commission after two years. The Administrator shall serve an initial term of five years. At any time prior to nine months before the end of the Administrator's five-year term, the Commission may re-appoint the Administrator for another term of not more than five years. Otherwise, nine months before the end of the Administrator's term, the Commission will create another Federal Advisory Committee to recommend another neutral, third-party administrator.

(d) The Committee's, Administrator's, and Temporary Administrator's reasonable administrative projected annual costs shall be included within the universal service support programs' projected expenses.

(e) The Administrator and Temporary Administrator shall keep the universal service support program funds separate from all other funds under the control of the Administrator or Temporary Administrator.

(f) The Administrator and Temporary Administrator shall be subject to a yearly audit by an independent accounting firm and may be subject to an additional audit by the Commission, if the Commission so requests.

(1) The Administrator and the Temporary Administrator shall report annually to the Commission an itemization of monthly administrative costs that shall include all expenses, receipts, and payments associated with the administration of the universal service support programs and shall provide the Commission full access to the data collected pursuant to the administration of the universal service support programs.

(2) Pursuant to § 64.903 of this chapter, the Administrator shall file with the Commission a cost allocation manual (CAM), that describes the accounts and procedures the Administrator will use to allocate the shared costs of administering the universal service support programs and its other operations.

(3) Information based on the Administrator's and Temporary Administrator's reports will be made public at least once a year as part of a Monitoring Report.

(g) The Administrator and Temporary Administrator shall report quarterly to the Commission on the disbursement of universal service support program funds. The Administrator and Temporary Administrator shall keep separate accounts for the amounts of money collected and disbursed for eligible schools and libraries, rural health care providers, low-income consumers, and high cost and insular areas.

(h) The Administrator and Temporary Administrator shall be subject to close-out audits at the end of their terms.

**§ 54.703 Contributions.**

(a) Entities that provide interstate telecommunications to the public, or to such classes of users as to be effectively available to the public, for a fee will be considered telecommunications carriers providing interstate telecommunications services and must contribute to the universal service support programs. Interstate telecommunications include, but are not limited to:

- (1) Cellular telephone and paging services;
- (2) Mobile radio services;
- (3) Operator services;
- (4) Personal communications services (PCS);
- (5) Access to interexchange service;
- (6) Special access service;
- (7) WATS;
- (8) Toll-free service;
- (9) 900 service;
- (10) Message telephone service (MTS);
- (11) Private line service;
- (12) Telex;
- (13) Telegraph;
- (14) Video services;
- (15) Satellite service;
- (16) Resale of interstate services; and
- (17) Payphone services.

(b) Every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators shall contribute to the programs for eligible schools, libraries, and health care providers on the basis of its interstate, intrastate, and international end-user telecommunications revenues. Entities providing open video systems (OVS), cable leased access, or direct broadcast satellite (DBS) services are not required to contribute on the basis of revenues derived from those services.

(c) Every telecommunications carrier that provides interstate telecommunications services, every provider of interstate telecommunications that offers telecommunications for a fee on a non-common carrier basis, and payphone providers that are aggregators shall contribute to the programs for high cost, rural and insular areas, and low-income consumers on the basis of its interstate and international end-user telecommunications revenues. Entities providing OVS, cable leased access, or DBS services are not required to contribute on the basis of revenues derived from those services.

**§ 54.705      De minimis exemption.**

If a contributor's contribution to universal service in any given year is less than \$100, that contributor will not be required to submit a contribution or Universal Service Worksheet for that year. If a contributor improperly claims exemption from the contribution requirement, it will be subject to the criminal provisions of §§ 220(d) and (e) of the Act regarding willful false submissions and will be required to pay the amounts withheld plus interest.

**§ 54.707      Audit controls.**

The Administrator shall have authority to audit contributors and carriers reporting data to the administrator. The Administrator shall establish procedures to verify discounts, offsets, and support amounts provided by the universal service support programs, and may suspend or delay discounts, offsets, and support amounts provided to a carrier if the carrier fails to provide adequate verification of discounts, offsets, or support amounts provided upon reasonable request, or if directed by the Commission to do so. The Administrator shall not provide reimbursements, offsets or support amounts pursuant to part 36 and § 69.116 through .117 of this chapter, and subparts D, E, and G of this part to a carrier until the carrier has provided to the Administrator a true and correct copy of the decision of a state commission designating that carrier as an eligible telecommunications carrier in accordance with § 54.201.

**PART 69 -- ACCESS CHARGES**

11. The authority citation for part 69 is revised to read as follows:

AUTHORITY: 47 USC Secs. 154(i) and (j), 201, 202, 203, 205, 218, 254, and 403.

12. Section 69.2(y) is revised to read as follows:

**§ 69.2 Definitions.**

\* \* \* \* \*

(y) Long Term Support (LTS) means funds that are provided pursuant to § 54.303 of part 54.

\* \* \* \* \*

13. Section 69.104 is amended by revising paragraphs (j), (k), and (l) to read as follows:

**§ 69.104 End user common line.**

\* \* \* \* \*

(j) Until December 31, 1997, the End User Common Line charge for a residential subscriber shall be 50% of the charge specified in paragraphs (c) and (d) if the residential local exchange service rate for such subscribers is reduced by an equivalent amount, provided, That such local exchange service rate reduction is based upon a means test that is subject to verification.

(k) Paragraphs (k)(1) through (2) of this section are effective until December 31, 1997. \*  
\* \*

(l) Until December 31, 1997, in connection with the filing of access tariffs pursuant to § 69.3(a), telephone companies shall calculate for the association their projected revenue requirements attributable to the operation of paragraphs (j) through (k) of this section. The projected amount will be adjusted by the association to reflect the actual lifeline assistance benefits paid in the previous period. If the actual benefits exceeded the projected amount of that period, the differential will be added to the projection for the ensuing period. If the actual benefits were less than the projected amount for that period, the differential will be subtracted from the projection for the ensuing period. Until December 31, 1997, the association shall so adjust amounts to the Lifeline Assistance revenue requirement, bill and collect such amounts from interexchange carriers pursuant to § 69.117 and distribute the funds to qualifying telephone companies pursuant to § 69.603(d).

\* \* \* \* \*

14. Section 69.116 is amended by revising the introductory text to read as follows:

**§ 69.116 Universal service fund.**

Effective August 1, 1988 through December 31, 1997:

\* \* \* \* \*

15. Section 69.117 is amended by revising the introductory text to read as follows:

**§ 69.117 Lifeline assistance.**

Effective August 1, 1988 through December 31, 1997:

\* \* \* \* \*

16. Section 69.203 is amended by revising paragraph (f) and revising the first sentence of paragraph (g)(i) to read as follows:

**§ 69.203 Transitional end user common line charges.**

\* \* \* \* \*

(f) Until December 31, 1997, the End User Common Line charge for a residential subscriber shall be 50% of the charge specified in paragraphs (d) and (e) if the residential local exchange rate for such subscribers is reduced by an equivalent amount, provided that such local exchange service rate reduction is based upon a means test that is subject to verification.

(g)(1) Paragraphs (g)(1) and (g)(2) are effective until December 31, 1997. \* \* \*

\* \* \* \* \*

17. Section 69.612(a) is revised to read as follows:

**§ 69.612 Long term and transitional support.**

A telephone company that does not participate in the association Common Line tariff shall have computed by the association:

(a) Long Term Support Obligation.

(1) Beginning July 1, 1994 and until December 31, 1997, the Long Term Support payment obligation of telephone companies that do not participate in the NECA Common Line tariff shall equal the difference between the projected Carrier Common Line revenue requirement of association Common Line tariff participants and the projected revenue recovered by the association Carrier Common Line charge as calculated pursuant to § 69.105(b)(1).

(2) For the period from April 1, 1989 through June 30, 1994, the Long Term Support payment obligation shall be funded by all telephone companies that are not association Common Line tariff participants and do not receive transitional support pursuant to § 69.612(b). The percentage of the total annual Long Term Support requirement paid by each telephone company in this group that is not a Level I or Level II Contributor shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The remaining amount of Long Term Support requirement shall be allocated among Level I and Level II Contributors based upon the amount of each Level I and Level II Contributor's 1988 contributions to the association Common Line pool in relation to the total amount of 1988 Common Line pool contributions of all other Level I and Level II Contributors. The association shall inform each telephone company about its mandatory Long Term Support obligations within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to § 69.603(e).

(3) Beginning July 1, 1994, and thereafter, the Long Term Support payment

obligation shall be funded by each telephone company that files its own Carrier Common Line tariff does not receive transitional support. The percentage of the total annual Long Term Support requirement paid by each of these companies shall equal the number of its common lines divided by the total number of common lines of all telephone companies paying Long Term Support. The association shall inform each telephone company about its Long Term Support obligation within a reasonable time prior to the filing of each telephone company's annual Common Line tariff revisions or other similar filing ordered by the Commission. Such amounts shall represent a negative net balance due to the association that it shall bill, collect, and distribute pursuant to § 69.603(f).

\* \* \* \* \*