

**Federal Communications Commission**

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AUTHORITY: 47 U.S.C. 151, 154(i), 201, 205, 214, and 254 unless otherwise noted.

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### 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 section 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 term “Administrator” shall refer to the Universal Service Administrative Company that is an independent subsidiary of the National Exchange Carrier Association, Inc., and that has been appointed the permanent Administrator of the federal universal service support mechanisms.

*Competitive eligible telecommunications carrier.* A “competitive eligible telecommunications carrier” is a carrier

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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.

*Contributor.* The term “contributor” shall refer to an entity required to contribute to the universal service support mechanisms pursuant to § 54.706.

*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.

*Interconnected VoIP Provider.* An “interconnected VoIP provider” is an entity that provides interconnected VoIP service, as that term is defined in section 9.3 of these rules.

*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, Terri-

tory, 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 communication 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.

*Rate-of-return carrier.* “Rate-of-return carrier” shall refer to any incumbent local exchange carrier not subject to price cap regulation as that term is defined in § 61.3(x) of this chapter.

*Rural area.* For purposes of the schools and libraries universal support mechanism, a “rural area” is a non-metropolitan county or county equivalent, as defined in the Office of Management and Budget’s (OMB) Revised Standards for Defining Metropolitan Areas in the 1990s 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. For purposes of the rural health care universal service support mechanism, a “rural area” is an area that is entirely outside of a Core Based Statistical Area; is within a Core Based Statistical Area that does not have any Urban Area with a population of 25,000

or greater; or is in a Core Based Statistical Area that contains an Urban Area with a population of 25,000 or greater, but is within a specific census tract that itself does not contain any part of a Place or Urban Area with a population of greater than 25,000. “Core Based Statistical Area” and “Urban Area” are as defined by the Census Bureau and “Place” is as identified by the Census Bureau.

*Rural incumbent local exchange carrier.* “Rural incumbent local exchange carrier” is a carrier that meets the definitions of “rural telephone company” and “incumbent local exchange carrier,” as those terms are defined in § 51.5 of this chapter.

*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 section 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 tele-

communications 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.

*Website.* The term “website” shall refer to any websites operated by the Administrator in connection with the schools and libraries support mechanism, the rural health care support mechanism, the high cost mechanism, and the low income mechanism.

*Wire center.* A wire center is the location of a local switching facility containing one or more central offices, as defined in the Appendix to part 36 of this chapter. The wire center boundaries define the area in which all customers served by a given wire center are located.

[62 FR 32948, June 17, 1997, as amended at 62 FR 41303, Aug. 1, 1997; 63 FR 70571, Dec. 21, 1998; 64 FR 67431, Dec. 1, 1999; 66 FR 30087, June 5, 2001; 66 FR 59726, Nov. 30, 2001; 70 FR 6372, Feb. 7, 2005; 71 FR 38796, July 10, 2006]

EFFECTIVE DATE NOTE: At 71 FR 38796, July 10, 2006, § 54.5 was amended by revising the definition of “contributor” and adding the definition of “interconnected VoIP provider” in alphabetical order. This text contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§ 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.

**§ 54.8 Prohibition on participation: suspension and debarment.**

(a) Definitions—(1) Activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. Such matters include the receipt of funds or discounted services through one or more of these support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding one or more of these support mechanisms.

(2) *Civil liability.* The disposition of a civil action by any court of competent jurisdiction, whether entered by verdict, decision, settlement with admission of liability, stipulation, or otherwise creating a civil liability for the wrongful acts complained of, or a final determination of liability under the Program Fraud Civil Remedies Act of 1988 (31 U.S.C. 3801–12).

(3) *Consultant.* A person that for consideration advises or consults a person regarding the schools and libraries support mechanism, but who is not employed by the person receiving the advice or consultation.

(4) *Conviction.* A judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered by verdict or a plea, including a plea of *nolo contendere*.

(5) *Debarment.* Any action taken by the Commission in accordance with these regulations to exclude a person from activities associated with or relating to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. A person so excluded is “debarred.”

(6) *Person.* Any individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.

(7) *Suspension.* An action taken by the Commission in accordance with these regulations that immediately excludes a person from activities associated with or relating to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism for a temporary period, pending completion of the debarment proceedings. A person so excluded is “suspended.”

(b) *Suspension and debarment in general.* The Commission shall suspend and debar a person for any of the causes in paragraph (c) of this section using procedures established in this section, absent extraordinary circumstances.

(c) *Causes for suspension and debarment.* Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism.

(d) *Effect of suspension and debarment.* Unless otherwise ordered, any persons suspended or debarred shall be excluded from activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. Suspension and debarment of a person other than an individual constitutes suspension and debarment of all divisions and/or other organizational elements from participation in the program for the suspension and debarment period, unless the notice of suspension and proposed debarment is limited by its terms to one or more specifically identified individuals, divisions, or other organizational elements or to specific types of transactions.

(e) *Procedures for suspension and debarment.* The suspension and debarment process shall proceed as follows:

(1) Upon evidence that there exists cause for suspension and debarment, the Commission shall provide prompt notice of suspension and proposed debarment to the person. Suspension shall be effective upon the earlier of receipt of notification or publication in the FEDERAL REGISTER.

(2) The notice shall:

(i) Give the reasons for the proposed debarment in terms sufficient to put a person on notice of the conduct or transaction(s) upon which it is based and the cause relied upon, namely, the entry of a criminal conviction or civil judgment arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism;

(ii) Explain the applicable debarment procedures;

(iii) Describe the effect of debarment.

(3) A person subject to proposed debarment, or who has an existing contract with a person subject to proposed debarment or intends to contract with such a person to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism may contest debarment or the scope of the proposed debarment. A person contesting debarment or the scope of proposed debarment must file arguments and any relevant documentation within thirty (30) calendar days of receipt of notice or publication in the FEDERAL REGISTER, whichever is earlier.

(4) A person subject to proposed debarment, or who has an existing contract with a person subject to proposed debarment or intends to contract with such a person to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism may also contest suspension or the scope of suspension, but such action will not ordinarily be granted. A person contesting suspen-

sion or the scope of suspension must file arguments and any relevant documentation within thirty (30) calendar days of receipt of notice or publication in the FEDERAL REGISTER, whichever is earlier.

(5) Within ninety (90) days of receipt of any information submitted by the respondent, the Commission, in the absence of extraordinary circumstances, shall provide the respondent prompt notice of the decision to debar. Debarment shall be effective upon the earlier of receipt of notice or publication in the FEDERAL REGISTER.

(f) *Reversal or limitation of suspension or debarment.* The Commission may reverse a suspension or debarment, or limit the scope or period of suspension or debarment, upon a finding of extraordinary circumstances, after due consideration following the filing of a petition by an interested party or upon motion by the Commission. Reversal of the conviction or civil judgment upon which the suspension and debarment was based is an example of extraordinary circumstances.

(g) *Time period for debarment.* A debarred person shall be prohibited from involvement with the schools and libraries support mechanism for three (3) years from the date of debarment. The Commission may, if necessary to protect the public interest, set a longer period of debarment or extend the existing period of debarment. If multiple convictions or judgments have been rendered, the Commission shall determine based on the facts before it whether debarments shall run concurrently or consecutively.

[68 FR 36943, June 20, 2003. Redesignated and amended at 72 FR 54218, Sept. 24, 2007]

### 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