

than October 1, 2006, and thereafter annually by October 1 of each year. Eligible telecommunications carriers that file their reports after the October 1 deadline shall receive support pursuant to the following schedule:

- (1) Eligible telecommunication carriers that file no later than January 1 of the subsequent year shall receive support for the second, third and fourth quarters of the subsequent year.
- (2) Eligible telecommunication carriers that file no later than April 1 of the subsequent year shall receive support for the third and fourth quarters of the subsequent year.
- (3) Eligible telecommunication carriers that file no later than July 1 of the subsequent year shall receive support for the fourth quarter of the subsequent year.

[70 FR 29978, May 25, 2005]

EFFECTIVE DATE NOTE: At 70 FR 29978, May 25, 2005, § 54.209 was added. 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.

Subpart D—Universal Service Support for High Cost Areas

§ 54.301 Local switching support.

(a) *Calculation of local switching support.* (1) Beginning January 1, 1998, an incumbent local exchange carrier that has been designated an eligible telecommunications carrier and that serves a study area with 50,000 or fewer access lines shall receive support for local switching costs using the following formula: the carrier's projected annual unseparated local switching revenue requirement, calculated pursuant to paragraph (d) of this section, shall be multiplied by the local switching support factor. For purposes of this

section, local switching costs shall be defined as Category 3 local switching costs under part 36 of this chapter.

(2) *Local switching support factor.* (i) 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.

(ii) 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.

(3) Beginning January 1, 1998, the sum of the unweighted interstate DEM factor, as defined in § 36.125(a)(5) of this chapter, and the local switching support factor shall not exceed 0.85. If the sum of those two factors would exceed 0.85, the local switching support factor shall be reduced to a level that would reduce the sum of the factors to 0.85.

(b) *Submission of data to the Administrator.* Each incumbent local exchange carrier that has been designated an eligible telecommunications carrier and that serves a study area with 50,000 or fewer access lines shall, for each study area, provide the Administrator with the projected total unseparated dollar amount assigned to each account listed below for the calendar year following each filing. This information must be provided to the Administrator no later than October 1 of each year. The Administrator shall use this information to calculate the projected annual unseparated local switching revenue requirement pursuant to paragraph (d) of this section.

I

Telecommunications Plant in Service (TPIS)	Account 2001
Telecommunications Plant—Other	Accounts 2002, 2003, 2005
General Support Assets	Account 2110
Central Office Assets	Accounts 2210, 2220, 2230
Central Office-switching, Category 3 (local switching).	Account 2210, Category 3
Information Origination/termination Assets	Account 2310
Cable and Wire Facilities Assets	Account 2410
Amortizable Tangible Assets	Account 2680

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Intangibles	Account 2690
II	
Rural Telephone Bank (RTB) Stock	Included in Account 1410
Materials and Supplies	Account 1220.1
Cash Working Capital	Defined in 47 CFR 65.820(d)
III	
Accumulated Depreciation	Account 3100
Accumulated Amortization	Included in Accounts 2005, 2680, 2690, 3410
Net Deferred Operating Income Taxes	Accounts 4100, 4340
Network Support Expenses	Account 6110
General Support Expenses	Account 6120
Central Office Switching, Operator Systems, and Central Office Transmission Expenses.	Accounts 6210, 6220, 6230
Information Origination/Termination Expenses	Account 6310
Cable and Wire Facilities Expenses	Account 6410
Other Property, Plant and Equipment Expenses ...	Account 6510
Network Operations Expenses	Account 6530
Access Expense	Account 6540
Depreciation and Amortization Expense	Account 6560
Marketing Expense	Account 6610
Services Expense	Account 6620
Corporate Operations Expense	Account 6720
Operating Taxes	Accounts 7230, 7240
Federal Investment Tax Credits	Account 7210
Provision for Deferred Operating Income Taxes—Net.	Account 7250
Allowance for Funds Used During Construction	Included in Account 7300
Charitable Contributions	Included in Account 7300
Interest and Related Items	Account 7500
IV	
Other Non-Current Assets	Included in Account 1410
Deferred Maintenance and Retirements	Included in Account 1438
Deferred Charges	Included in Account 1438
Other Jurisdictional Assets and Liabilities	Accounts 1500, 4370
Customers' Deposits	Account 4040
Other Long-Term Liabilities	Included in Account 4300

(c) *Allocation of accounts to switching.* The Administrator shall allocate to local switching, the accounts reported pursuant to paragraph (b) of this section as prescribed in this paragraph.

(1) General Support Assets (Account 2110); Amortizable Tangible Assets (Account 2680); Intangibles (Account 2690); and General Support Expenses (Account 6120) shall be allocated according to the following factor:

Account 2210 Category+3 (Account 2210 + Account 2220 + Account 2230 + Account 2310 + Account 2410).

(2) Telecommunications Plant—Other (Accounts 2002, 2003, 2005); Rural Telephone Bank (RTB) Stock (included in Account 1410); Materials and Supplies (Account 1220.1); Cash Working

Capital (Sec. 65.820(d) of this chapter); Accumulated Amortization (Included in Accounts 2005, 2680, 2690, 3410); Net Deferred Operating Income Taxes (Accounts 4100, 4340); Network Support Expenses (Account 6110); Other Property, Plant and Equipment Expenses (Account 6510); Network Operations Expenses (Account 6530); Marketing Expense (Account 6610); Services Expense (Account 6620); Operating Taxes (Accounts 7230, 7240); Federal Investment Tax Credits (Accounts 7210); Provision for Deferred Operating Income Taxes—Net (Account 7250); Interest and Related Items (Account 7500); Allowance for Funds Used During Construction (Included in Account 7300); Charitable Contributions (included in Account

7300); Other Non-current Assets (Included in Account 1410); Other Jurisdictional Assets and Liabilities (Accounts 1500, 4370); Customer Deposits (Account 4040); Other Long-term Liabilities (Included in Account 4300); and Deferred Maintenance and Retirements (Included in Account 1438) shall be allocated according to the following factor:

Account 2210 Category 3 Account 2001.

(3) Accumulated Depreciation for Central Office—switching (Account 3100 associated with Account 2210) and Depreciation and Amortization Expense for Central Office—switching (Account 6560 associated with Account 2210) shall be allocated according to the following factor:

Account 2210 Category 3+Account 2210.

(4) Accumulated Depreciation for General Support Assets (Account 3100 associated with Account 2110) and Depreciation and Amortization Expense for General Support Assets (Account 6560 associated with Account 2110) shall be allocated according to the following factor:

Account 2210 Category 3 + Account 2001.

(5) Corporate Operations Expenses (Account 6720) shall be allocated according to the following factor:

$$\frac{[(\text{Account 2210 Category 3 (Account 2210 + Account 2220 + Account 2230)})] \times (\text{Account 6210 + Account 6220 + Account 6230}) + [(\text{Account 6530 + Account 6610 + Account 6620}) \times (\text{Account 2210 Category 3 Account 2001})]}{(\text{Account 6210 + Account 6220 + Account 6230 + Account 6310 + Account 6410 + Account 6530 + Account 6610 + Account 6620})}$$

(6) Central Office Switching, Operator Systems, and Central Office Transmission Expenses (Account 6210, Account 6220, Account 6230) shall be allocated according to the following factor:

Account 2210 Category 3 ÷ (Accounts 2210 + 2220 + 2230).

(d) *Calculation of the projected annual unseparated local switching revenue requirement.* The Administrator shall calculate the projected annual unseparated local switching revenue requirement by summing the components listed in this paragraph.

(1) Return on Investment attributable to COE Category 3 shall be ob-

tained by multiplying the average projected unseparated local switching net investment by the authorized interstate rate of return. Projected unseparated local switching net investment shall be calculated as of each December 31 by deducting the accumulated reserves, deferrals and customer deposits attributable to the COE Category 3 investment from the gross investment attributable to COE Category 3. The average projected unseparated local switching net investment shall be calculated by summing the projected unseparated local switching net investment as of December 31 of the calendar year following the filing year and such investment as of December 31 of the filing year and dividing by 2.

(2) Depreciation expense attributable to COE Category 3 investment, allocated pursuant to paragraph (c) of this section.

(3) All expenses, excluding depreciation expense, collected in paragraph (b) of this section, allocated pursuant to paragraph (c) of this section.

(4) Federal income tax attributable to COE Category 3 shall be calculated using the following formula; the accounts listed shall be allocated pursuant to paragraph (c) of this section:

$$\frac{[\text{Return on Investment attributable to COE Category 3—Included in Account 7300—Account 7500—Account 7210}]}{[\text{Federal Income Tax Rate (1—Federal Income Tax Rate)}]}$$

(e) *True-up adjustment—(1) Submission of true-up data.* Each incumbent local exchange carrier that has been designated an eligible telecommunications carrier and that serves a study area with 50,000 or fewer access lines shall, for each study area, provide the Administrator with the historical total unseparated dollar amount assigned to each account listed in paragraph (b) of this section for each calendar year no later than 12 months after the end of such calendar year.

(2) *Calculation of true-up adjustment.*

(i) The Administrator shall calculate the historical annual unseparated local switching revenue requirement for each carrier when historical data for each calendar year are submitted.

(ii) The Administrator shall calculate each carrier's local switching support payment, calculated pursuant

to 54.301(a), using its historical annual unseparated local switching revenue requirement.

(iii) For each carrier receiving local switching support, the Administrator shall calculate the difference between the support payment calculated pursuant to paragraph (e)(2)(ii) of this section and its support payment calculated using its projected annual unseparated local switching revenue requirement.

(iv) The Administrator shall adjust each carrier's local switching support payment by the difference calculated in paragraph (e)(2)(iii) of this section no later than 15 months after the end of the calendar year for which historical data are submitted.

(f) *Calculation of the local switching revenue requirement for average schedule companies.* (1) The local switching revenue requirement for average schedule companies, as defined in §69.605(c) of this chapter, shall be calculated in accordance with a formula approved or modified by the Commission. The Administrator shall submit to the Commission and the Common Carrier Bureau for review and approval a formula that simulates the disbursements that would be received pursuant to this section by a company that is representative of average schedule companies. For each annual period, the Administrator shall submit the formula, any proposed revisions of such formula, or a certification that no revisions to the formula are warranted on or before December 31 of each year.

(2) The Commission delegates its authority to review, modify, and approve the formula submitted by the Administrator pursuant to this paragraph to the Chief, Wireline Competition Bureau.

[63 FR 2126, Jan. 13, 1998; 63 FR 33585, June 19, 1998, as amended at 67 FR 13226, Mar. 21, 2002; 67 FR 5701, Feb. 6, 2002]

§ 54.303 Long term support.

(a) Beginning January 1, 1998, an eligible telecommunications carrier that participates in the association Common Line pool shall receive Long Term Support. Beginning July 1, 2004, no carrier shall receive Long Term Support.

(b) Long Term Support shall be calculated as prescribed in this paragraph.

(1) To calculate the unadjusted base-level of Long Term Support for 1998, the Administrator shall calculate the difference between the projected Common Line revenue requirement of association Common Line tariff participants projected to be recovered in 1997 and the sum of end user common line charges and the 1997 projected revenue recovered by the association Carrier Common Line charge as calculated pursuant to §69.105(b)(2) of this chapter.

(2) To calculate Long Term Support for calendar year 1998, the Administrator shall adjust the base-level of Long Term Support calculated in paragraph (b)(1) of this section to reflect the annual percentage change in the actual nationwide average unseparated loop cost per working loop as filed by the Administrator in the previous calendar year, pursuant to §36.622 of this chapter.

(3) To calculate Long Term Support for calendar year 1999, the Administrator shall adjust the level of support calculated in paragraph (b)(2) of this section to reflect the annual percentage change in the actual nationwide average unseparated loop cost per working loop as filed by the Administrator in the previous calendar year, pursuant to §36.622 of this chapter.

(4) Beginning January 1, 2000, the Administrator shall calculate Long Term Support annually by adjusting the previous year's level of support to reflect the annual percentage change in the Department of Commerce's Gross Domestic Product-Chained Price Index (GDP-CPI).

(5)(i) Beginning July 1, 2002, each carrier will be eligible to receive LTS equal to the lesser of:

(A) The LTS for which the carrier would be eligible pursuant to paragraph (b)(4) of this section, or

(B) Its common line revenue requirement as calculated in accordance with part 69 of this chapter, minus:

(1) The study area revenues obtained from end-user common line charges at their allowable maximum as determined by §§69.104(n) and 69.104(o) of this chapter;

(2) The carrier common line charge revenues to be phased out pursuant to §69.105 of this chapter;

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(3) The special access surcharges pursuant to § 69.114 of this chapter; and

(4) The line port costs in excess of basic analog service pursuant to § 69.130 of this chapter.

(ii) Under no circumstance shall a carrier have LTS that is less than zero.

(iii) In calculating an LTS amount pursuant to paragraph (b)(5)(i)(B) of this section, the Administrator shall use data filed pursuant to § 54.903 of this chapter.

[63 FR 2128, Jan. 13, 1998; 63 FR 33586, June 19, 1998, as amended at 67 FR 42506, June 24, 2002; 67 FR 70702, Nov. 26, 2002; 69 FR 25336, May 6, 2004]

§ 54.305 Sale or transfer of exchanges.

(a) The provisions of this section are not applicable to the sale or transfer of exchanges between non-rural carriers after the complete phase-down of interim hold-harmless support, pursuant to § 54.311, for the non-rural carriers subject to the transaction.

(b) Except as provided in paragraph (c) of this section, 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. If the acquired exchanges are incorporated into an existing rural incumbent local exchange carrier study area, the rural incumbent local exchange carrier shall maintain the costs associated with the acquired exchanges separate from the costs associated with its pre-acquisition study area. The transferred exchanges may be eligible for safety valve support for loop related costs pursuant to paragraph (d) of this section.

(c) A carrier that has entered into a binding agreement to buy or acquire exchanges from an unaffiliated carrier prior to May 7, 1997 will receive universal service 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.

(d) Transferred exchanges in study areas operated by rural telephone companies that are subject to the limitations on loop-related universal service support in paragraph (b) of this section

may be eligible for a safety valve loop cost expense adjustment based on the difference between the rural incumbent local exchange carrier's index year expense adjustment and subsequent year loop cost expense adjustments for the acquired exchanges. Safety valve loop cost expense adjustments shall only be available to rural incumbent local exchange carriers that, in the absence of restrictions on high-cost loop support in § 54.305(b), would qualify for high-cost loop support for the acquired exchanges under § 36.631 of this chapter.

(1) For carriers that buy or acquire telephone exchanges on or after January 10, 2005 from an unaffiliated carrier, the index year expense adjustment for the acquiring carrier's first year of operation shall equal the selling carrier's loop-related expense adjustment for the transferred exchanges for the 12-month period prior to the transfer of the exchanges. At the acquiring carrier's option, the first year of operation for the transferred exchanges, for purposes of calculating safety valve support, shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. For the first year of operation, a loop cost expense adjustment, using the costs of the acquired exchanges submitted in accordance with §§ 36.611 and 36.612 of this chapter, shall be calculated pursuant to § 36.631 of this chapter and then compared to the index year expense adjustment. Safety valve support for the first period of operation will then be calculated pursuant to paragraph (d)(3) of this section. The index year expense adjustment for years after the first year of operation shall be determined using cost data for the first year of operation of the transferred exchanges. Such cost data for the first year of operation shall be calculated in accordance with §§ 36.611, 36.612 and 36.631 of this chapter. For each year, ending on the same calendar quarter as the first year of operation, a loop cost expense adjustment, using the loop costs of the acquired exchanges, shall be submitted and calculated pursuant to §§ 36.611, 36.612, and 36.631 of this chapter and will be compared to the index year expense adjustment. Safety valve support for the second year of operation and

thereafter will then be calculated pursuant to paragraph (d)(3) of this section.

(2) For carriers that bought or acquired exchanges from an unaffiliated carrier before January 10, 2005, and are not subject to the exception in paragraph (c) of this section, the index year expense adjustment for acquired exchange(s) shall be equal to the rural incumbent local exchange carrier's high-cost loop expense adjustment for the acquired exchanges calculated for the carrier's first year of operation of the acquired exchange(s). At the carrier's option, the first year of operation of the transferred exchanges shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. The index year expense adjustment shall be determined using cost data for the acquired exchange(s) submitted in accordance with §§36.611 and 36.612 of this chapter and shall be calculated in accordance with §36.631 of this chapter. The index year expense adjustment for rural telephone companies that have operated exchanges subject to this section for more than a full year on the effective date of this paragraph shall be based on loop cost data submitted in accordance with §36.612 of this chapter for the year ending on the nearest calendar quarter following the effective date of this paragraph. For each subsequent year, ending on the same calendar quarter as the index year, a loop cost expense adjustment, using the costs of the acquired exchanges, will be calculated pursuant to §36.631 of this chapter and will be compared to the index year expense adjustment. Safety valve support is calculated pursuant to paragraph (d)(3) of this section.

(3) Up to fifty (50) percent of any positive difference between the transferred exchanges loop cost expense adjustment and the index year expense adjustment will be designated as the transferred exchange's safety valve loop cost expense adjustment and will be available in addition to the per-line loop-related support transferred from the selling carrier to the acquiring carrier pursuant to §54.305(b). In no event shall a study area's safety valve loop cost expense adjustment exceed the dif-

ference between the carrier's study area loop cost expense adjustment calculated pursuant to §36.631 of this chapter and transferred support amounts available to the acquired exchange(s) under paragraph (b) of this section. Safety valve support shall not transfer with acquired exchanges.

(e) The sum of the safety valve loop cost expense adjustment for all eligible study areas operated by rural telephone companies shall not exceed five (5) percent of the total rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment calculated pursuant to §36.603 of this chapter. The five (5) percent cap on the safety valve mechanism shall be based on the lesser of the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment calculated pursuant to §36.603 of this chapter or the sum of rural incumbent local exchange carrier expense adjustments calculated pursuant to §36.631 of this chapter. The percentage multiplier used to derive study area safety valve loop cost expense adjustments for rural telephone companies shall be the lesser of fifty (50) percent or a percentage calculated to produce the maximum total safety valve loop cost expense adjustment for all eligible study areas pursuant to this paragraph. The safety valve loop cost expense adjustment of an individual rural incumbent local exchange carrier also may be further reduced as described in paragraph (d)(3) of this section.

(f) Once an acquisition is complete, the acquiring rural incumbent local exchange carrier shall provide written notice to the Administrator that it has acquired access lines that may be eligible for safety valve support. Rural telephone companies also shall provide written notice to the Administrator defining their index year for those years after the first year of operation for purposes of calculating the safety valve loop cost expense adjustment.

[70 FR 10060, Mar. 2, 2005]

§ 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 the subscriber lines of an incumbent local exchange carrier (LEC) or serves new subscriber lines in the incumbent LEC's service area.

(1) A competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5 of this chapter, shall receive support for each line it serves in a particular service area based on the support the incumbent LEC would receive for each such line, disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart. A competitive eligible telecommunications carrier serving loops in the service area of a non-rural incumbent local exchange carrier shall receive support for each line it serves in a particular wire center based on the support the incumbent LEC would receive for each such line. A competitive eligible telecommunications carrier serving loops in the service area of a rate-of-return carrier shall be eligible to receive Interstate Common Line Support for each line it serves in the service area in accordance with the formula in § 54.901.

(2) A competitive eligible telecommunications carrier that uses switching 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 incumbent LEC, 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 incumbent LEC's per-line payment from the high-cost loop support, LTS, and Interstate Common Line Support mechanisms, if any. The incumbent LEC 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 that the incumbent LEC would have received.

(3) 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 section 251(c)(4) of the Act will receive the full amount of universal service support that the incumbent LEC would have received for that customer.

(b) In order to receive support pursuant to this subpart, a competitive eligible telecommunications carrier must report to the Administrator the number of working loops it serves in a service area pursuant to the schedule set forth in paragraph (c) of this section. For a competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5, the carrier must report, by customer class, the number of working loops it serves in the service area, disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315. For a competitive eligible telecommunications carrier serving loops in the service area of a non-rural telephone company, the carrier must report the number of working loops it serves in the service area, by customer class if the non-rural telephone company receives Interstate Common Line Support pursuant to § 54.901 and by disaggregation zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart, and the number of working loops it serves in each wire center in the 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. Competitive eligible telecommunications carriers providing mobile wireless service in an incumbent LEC's service area shall use the customer's billing address for purposes of identifying the service location of a mobile wireless customer in a service area.

(c) A competitive eligible telecommunications carrier must submit the data required pursuant to paragraph (b) of this section according to the schedule.

(1) No later than July 31st of each year, submit data as of December 31st of the previous calendar year;

(2) No later than September 30th of each year, submit data as of March 31st of the existing calendar year;

(3) No later than December 30th of each year, submit data as of June 30th of the existing calendar year;

(4) No later than March 30th of each year, submit data as of September 30th of the previous calendar year.

(d) *Newly designated eligible telecommunications carriers.* Notwithstanding the deadlines in paragraph (c) of this section, a carrier shall be eligible to receive support as of the effective date of its designation as an eligible telecommunications carrier under section 214(e)(2) or (e)(6), provided that it submits the data required pursuant to paragraph (b) of this section within 60 days of that effective date. Thereafter, the eligible telecommunications carrier must submit the data required in paragraph (b) of this section pursuant to the schedule in paragraph (c) of this section.

[62 FR 32948, June 17, 1997, as amended at 63 FR 2128, Jan. 13, 1998; 64 FR 67431, Dec. 1, 1999; 65 FR 26516, May 8, 2000; 66 FR 30087, June 5, 2001; 66 FR 59726, Nov. 30, 2001; 68 FR 31623, May 28, 2003; 69 FR 34602, June 22, 2004; 70 FR 29979, May 25, 2005]

§ 54.309 Calculation and distribution of forward-looking support for non-rural carriers.

(a) *Calculation of total support available per state.* Beginning January 1, 2000, non-rural incumbent local exchange carriers, and eligible telecommunications carriers serving lines in the service areas of non-rural incumbent local exchange carriers, shall receive universal service support for the

forward-looking economic costs of providing supported services in high-cost areas, provided that the State in which the lines served by the carrier are located has complied with the certification requirements in § 54.313. The total amount of forward-looking support available in each State shall be determined according to the following methodology:

(1) For each State, the Commission's cost model shall determine the statewide average forward-looking economic cost (FLEC) per line of providing the supported services. The statewide average FLEC per line shall equal the total FLEC for non-rural carriers to provide the supported services in the State, divided by the number of switched lines used in the Commission's cost model. The total FLEC shall equal average FLEC multiplied by the number of switched lines used in the Commission's cost model.

(2) The Commission's cost model shall determine the national average FLEC per line of providing the supported services. The national average FLEC per line shall equal the total FLEC for non-rural carriers to provide the supported services in all States, divided by the total number of switched lines in all States used in the Commission's cost model.

(3) The national cost benchmark shall equal two weighted standard deviations above the national average FLEC per line.

(4) Support calculated pursuant to this section shall be provided to non-rural carriers in each State where the statewide average FLEC per line exceeds the national cost benchmark. The total amount of support provided to non-rural carriers in each State where the statewide average FLEC per line exceeds the national cost benchmark shall equal 76 percent of the amount of the statewide average FLEC per line that exceeds the national cost benchmark, multiplied by the number of lines reported pursuant to § 36.611, § 36.612, and § 54.307 of this chapter.

(5) In the event that a State's statewide average FLEC per line does not exceed the national cost benchmark, non-rural carriers in such State shall be eligible for support pursuant to § 54.311. In the event that a State's

statewide average FLEC per line exceeds the national cost benchmark, but the amount of support otherwise provided to a non-rural carrier in that State pursuant to this section is less than the amount that would be provided pursuant to § 54.311, the carrier shall be eligible for support pursuant to § 54.311.

(b) *Distribution of total support available per state.* The total amount of support available per State calculated pursuant to paragraph (a) of this section shall be distributed to non-rural incumbent local exchange carriers, and eligible telecommunications carriers serving lines in the service areas of non-rural incumbent local exchange carriers, in the following manner:

(1) The Commission's cost model shall determine the percentage of the total amount of support available in the State for each wire center by calculating the ratio of the wire center's FLEC above the national cost benchmark to the total FLEC above the national cost benchmark of all wire centers within the State. A wire center's FLEC above the national cost benchmark shall be equal to the wire center's average FLEC per line above the national cost benchmark, multiplied by the number of switched lines in the wire center used in the Commission's cost model;

(2) The total amount of support distributed to each wire center shall be equal to the percentage calculated for the wire center pursuant to paragraph (b)(1) of this section multiplied by the total amount of support available in the state;

(3) The total amount of support for each wire center pursuant to paragraph (b)(2) of this section shall be divided by the number of lines in the wire center reported pursuant to § 36.611, § 36.612, and § 54.307 of this chapter to determine the per-line amount of forward-looking support for that wire center;

(4) The per-line amount of support for each wire center pursuant to paragraph (b)(3) of this section shall be multiplied by the number of lines served by a non-rural incumbent local exchange carrier in that wire center, or by an eligible telecommunications carrier in that wire center, as reported pursuant to § 36.611, § 36.612, and § 54.307 of this chap-

ter, to determine the amount of forward-looking support to be provided to that carrier.

(5) The total amount of support calculated for each wire center pursuant to paragraph (b)(4) of this section shall be divided by the number of lines in the wire center to determine the per-line amount of forward-looking support for that wire center;

(6) The per-line amount of support for a wire center calculated pursuant to paragraph (b)(5) of the section shall be multiplied by the number of lines served by a non-rural incumbent local exchange carrier in that wire center, or by an eligible telecommunications carrier in that wire center, to determine the amount of forward-looking support to be provided to that carrier.

(c) *Petition for waiver.* Pursuant to section 1.3 of this chapter, any State may file a petition for waiver of paragraph (b) of this section, asking the Commission to distribute support calculated pursuant to paragraph (a) of this section to a geographic area different than the wire center. Such petition must contain a description of the particular geographic level to which the State desires support to be distributed, and an explanation of how waiver of paragraph (b) of this section will further the preservation and advancement of universal service within the State.

[64 FR 67431, Dec. 1, 1999, as amended at 65 FR 26516, May 8, 2000; 68 FR 69626, Dec. 15, 2003]

§ 54.311 Interim hold-harmless support for non-rural carriers.

(a) *Interim hold-harmless support.* The total amount of interim hold-harmless support provided to a non-rural incumbent local exchange carrier shall equal the amount of support calculated for that carrier pursuant to part 36 of this chapter. The total amount of interim hold-harmless support provided to a non-rural incumbent local exchange carrier shall also include Long Term Support provided pursuant to § 54.303, to the extent that the carrier would otherwise be eligible for such support. Beginning on January 1, 2000, in the event that a State's statewide average FLEC per line, calculated pursuant to § 54.309(a), does not exceed the national cost benchmark, non-rural incumbent

local exchange carriers in such State shall receive interim hold-harmless support calculated pursuant to part 36, and, if applicable, § 54.303. In the event that a State's statewide average FLEC per line, calculated pursuant to § 54.309(a), exceeds the national cost benchmark, but the amount of support that would be provided to a non-rural incumbent local exchange carrier in such State pursuant to § 54.309(b) is less than the amount that would be provided pursuant to part 36 and, if applicable, § 54.303, the carrier shall be eligible for support pursuant to part 36 and, if applicable, § 54.303. To the extent that an eligible telecommunications carrier serves lines in the service area of a non-rural incumbent local exchange carrier receiving interim hold-harmless support, the eligible telecommunications carrier shall also be entitled to interim hold-harmless support in an amount per line equal to the amount per line provided to the non-rural incumbent local exchange carrier pursuant to paragraph (b) of this section.

(b) *Distribution of Interim Hold-Harmless Support Amounts.* Until the third quarter of 2000, interim hold-harmless support shall be distributed pursuant to part 36 and, if applicable, § 54.303 of this subpart. Beginning in the third quarter of 2000, the total amount of interim hold-harmless support provided to each non-rural incumbent local exchange carrier within a particular State pursuant to paragraph (a) shall be distributed first to the carrier's wire center with the highest wire center average FLEC per line until that wire center's average FLEC per line, net of support, equals the average FLEC per line in the second most high-cost wire center. Support shall then be distributed to the carrier's wire center with the highest and second highest wire center average FLEC per line until those wire center's average FLECs per line, net of support, equal the average FLEC per line in the third most high-cost wire center. This process shall continue in a cascading fashion until all of the interim hold-harmless support provided to the carrier has been exhausted.

(c) *Petition for waiver.* Pursuant to section 1.3 of this chapter, a State may

file a petition for waiver of paragraph (b) of this section, asking the Commission to distribute interim hold-harmless support to a geographic area different than the wire center. Such petition must contain a description of the particular geographic level to which the State desires interim hold-harmless support to be distributed, and an explanation of how waiver of paragraph (b) of this section will further the preservation and advancement of universal service within the State.

(d) *Phase down of interim hold-harmless support.* Beginning January 1, 2001, the interim hold-harmless support for which a non-rural incumbent local exchange carrier qualifies under paragraph (a) of this section, excluding Long Term Support, shall be phased down through annual \$1.00 reductions in average monthly, per-line support. Applicable annual reductions shall be subtracted from the total amount of interim hold-harmless support that a non-rural incumbent local exchange carrier otherwise would be eligible to receive on an ongoing, quarterly basis. The provisions of paragraph (b) of this section shall apply to the total amount of phased-down interim hold-harmless support provided to each non-rural incumbent local exchange carrier.

(1) Interim hold-harmless support for a wire center transferred to a carrier that does not meet the definition of rural telephone company in § 51.5 of this chapter shall be phased down following the transfer over the same time period as the seller's support would have been phased down, by an equal percentage for each year of the phase-down period.

(2) Interim hold-harmless support for a wire center transferred to a carrier that meets the definition of rural telephone company in § 51.5 of this chapter shall remain frozen at the per-line support level as of the sale date.

[64 FR 67432, Dec. 1, 1999, as amended at 64 FR 73428, Dec. 30, 1999; 65 FR 78992, Dec. 18, 2000]

§ 54.313 State certification of support for non-rural carriers.

(a) *Certification.* States that desire non-rural incumbent local exchange carriers and/or eligible telecommunications carriers serving lines in the

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service area of a non-rural incumbent local exchange carrier within their jurisdiction to receive support pursuant to §§ 54.309 and/or 54.311 must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.309 and/or 54.311 shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.

(b) *Carriers not subject to State jurisdiction.* A non-rural incumbent local exchange carrier not subject to the jurisdiction of a state or an eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a non-rural incumbent local exchange carrier that desires to receive support pursuant to §§ 54.309 and/or 54.311 of this subpart must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.309 and/or 54.311 of this subpart shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.

(c) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. If provided by the appropriate regulatory authority for the state, the annual certification must identify which carriers in the State are eligible to receive federal support during the applicable 12-month period, and must certify that those carriers will only use support for the provision, maintenance, and upgrading of facilities and services for which support is intended. A State

may file a supplemental certification for carriers not subject to the State's annual certification. All certificates filed by a State pursuant to this section shall become part of the public record maintained by the Commission. Non-rural incumbent local exchange carriers not subject to the jurisdiction of a state or eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a non-rural incumbent local exchange carrier, shall file a sworn affidavit executed by a corporate officer attesting to the use of the support for the provision, maintenance, and upgrading of facilities and services for which support is intended. The affidavit must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. All affidavits filed pursuant to this section shall become part of the public record maintained by the Commission.

(d) *Filing deadlines.* In order for a non-rural incumbent local exchange carrier in a particular State, and/or an eligible telecommunications carrier serving lines in the service area of a non-rural incumbent local exchange carrier, to receive federal high-cost support, the State must file an annual certification, as described in paragraph (c) of this section, with both the Administrator and the Commission. Support shall be provided in accordance with the following schedule:

- (1) [Reserved]
- (2) [Reserved]

(3) *Subsequent program years (January 1–December 31).* During the program years subsequent to the second program year (January 1, 2001–December 31, 2001), a carrier in a particular State shall not receive support pursuant to § 54.309 or § 54.311 until such time as the State files the certification described in this section. Upon the filing of the certification described in this section, support shall be provided pursuant to the following schedule:

(i) *Certifications filed on or before October 1.* Carriers subject to certifications

filed on or before October 1 shall receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the first, second, third, and fourth quarters of the succeeding year.

(ii) *Certifications filed on or before January 1.* Carriers subject to certifications filed on or before January 1 shall receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the second, third, and fourth quarters of that year. Such carriers shall not receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the first quarter of that year.

(iii) *Certifications filed on or before April 1.* Carriers subject to certifications filed on or before April 1 shall receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the third and fourth quarters of that year. Such carriers shall not receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the first or second quarters of that year.

(iv) *Certifications filed on or before July 1.* Carriers subject to certifications filed on or before July 1 shall receive support pursuant to § 54.309 or § 54.311, whichever is applicable, beginning in the fourth quarter of that year. Such carriers shall not receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in the first, second, or third quarters of that year.

(v) *Certifications filed after July 1.* Carriers subject to certifications filed after July 1 shall not receive support pursuant to § 54.309 or § 54.311, whichever is applicable, in that year.

(vi) *Newly designated eligible telecommunications carriers.* Notwithstanding the deadlines in paragraph (d) of this section, a carrier shall be eligible to receive support pursuant to § 54.309 or § 54.311, whichever is applicable, as of the effective date of its designation as an eligible telecommunications carrier under section 214(e)(2) or (e)(6), provided that it files the certification described in paragraph (b) of this section or the state commission files the certification described in paragraph (a) of this section within 60 days of the effective date of the carrier's designation as an eligible telecommunications carrier. Thereafter, the certification required by paragraphs (a) or (b) of this section must be

submitted pursuant to the schedule in paragraph (d) of this section.

[64 FR 67432, Dec. 1, 1999, as amended at 64 FR 73428, Dec. 30, 1999; 66 FR 30088, June 5, 2001; 67 FR 13094, Mar. 21, 2002; 70 FR 29979, May 25, 2005; 71 FR 65750, Nov. 9, 2006]

§ 54.314 State certification of support for rural carriers.

(a) *State certification.* States that desire rural incumbent local exchange carriers and/or eligible telecommunications carriers serving lines in the service area of a rural incumbent local exchange carrier within their jurisdiction to receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.

(b) *Carriers not subject to State jurisdiction.* A rural incumbent local exchange carrier not subject to the jurisdiction of a state or an eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a rural incumbent local exchange carrier that desires to receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.

(c) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and shall be filed with both the

Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. If provided by the appropriate regulatory authority for the state, the annual certification must identify which carriers in the State are eligible to receive federal support during the applicable 12-month period, and must certify that those carriers will only use support for the provision, maintenance, and upgrading of facilities and services for which support is intended. A State may file a supplemental certification for carriers not subject to the State's annual certification. All certificates filed by a State pursuant to this section shall become part of the public record maintained by the Commission. Rural incumbent local exchange carriers not subject to the jurisdiction of a state or eligible telecommunications carriers not subject to the jurisdiction of a state serving lines in the service area of a rural incumbent local exchange carrier, shall file a sworn affidavit executed by a corporate officer attesting to the use of the support for the provision, maintenance, and upgrading of facilities and services for which support is intended. The affidavit must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. All affidavits filed pursuant to this section shall become part of the public record maintained by the Commission.

(d) *Filing deadlines.* Upon the filing of the certification described in paragraph (c) of this section, support shall be provided pursuant to the following schedule:

(1) *Certifications filed on or before October 1.* Carriers for which certifications are filed on or before October 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the first, second, third, and fourth quarters of the succeeding year.

(2) *Certifications filed on or before January 1.* Carriers for which certifications are filed on or before January 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the second, third, and fourth quarters of that year. Such carriers shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter in the first quarter of that year.

(3) *Certifications filed on or before April 1.* Carriers for which certifications are filed on or before April 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the third and fourth quarters of that year. Such carriers shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter in the first and second quarters of that year.

(4) *Certifications filed on or before July 1.* Carriers for which certifications are filed on or before July 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the fourth quarter of that year. Such carriers shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter in the first, second, or third quarters of that year.

(5) *Certifications filed after July 1.* Carriers for which certifications are filed after July 1 shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in that year.

(6) *Newly designated eligible telecommunications carriers.* Notwithstanding the deadlines in paragraph (d) of this section, a carrier shall be eligible to receive support pursuant to §§ 54.301, 54.305, or 54.307 or part 36 subpart F of this chapter, whichever is applicable, as of the effective date of its designation as an eligible telecommunications carrier under section 214(e)(2) or (e)(6), provided that it files the certification described in paragraph (b) of this section or the state commission files the certification described in paragraph (a) of this section within 60 days of the effective date of the carrier's designation as an eligible telecommunications carrier. Thereafter, the certification required by

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paragraphs (a) or (b) of this section must be submitted pursuant to the schedule in paragraph (d) of this section.

[66 FR 30088, June 5, 2001, as amended at 70 FR 29979, May 25, 2005]

§ 54.315 Disaggregation and targeting of high-cost support.

(a) On or before May 15, 2002, all rural incumbent local exchange carriers and rate-of-return carriers for which high-cost universal service support pursuant to §§ 54.301, 54.303, and/or 54.305 of this subpart, subpart K of this part, and/or part 36 subpart F is available must select a disaggregation path as described in paragraphs (b), (c), or (d) of this section. In study areas in which a competitive carrier was designated as a competitive eligible telecommunications carrier prior to June 19, 2001, the rural incumbent local exchange carrier or rate-of-return carrier may only disaggregate support pursuant to paragraphs (b), (c), or (d)(1)(iii) of this section. A rural incumbent local exchange carrier or rate-of-return carrier failing to select a disaggregation path as described in paragraphs (b), (c), or (d) of this section by May 15, 2002, will not be permitted to disaggregate and target federal high-cost support unless ordered to do so by a state commission as that term is defined in § 54.5.

(b) Path 1: Carriers Not Disaggregating and Targeting High-Cost Support:

(1) A carrier may certify to the state commission that it will not disaggregate and target high-cost universal service support.

(2) A carrier's election of this path becomes effective upon certification by the carrier to the state commission.

(3) This path shall remain in place for such carrier for at least four years from the date of certification to the state commission except as provided in paragraph (b)(4) of this section.

(4) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier or rate-of-return carrier, the disaggregation and targeting of support under paragraphs (c) or (d) of this section.

(5) A carrier not subject to the jurisdiction of a state, e.g., certain tribally owned carriers, may select Path 1, but must certify to the Federal Communications Commission as described in paragraphs (1) through (4) of this section.

(c) Path 2: Carriers Seeking Prior Regulatory Approval for the Disaggregation and Targeting of Support:

(1) A carrier electing to disaggregate and target support under this paragraph must file a disaggregation and targeting plan with the state commission.

(2) Under this paragraph a carrier may propose any method of disaggregation and targeting of support consistent with the general requirements detailed in paragraph (e) of this section.

(3) A disaggregation and targeting plan under this paragraph becomes effective upon approval by the state commission.

(4) A carrier shall disaggregate and target support under this path for at least four years from the date of approval by the state commission except as provided in paragraph (c)(5) of this section.

(5) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier or rate-of-return carrier, the disaggregation and targeting of support in a different manner.

(6) A carrier not subject to the jurisdiction of a state, e.g., certain tribally owned carriers, may select Path 2, but must seek approval from the Federal Communications Commission as described in paragraphs (c)(1) through (5) of this section.

(d) Path 3: Self-Certification of the Disaggregation and Targeting of Support:

(1) A carrier may file a disaggregation and targeting plan with the state commission along with a statement certifying each of the following:

(i) It has disaggregated support to the wire center level; or

(ii) It has disaggregated support into no more than two cost zones per wire center; or

(iii) That the carrier's disaggregation plan complies with a prior regulatory determination made by the state commission.

(2) Any disaggregation plan submitted pursuant to this paragraph must meet the following requirements:

(i) The plan must be supported by a description of the rationale used, including the methods and data relied upon to develop the disaggregation zones, and a discussion of how the plan complies with the requirements of this paragraph. Such filing must provide information sufficient for interested parties to make a meaningful analysis of how the carrier derived its disaggregation plan.

(ii) The plan must be reasonably related to the cost of providing service for each disaggregation zone within each disaggregated category of support.

(iii) The plan must clearly specify the per-line level of support for each category of high-cost universal service support provided pursuant to §§ 54.301, 54.303, and/or 54.305 and/or part 36, subpart F of this chapter in each disaggregation zone.

(iv) If the plan uses a benchmark, the carrier must provide detailed information explaining what the benchmark is and how it was determined. The benchmark must be generally consistent with how the total study area level of support for each category of costs is derived to enable a competitive eligible telecommunications carrier to compare the disaggregated costs used to determine support for each cost zone.

(3) A carrier's election of this path becomes effective upon certification by the carrier to the state commission.

(4) A carrier shall disaggregate and target support under this path for at least four years from the date of certification to the state commission except as provided in paragraph (d)(5) of this section.

(5) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier, modification to the disaggregation and targeting of support selected under this path.

(6) A carrier not subject to the jurisdiction of a state, e.g., certain tribally

owned carriers, may select Path 3, but must certify to the Federal Communications Commission as described in paragraphs (d)(1) through (5) of this section.

(e) Additional Procedures Governing the Operation of Path 2 and Path 3: Disaggregation and targeting plan adopted under paragraphs (c) or (d) of this section shall be subject to the following general requirements:

(1) Support available to the carrier's study area under its disaggregation plan shall equal the total support available to the study area without disaggregation.

(2) The ratio of per-line support between disaggregation zones for each disaggregated category of support shall remain fixed over time, except as changes are allowed pursuant to paragraph (c) and (d) of this section.

(3) The ratio of per-line support shall be publicly available.

(4) Per-line support amounts for each disaggregation zone shall be recalculated whenever the carrier's total annual support amount changes using the changed support amount and lines at that point in time.

(5) Per-line support for each category of support in each disaggregation zone shall be determined such that the ratio of support between disaggregation zones is maintained and that the product of all of the carrier's lines for each disaggregation zone multiplied by the per-line support for those zones when added together equals the sum of the carrier's total support.

(6) Until a competitive eligible telecommunications carrier is certified in a study area, monthly payments to the incumbent carrier will be made based on total annual amounts for its study area divided by 12.

(7) When a competitive eligible telecommunications carrier is certified in a study area, per-line amounts used to determine the competitive eligible telecommunications carrier's disaggregated support shall be based on the incumbent carrier's then-current total support levels, lines, disaggregated support relationships, and, in the case of support calculated under subpart K of this part, customer classes.

(f) Submission of Information to the Administrator:

(1) A carrier certifying under paragraph (b) of this section that it will not disaggregate and target high-cost universal service support shall submit to the Administrator a copy of the certification submitted to the state commission, or the Federal Communications Commission, when not subject to state jurisdiction.

(2) A carrier electing to disaggregate and target support under paragraph (c) of this section shall submit to the Administrator a copy of the order approving the disaggregation and targeting plan submitted by the carrier to the state commission, or the Federal Communications Commission, when not subject to state jurisdiction, and a copy of the disaggregation and targeting plan approved by the state commission or the Federal Communications Commission.

(3) A carrier electing to disaggregate and target support under paragraph (d) of this section shall submit to the Administrator a copy of the self-certification plan including the information submitted to the state commission pursuant to paragraphs (d)(2)(i) and (d)(2)(iv) of this section or the Federal Communications Commission.

(4) A carrier electing to disaggregate and target support under paragraph (c) or (d) of this section must submit to the Administrator maps which precisely identify the boundaries of the designated disaggregation zones of support within the carrier's study area.

[66 FR 30089, June 5, 2001, as amended at 66 FR 59727, Nov. 30, 2001]

§ 54.316 Rate comparability review and certification for areas served by non-rural carriers.

(a) *Certification.* Each state will be required annually to review the comparability of residential rates in rural areas of the state served by non-rural incumbent local exchange carriers to urban rates nationwide, and to certify to the Commission and the Administrator as to whether the rates are reasonably comparable, for purposes of section 254(b)(3) of the Telecommunications Act of 1996. If a state does not rely on the safe harbor described in paragraph (b) of this section, or cer-

tifies that the rates are not reasonably comparable, the state must fully explain its rate comparability analysis and provide data supporting its certification, including but not limited to residential rate data for rural areas within the state served by non-rural incumbent local exchange carriers. If a state certifies that the rates are not reasonably comparable, it must also explain why the rates are not reasonably comparable and explain what action it intends to take to achieve rate comparability.

(b) *Safe harbor.* For the purposes of its certification, a state may presume that the residential rates in rural areas served by non-rural incumbent local exchange carriers are reasonably comparable to urban rates nationwide if the rates are below the nationwide urban rate benchmark. The nationwide urban rate benchmark shall equal the most recent average urban rate plus two weighted standard deviations. The benchmark shall be calculated using the average urban rate and standard deviation shown in the most recent annual *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* published by the Wireline Competition Bureau. To the extent that a state relies on the safe harbor, the rates that it compares to the nationwide urban rate benchmark shall include the access charges and other mandatory monthly rates included in the rate survey published in the most recent annual *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service*. The *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* is available for public inspection at the Commission's Reference Center at 445 12th Street, S.W., Washington, D.C. 20554 and on the Commission Web site at www.fcc.gov/wcb/iatd/lec.html.

(c) *Definition of "rural area."* For the purposes of this section, 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. At a state's discretion, a "rural area" may also include any

wire center designated by the state as rural for the purposes of this section. In the event that a state designates a wire center as rural, it must provide an explanation supporting such designation in its certification pursuant to paragraph (a) of this section.

(d) *Schedule for certification.* Annual certifications are required on the schedule set forth in § 54.313(d)(3), beginning October 1, 2004. Certifications due on October 1 of each year shall pertain to rates as of the prior July 1. Certifications filed during the remainder of the schedule set forth in § 54.313(d)(3) shall pertain to the same date as if they had been filed on October 1.

(e) *Effect of failure to certify.* In the event that a state fails to certify, no eligible telecommunications carrier in the state shall receive support pursuant to § 54.309.

[68 FR 69626, Dec. 15, 2003]

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 consumer.* A “qualifying low-income consumer” is a consumer who meets the qualifications for Lifeline, as specified in § 54.409.

(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 either toll blocking or toll control for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, “toll limitation” denotes both toll blocking and toll control.

(e) *Eligible resident of Tribal lands.* An “eligible resident of Tribal lands” is a “qualifying low-income consumer,” as

defined in paragraph (a) of this section, living on or near a reservation. A “reservation” is defined as any federally recognized Indian tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments. “Near reservation” is defined as those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior’s Commission of Indian Affairs upon recommendation of the local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: Number of Indian people native to the reservation residing in the area; a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; geographical proximity of the area to the reservation, and administrative feasibility of providing an adequate level of services to the area.

NOTE TO PARAGRAPH (e): The Commission stayed implementation of paragraph (e) as applied to qualifying low-income consumers living “near reservations” on August 31, 2000 (15 FCC Rcd 17112).

(f) *Income.* “Income” is all income actually received by all members of the household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran’s benefits, inheritances, alimony, child support payments, worker’s compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

[62 FR 32952, June 17, 1997, as amended at 63 FR 2128, Jan. 13, 1998; 65 FR 47905, Aug. 4, 2000; 65 FR 58663, Oct. 2, 2000; 68 FR 41941, July 16, 2003; 69 FR 34600, June 22, 2004]