version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing request, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

XI. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub.L. 104-4). Nor does it require and prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629), February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). In additions, since tolerance exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq*.) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

XII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq*., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 29, 1998.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

§ 180.1001 [Amended]

2. In § 180.1001, in paragraph (d), the table is amended by adding the phrase '' ; or, Zucchini juice (*Cucurbita pepo* juice)'' after ''Buffalo gourd root powder (*Cucurbita foetidissima* root powder)'' in the ''Inert Ingredients'' column.

[FR Doc. 98–21521 Filed 8–11–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54 and 69

[CC Docket No. 96–45; FCC 98–120]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order changes the funding year for the schools and libraries universal service support mechanism from a calendar year cycle to a fiscal year cycle. This Order also adjusts the amount of money available for schools and libraries, and rural health care providers for the period from January 1, 1998 through June 30, 1999. In addition, this Order establishes rules of priority when a filing window is in effect.

EFFECTIVE DATE: August 12, 1998.

FOR FURTHER INFORMATION CONTACT: Irene Flannery, Common Carrier Bureau, (202) 418–7400 or Adrian Wright, Common Carrier Bureau, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96–45, adopted June 12, 1998 and released June 22, 1998. The full text is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., N.W., Washington, D.C.

I. Summary of Fifth Order on Reconsideration and Fourth Report and Order in CC Docket No. 96–45

A. Adjustment in Funding Year for Schools and Libraries Support Mechanism

1. Upon reconsideration on our own motion, we find that it is in the public interest to change the funding year for the schools and libraries universal service support mechanism from a calendar year cycle (January 1–December 31) to a fiscal year cycle that will run from July 1–June 30. Moreover, we conclude that the transition to a fiscal year should be implemented immediately. In order to accommodate the transition to a fiscal year funding cycle, the first funding period will be the 18-month period that runs from January 1, 1998 through June 30, 1999. The second funding cycle, therefore, will begin on July 1, 1999. Applications submitted during the initial 75-day filing window and approved for funding by Schools and Libraries Corporation (SLC), therefore, will be funded through June 30, 1999, to the extent permitted by funding constraints. Parties seeking support for the following fiscal year may begin to file applications on October 1, 1998. We direct SLC, in consultation with the Common Carrier Bureau, to establish a filing window for the next fiscal year, to open no later than October 1, 1998. We also conclude that SLC should determine the length of that window and resolve other administrative matters necessary to implement a filing window.

2. We decide to implement a fiscal year funding cycle for schools and libraries, and to transition to this approach immediately, for several reasons. The immediate transition to a fiscal year approach will ameliorate the concerns of applicants seeking support for internal connections that they will be unable to complete installation before December 31, 1998, which marks the end of the funding year if determined on a calendar year basis. We recognize that, because of the delay in issuing funding commitments to schools and libraries, many applicants may not be able to complete by this date the internal connections for which they have sought universal service support. The delay may be attributed to a variety of factors, including the Commission's decision to implement an initial filing window, and the Chairman's request to SLC to conduct an independent audit before disbursing any funds, in order to protect against waste, fraud, and abuse. In short, the schools and libraries support mechanism is being implemented for the first time, and the Commission was not fully aware of the amount of time necessary to establish administrative systems that ensure program integrity and fair and orderly administration. Applicants could not have anticipated these delays at the time they conducted their technology needs assessments. Moreover, applicants understandably have been reluctant to begin service or initiate the installation of internal connections before receipt of a funding commitment. Nevertheless, schools and libraries that have worked diligently to comply with the Commission's requirements should not be burdened unnecessarily by this delay. To further accommodate schools and libraries affected by the delay in implementation, we note that discounts will be available on eligible services effective January 1, 1998 or the date services begin pursuant to the contract, whichever is later. Moreover, the transition to the fiscal year funding cycle adopted herein will afford applicants that will receive support for internal connections the flexibility to complete the installation of internal connections through June of 1999.

3. Furthermore, adopting a fiscal year funding cycle will synchronize the schools and libraries universal service support mechanism with the budgetary and planning cycles of most schools and libraries. This coordination of the support mechanism with the applicants' internal administrative processes will enable schools and libraries to plan their technology needs in a more efficient and organized manner. In addition, using a fiscal year funding cycle will align universal service contribution levels with the local exchange carrier annual access tariff filing schedule. Under our rules, local exchange carriers file their annual tariffs to be effective July 1 of each year. One piece of information these companies require in order to file their tariffs is the universal service contribution factors.

4. We recognize that, under the approach adopted herein, some schools and libraries that did not file within the initial window in 1998 will not be eligible to receive funding until July 1999, rather than January 1999. We find, however, that on balance, the benefits that will be conferred on the approximately 30,000 applicants that filed within the initial window outweigh the hardship caused by the potential six-month delay in funding for some applicants. We also find that this approach strikes the best balance between fulfilling the statutory mandate to enhance access to advanced telecommunications and information services for schools and libraries, and fulfilling the statutory principle that ''[q]uality services should be available at just, reasonable, and affordable rates.''

5. To accomplish this change, we conclude that the following revisions in the funding cycle must be implemented. First, for applications filed within the initial 75-day filing window seeking discounts on telecommunications services and Internet access, the Administrator shall make funding commitments effective for services provided no earlier than January 1, 1998. These services will be funded at the approved monthly level, consistent with the information included on the school's or library's application, through June 30, 1999. We conclude that this approach is reasonable because telecommunications services and Internet access are generally provided at regular, monthly intervals and are billed on a monthly, recurring basis.

6. Second, for applications filed within the initial 75-day filing window seeking discounts on internal connections, the Administrator shall commit the approved amount of support, but these funds may be utilized during the remainder of 1998 as well as during the transition period through June 30, 1999. We conclude that this approach is reasonable because, unlike telecommunications services and Internet access, internal connections generally entail nonrecurring rather than recurring costs. Moreover, installation of internal connections frequently requires that the projects be timed to occur during periods when school is out of session and students are not present in instructional buildings. Thus, the installation of internal wiring might be completed in stages during winter and summer vacation periods. Accordingly, we amend § 54.507(b) of our rules.

7. The transition to a fiscal year funding cycle adopted herein requires that we reconsider on our own motion the limitation on the exemption from competitive bidding for voluntary extensions of contracts. Our rules currently provide that voluntary extensions of existing contracts are not exempt from the competitive bidding rules. In order to accomplish an orderly transition to the fiscal year funding cycle, however, we conclude that we must allow existing contracts that have a termination date between December 31, 1998 and June 30, 1999 to be voluntarily extended to a date no later than June 30, 1999. Although voluntary extensions of contracts generally are not exempt from the competitive bidding requirement, we adopt this limited exception for voluntary extensions of contracts up to June 30, 1999. To hold otherwise would result in schools and libraries either having to participate in competitive bidding for only a six month service period or not being eligible for support for that six month period. We conclude that either result would be both administratively and financially unworkable for schools and libraries. We find, therefore, that it is in the public interest to amend the exemption (in § 54.511 of our rules) from the competitive bidding requirements, to allow schools and libraries that filed applications within the 75-day initial filing window to extend voluntarily, to a date no later than June 30, 1999, existing contracts that otherwise would terminate between December 31, 1998 and June 30, 1999.

B. Collections During 1998 and the First Six Months of 1999

8. Consistent with section 254 of the Act, and the recommendations of the Federal-State Joint Board on Universal Service, we remain committed to providing support to eligible schools and libraries for telecommunications services, Internet access, and internal connections. We share the concerns of commenters that curtailing collections may have adverse impacts on schools and libraries, particularly the neediest of those entities. We, therefore, remain dedicated to providing support in a manner that targets the most economically disadvantaged schools and libraries. At the same time, we are cognizant of the concerns of many legislators that we must balance the need to provide support for schools and

libraries against the need to continue to provide support for high cost carriers, and to keep telephone rates affordable throughout the country. We note that, pursuant to the 1996 Act, the Commission has taken significant action to implement the universal service provisions of the Act. At the present time, the rural, insular, and high cost telephone subscribers continue to receive high cost support at the same level that they have received for years. In addition, one of the first steps in universal service reform was to make existing high cost support explicit. Moreover, we have expanded the Commission's low-income programs, Lifeline Assistance (Lifeline) and Lifeline Connection Assistance (Link Up). For example, we adopted the Joint Board's recommendation that Lifeline service should be provided to low-income consumers nationwide, even in states that had not previously participated in Lifeline, and that all eligible telecommunications carriers should be required to provide Lifeline service. The Commission remains committed, pursuant to section 254, to implementing *all* parts of universal service.

9. We find, therefore, that it is prudent to begin funding collections for a new mechanism at a reduced level, and allow for the possibility of increased collections in the future. We note that this phase-in approach to funding is consistent with the decision in the *Universal Service Order*, 62 FR 32862 (June 17, 1997), and with the initial funding for high cost support when the National Exchange Carrier Association (NECA) began its high cost collection and distribution efforts in 1986. In providing support for schools, libraries, and rural health care providers, we strive to ensure a smooth transition to the new universal service support mechanisms and to minimize disruption to consumers. We find that our decision to adjust the maximum amounts that may be collected or spent in 1998 is consistent with these goals.

10. We therefore find that we should not increase the quarterly collection amounts at this time with respect to the schools and libraries and rural health care support mechanisms. We therefore conclude that establishing quarterly collection rates for the schools and libraries support mechanism of $325 million for each of the third and fourth quarters of 1998 and the first and second quarters of 1999 will preserve the dual statutory mandates to maintain affordable rates throughout the country and to ''enhance * * * access to advanced telecommunications and information services for all public and non-profit elementary and secondary school classrooms * * * and libraries.'' These collection rates maintain current collection rate levels and will not increase interstate telecommunications carriers' costs of providing service. Moreover, these collection rate levels should ensure that long distance rates, overall, will continue to decline. On June 16, 1998, incumbent local exchange carriers will file new access tariffs with rates to become effective on July 1, 1998. Based on preliminary information filed by these carriers on April 2, 1998, we estimate their total access charge revenues to decline by approximately $720 million below current levels, measured on an annualized basis at current demand levels. The *Third Quarter Contribution Factors Public Notice*, released by the Common Carrier Bureau upon adoption of this Order, will produce a reduction in total interexchange carrier payments of approximately $85 million. Based on this, total interexchange carrier payments for access services and universal service contributions should decrease by approximately $800 million on July 1, 1998. At the same time, based on the estimated demand for support by schools and libraries that filed applications during the initial 75-day filing window, these collection rates will be sufficient to fully fund requests for support for telecommunications services, and Internet access, and to fully fund requests by the neediest schools and libraries for support for internal connections.

11. We further conclude that we should establish maximum collection rates for the rural health care support mechanism at $25 million for each of the third and fourth quarters of 1998. These collection rates are consistent with projected demand and there is no evidence that eligible health care providers will require additional funding this year. Consistent with the *Universal Service Order*, we do not want the Universal Service Administrative Company (USAC) to collect funds that exceed demand. Because the rural health care support mechanism will continue to be funded on a calendar, rather than a fiscal, year basis, and because the mechanism is still in the very early stages, we find that we should not adopt maximum collection rates beyond 1998. Instead, we will evaluate the 1999 collection rates for the rural health care support mechanism in the future.

12. The universal service support mechanisms will provide substantial support to schools, libraries, and health care providers without imposing unnecessary burdens on consumers, and the most economically disadvantaged schools and libraries will receive the greatest share of support, consistent with the discount matrix contained in the *Universal Service Order*. We seek to provide support to schools, libraries, and rural health care providers in a manner that does not require consumers' rates to rise and without causing rate churn. Some commenters assert that a certain amount of rate churn is to be expected in a competitive marketplace. That may be true, but we remain committed to ensuring that universal service does not exacerbate any rate churn that may already exist in the marketplace. Excessive and unnecessary rate churn would be disruptive to consumers, a result we wish to avoid.

13. Numerous commenters take issue with the Commission's proposal to revise collections for the schools and libraries and rural health care universal service support mechanisms consistent with anticipated reductions in access charges. We agree with the Alaska Commission that funding for the new universal service support mechanisms ''must be balanced against potential impact on rates and universal service,'' and that is precisely the approach we are adopting. We conclude, therefore, that a gradual phase-in of the schools, libraries, and rural health care universal service support mechanisms that takes advantage, and reflects the timing, of access charge reductions will provide substantial support for eligible services ordered by eligible schools, libraries and rural health care providers, and at the same time will avoid disruption to consumers.

14. Many commenters note that schools and libraries have expended substantial resources, in terms of both time and money, in applying for discounted services, all with the expectation that a maximum of $2.25 billion in funding would be available. We share the concern of the U.S. Department of Education and other commenters that schools and libraries require predictability of funding to facilitate long-range technology planning, and that our actions here should not discourage schools and libraries from seeking universal service support. We agree that the submission of over 30,000 applications demonstrates substantial demand for universal service support for schools and libraries, and we applaud the entities that have worked diligently to comply with our rules. We are troubled by the disruption imposed on schools and libraries and we hope to avoid this situation in the future. At the same time, we must be mindful of the effects of the

schools and libraries and rural health care support mechanisms on consumers. If we were to fund these support mechanisms to the full amount of the caps adopted in the *Universal Service Order*, there would be negative consequences for consumers. Congress mandated that universal service has many components, including support for schools, libraries, and rural health care providers, as well as the directive to maintain rates at an affordable level. We conclude, therefore, that reducing the collection rates for the schools and libraries and rural health care support mechanisms during the initial implementation is consistent with the Act and is the most prudent course to take at this time.

15. Several commenters maintain that revising collections levels for the schools and libraries and rural health care support mechanisms to match projected reductions in access charges would impose an unreasonable and disproportionate burden on CMRS and other wireless providers that do not pay access charges, and that such an approach would not be competitively neutral. One of the dissenting statements similarly suggests that wireless carriers are being disproportionately burdened because they do not pay access charges. We note first that we are not here adopting our proposal in the *Collection Public Notice*, 63 FR 27542 (May 19, 1998), to increase schools and libraries funding to levels that match projected reductions in access charges paid by long-distance carriers. We are instead freezing for the next four quarters the contribution levels in place during the second quarter of 1998. Thus, no carrier will experience increased universal service obligations as a result of an increase in funding for the schools and libraries support mechanism. Second, we find that CMRS and other wireless carriers are not disproportionately burdened because they pay universal service obligations even though they do not benefit from access charge reductions. Before passage of the 1996 Act, only interstate long-distance carriers paid for universal service in the interstate jurisdiction, either directly or through access charges. The 1996 Act, however changed that by requiring universal service to be supported by *all* interstate telecommunications carriers, whether or not they had previously paid access charges. The point of the 1996 Act in this respect was to end the existing discriminatory treatment of long-distance carriers, and impose universal service obligations as well on other interstate carriers, including CMRS carriers. The 1996 Act also established that universal service be funded in a competitively neutral manner. To implement that, we have required that all interstate telecommunications carriers contribute to universal service based on end-user revenues. We continue to believe that to be a reasonable approach to implementing the competitive neutrality requirements of the Act. Finally, to the extent that the *Collection Public Notice* noted the relation between universal service obligations and access charge reductions, it was simply to note that overall the Commission's actions have reduced the cost of providing long distance service—an issue of significant public interest. We note similarly here that, since passage of the 1996 Act, competition and changes in reciprocal compensation arrangements between CMRS providers and local exchange carriers (LECs) have helped provide for the lowest wireless prices for consumers in history, despite wireless carriers' contributions to universal service.

16. The contention in one of the dissents that universal service contributions, at least to the extent used to provide support for non-telecommunications services, constitute an unlawful tax is neither new nor correct. As the Commission has found previously, contributions to the universal service mechanisms do not represent taxes enacted under Congress's taxing authority. Rather, they constitute fees enacted pursuant to Congress's Commerce power. We noted previously that the contribution requirements do not violate the Origination Clause of the Constitution because ''universal service contributions are not commingled with government revenues raised through taxes,'' and universal service support mechanisms therefore are not a ''general welfare scheme'' of the type found by courts to be taxes. In *United States* v. *Munoz-Flores* and elsewhere, the Supreme Court has held that Congress does not exercise its taxing powers when funds are raised for a specific government program. Universal service contributions are deposited into a specific fund established as part of the universal service mechanisms to provide money support for those mechanisms and therefore do not constitute taxes.

17. Our conclusion that universal service contributions are not a tax is not changed by the citation to *Thomas* v. *Network Solutions, Inc.* There, the court found that part of the charge made by the National Science Foundation's contractor for the registration of internet domain names was a tax rather than a fee because it provided ''revenue for the government for projects that did not directly benefit the payees or otherwise apply to the purposes furthered by the [agreement between the NSF and its contractor].'' Here, by contrast, universal service contributions are not intended to raise general revenue as they are placed in a segregated fund dedicated for a specific regulatory purpose, and, as we have noted previously, all telecommunications carriers required to contribute benefit from the ubiquitous telecommunications network that universal service makes possible. Even if this were not the case, *Munoz-Flores* rejects the proposition that a charge is a tax unless the payees benefit from its payment.

18. Finally, we note that the argument that universal service contributions for the schools and libraries mechanisms constitutes an unlawful tax can be and has been made with respect to the entire universal service program. This argument proves too much. If that interpretation were correct, the entire universal service program, including support for service to rural and high cost areas, would constitute an unlawful tax. This interpretation is incorrect because, as noted above, Congress need not exercise its taxing powers to fund a specific government program through fees. This is precisely what Congress has done with respect to universal service.

19. We find, therefore, that it serves the public interest to adjust the amounts that the Commission directed the Administrator to collect and spend for the second six months of 1998, as described herein. We amend our previous decision, and direct USAC to collect only as much as required by demand, but in no event more than $25 million per quarter for the third and fourth quarters of 1998 for the rural health care universal service support mechanism. We direct USAC to collect only as much as required by demand, but in no event more than $325 million per quarter for the third and fourth quarters of 1998 and the first and second quarters of 1999 to support the schools and libraries universal service support mechanism. We also direct the Rural Health Care Corporation (RHCC) to commit to applicants no more than $100 million for disbursement during 1998, and direct SLC to commit to applicants no more than $1.925 billion for disbursement during 1998 and the first half of 1999. The adoption of these limits on disbursements supersedes any prior restrictions on expenditures during 1998.

20. Furthermore, we conclude that the carryover of unused funding authority

will not apply for the funding period January 1, 1998 through June 30, 1999. That is, to the extent that the amounts collected in the funding period January 1, 1998 through June 30, 1999 are less than $2.25 billion, the difference will not be carried over to subsequent funding years. Consistent with the phased-in approach to funding for the schools and libraries and rural health care support mechanisms that we have adopted herein, we find it unnecessary to carry over unused funding authority. To the extent that funds are collected but not disbursed in the funding period January 1, 1998 through June 30, 1999, however, those collected funds would be carried over to the next funding period. Accordingly, we amend §§ 54.507(a) and 54.623(a) of our rules.

C. Rules of Priority for the Schools and Libraries and Rural Health Care Support Mechanisms

21. *Schools and Libraries Support Mechanism.* Upon further consideration, we find that we must adopt additional new rules of priority to ensure that, when a filing window period is in effect, support is directed toward the most economically disadvantaged schools and libraries, as well as toward those located in rural areas. Consistent with the statute and the recommendations of the Joint Board, we have consistently focused on ensuring that the services eligible for universal service support are affordable for all eligible schools and libraries. Under the discount matrix, the most economically disadvantaged schools and libraries are eligible for the greatest levels of discount. For example, schools with between 75 and 100 percent of their students eligible for the national school lunch program are eligible for 90 percent discounts on all eligible services. In the *Universal Service Order,* we established a priority system under which the most economically disadvantaged schools and libraries, those with over 50 percent of their student populations eligible for the national school lunch program, would have priority when only $250 million is available to be committed in a given funding year. The rules of priority adopted in the *Universal Service Order,* however, were premised on the assumption that support would be distributed on a first come, first served basis. That is, the $250 million trigger was established before the Commission adopted a window filing period. We conclude that we must adopt additional new rules of priority premised on the existence of a filing window period during which all applications received within the window are treated as if filed simultaneously. We also conclude that new rules of priority are necessary to account for the fact that the support requested by schools and libraries during the initial filing window exceeds the total authorized support available for the funding period January 1, 1998 through June 30, 1999. Moreover, there is the possibility that support requested by schools and libraries during subsequent filing windows may exceed the total authorized support available in subsequent funding years. Therefore, we adopt new rules of priority that will operate when a filing window is in effect. We do not, however, alter the rules of priority for applicants that request support when a filing window is not in effect. Although, in this initial 18-month funding period, only the applications filed during the initial 75-day filing window will receive support, it is possible that in future funding years support could be provided for applications filed outside of a filing window period.

22. The additional new rules of priority described below will equitably provide the greatest assurance of support to the schools and libraries with the greatest levels of economic disadvantage while ensuring that all applicants filing during a window receive at least some support in the event that the amounts requested for support submitted during the filing window exceed the total support available in a funding year. Because these rules of priority utilize the discount matrix, which provides higher discounts for schools and libraries in rural areas, they also equitably provide greater support to schools and libraries in rural areas. These rules, therefore, further implement the Commission's prior decisions to allocate support for schools and libraries in a manner that provides higher levels of support for rural areas and areas with greater economic disadvantage, while recognizing that every eligible school and library should receive some assistance. Further, these rules of priority are consistent with the suggestions of several commenters. Upon further consideration, we conclude that these new rules of priority will best promote the universal service goals of the Communications Act. Accordingly, we amend § 54.507(g) of our rules.

23. The additional new rules of priority for the schools and libraries universal service support mechanism shall operate as described herein for applicants that submit a request for support within an established filing window. When the filing window closes, SLC shall calculate the total demand for support submitted by applicants during the filing window. If total demand exceeds the total support available in that funding year, SLC shall take the following steps. SLC shall first calculate the demand for telecommunications services and Internet access for all discount categories. These services shall receive first priority for the available funding. SLC shall then calculate the amount of available funding remaining after providing support for all requests for telecommunications services and Internet access. SLC shall allocate the remaining funds to the requests for support for internal connections, beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries discount matrix. That is, schools and libraries eligible for a 90 percent discount shall receive first priority for the remaining funds, and those funds will be applied to their requests for internal connections. To the extent that funds remain, SLC shall next allocate funds toward the requests for internal connections submitted by schools and libraries eligible for an 80 percent discount, then for a 70 percent discount, and shall continue committing funds for internal connections in the same manner to the applicants at each descending discount level until there are no funds remaining.

24. If the remaining funds are not sufficient to support all of the funding requests that comply with the Commission's rules and eligibility requirements within a particular discount level, SLC shall divide the total amount of remaining support available by the amount of support requested within the particular discount level to produce a pro-rata factor. Thus, for example, if all applicants eligible for discounts of 90 percent may be fully funded, but there are not sufficient funds remaining to fully fund internal connections for applicants eligible for discounts of 80 percent, SLC shall reduce the support level for each applicant that is eligible for an 80 percent discount by multiplying the appropriate requested amount of support by the pro-rata factor. SLC shall then allocate funds to each applicant within the 80 percent discount category based on this reduced discount level. SLC shall commit support to all applicants consistent with the calculations described herein. We expect that, for the initial 18-month funding period, the collection levels established in this Order will enable all of the applicants eligible for discounts of 90 percent to receive full support for

internal connections, and that at least a substantial portion, if not all, of the support requested for internal connections by applicants eligible for discounts of 80 percent will be provided.

25. In light of our decision to reduce the collection levels for schools and libraries at this time, we find that our revised method of prioritization is the best way to provide substantial and predictable support for schools and libraries. We conclude that, to the extent that we are unable at this time to fund demand fully, the best approach is to provide full support for recurring services, and to direct support for internal connections to the neediest schools and libraries. We agree with commenters who state that it would be the most economically disadvantaged schools and libraries that would suffer the most if internal connections were not funded. The data received from the applications submitted during the initial filing window also support this revision in our rules of priority.

26. *Rural Health Care Support Mechanism*. The Commission concluded in the *Universal Service Order* that support for health care providers should be allocated on a first-come, first-served basis. Unlike the schools and libraries support mechanism, however, the Commission did not adopt rules that allocate support among health care providers on the basis of their economic circumstances. We determine that we should adopt rules that will take effect in the event that the support requested by health care providers during a filing window exceeds the total authorized support in a funding year. As with the schools and libraries mechanism, our decisions to adjust the maximum collection amounts during 1998 and to adopt a filing window for the rural health care support mechanism lead us to conclude that we should establish rules to allocate funds in the event that all of the available funds will be requested before the window period closes. Several commenters suggested various means by which to prioritize the need of health care providers. We conclude, however, that the complexity of the proposals outweighs their utility. We are not convinced that the administrative burden and the costs associated with any of the proposals outweighs the benefits that would accrue to health care providers.

27. We conclude, therefore, that we should not adopt, at this time, a method by which to prioritize health care providers in the event that demand requested during a filing window exceeds available support. We conclude instead that we should adopt a pro-rata rule that will reduce each applicant's level of support by an equal amount in the event that demand exceeds the total fund allocated for a given funding year. This approach will ensure fairness and equity to each health care provider applying for universal service support and will not impose an undue administrative burden upon either the applicants or the Administrator. If, however, parties submit specific prioritization methods that can be implemented without substantial expense, administrative burden, or complexity, and that ensure equitable distribution of funds as well or better than the pro-rata rule we adopt herein, we will consider modifying this approach in the future.

28. When the filing window closes, RHCC shall calculate the total demand for support submitted by all eligible applicants. If the total demand submitted during the filing window exceeds the total funding available for the funding year, RHCC shall take the following steps. RHCC shall divide the total funds available for the funding year by the total amount of support requested to produce a pro-rata factor. RHCC shall multiply the pro-rata factor by the total amount of support requested by each applicant that has filed during the filing window. RHCC shall then commit funds to each applicant consistent with this calculation. For example, if at the close of the filing window $125 million has been requested in 1998, RHCC would calculate the pro-rata factor by dividing $100 million by $125 million to produce a factor of four-fifths (.8). RHCC would then multiply the total dollar amount requested by each applicant by .8 and would commit such reduced dollar amount to each applicant. We, therefore, add section 54.623(f) to our rules.

29. We conclude that the amendments to our rules adopted herein shall be effective upon publication in the **Federal Register**. Prior to their publication in the **Federal Register**, the Commission will submit a report on the amended rules adopted herein to Congress and the GAO, as required by the Contract with America Advancement Act (CWAAA). Pursuant to the CWAAA, the amended rules may take effect following that submission. Contrary to the suggestion in Commissioner Furchtgott-Roth's dissent, the CWAAA does not require that the Commission wait 60 days after this submission is made for the rules to go into effect. Such a delay in the effective date is required only for major rules, and by definition ''major rules'' do ''not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.'' We have confirmed with the Office of Management and Budget, which is responsible for determining whether or not a rule is major, that the amended rules adopted herein are promulgated under the Telecommunications Act of 1996 because they are part of the Commission's continuing implementation of section 254 as added by the 1996 Act and therefore are non-major rules. Despite the Order's citation in the ordering paragraphs to other provisions of the Communications Act as subsidiary sources of authority, it could not be clearer that the amended rules adopted herein implement the 1996 Act because explicit statutory authorization for the universal service mechanism for schools and libraries did not exist prior to addition of section 254 by the 1996 Act. We find that we have good cause to take such action, pursuant to the Administrative Procedure Act, because compliance with these amendments requires preparation only by USAC, SLC, and RHCC, each of which is able to comply with these amendments in a short amount of time. Compliance with these amendments does not require preparation by other affected entities, such as schools, libraries, or health care providers. To the extent that contributors are affected, their burdens are lessened.

D. Level of Compensation for Officers and Employees of the Administrative Corporations

30. We conclude that Congress's intent regarding the level of compensation for officers and employees of SLC and RHCC was clearly stated in both section 2005(c) of the Senate bill and in the Conference Report. The Senate and the House-Senate conferees expressly stated that there should be limits on the level of compensation afforded to the officers and employees of the two independent corporations. We conclude, therefore, consistent with the will of Congress, that, effective July 1, 1998, the administrator must, as a condition of its continued service, compensate all officers and employees of SLC and RHCC at an annual rate of pay, including any non-regular payments, bonuses, or other compensation, that does not exceed the rate of basic pay in effect for Level I of the Executive Schedule under section 5312 of Title 5 of the United States Code. This level of compensation will apply to all officers and employees of SLC and RHCC, as currently organized, as well as to all such officers and employees in the

consolidated administrative corporation following reorganization on July 1, 1998. Accordingly, we amend section 69.620(a) of our rules.

E. Publications of Quarterly Contribution Factors in the Federal Register

31. The existing rule has caused some confusion because it requires publication of the proposed contribution factors in the **Federal Register**, but at the same time states that those proposed factors will become effective within 14 days of the date on which the Public Notice is released. Because an item is not published in the **Federal Register** immediately upon release, and because it is not possible to predict with certainty when an item will be published in the **Federal Register**, the existing rule creates uncertainty about the date on which the contribution factors are deemed approved.

32. We, therefore, amend our rule to clarify that the proposed contribution factors will be deemed approved, in the absence of further Commission action, 14 days after release of the Public Notice in which they are announced. We conclude that the public is given adequate notice of release of the proposed contribution factors because they are posted on the Commission's website immediately upon release. Moreover, this change will eliminate any ambiguity in the rules and will create certainty about when the proposed contribution factors are deemed approved. Accordingly, we amend section 54.709(a)(3) of our rules.

F. Conclusion

33. In conclusion, we note that our colleagues' statements dissenting from this Order raise several issues that are well beyond the scope of this Order. Although we believe it would be inappropriate to include here a point-by-point analysis of issues that are not presented in the matters before the Commission in this Order, we do not wish our silence to be construed as acquiescence. We are, therefore, compelled to note that several of the issues raised in dissent have been addressed at length in the context of prior Commission orders, after due consideration and based on complete records. For example, although one of the dissenting statements questions the legal basis for providing support to schools and libraries for internal connections, the legal basis for that decision was thoroughly established in both the *Universal Service Order* and the *April 10, 1998 Report to Congress.* It was further addressed in the Joint Board's *Recommended Decision* in which the Joint Board unanimously recommended that universal service support be provided to schools and libraries for internal connections. Similarly, as noted above, the Commission previously has established that universal service contributions do not constitute an unlawful tax.

34. One of the dissenting statements also remarks on proposed regulation of carriers' billing practices. We are indeed concerned that, when the Commission takes action to reduce carriers' costs of providing service, carriers' bills are creating the false impression that the opposite is true. We note that these matters are not pending before the Commission, and therefore we do not find it practical or appropriate to comment in this context on specific proposals. We do intend to issue in the near future a notice of proposed rulemaking seeking comment on issues relating to the manner in which carriers include billing statements regarding charges relating to universal service support mechanisms. We intend to use that proceeding to develop a complete record on all the relevant issues, including those raised by our dissenting colleague. Only then, after full consideration, would the Commission be able to determine whether it is necessary and appropriate to take any action on these issues, and if so, what action should be taken. Although we remain committed to ensure that carriers include complete and truthful information regarding the contribution amount, we await further consideration of these matters.

35. Finally, our dissenting colleagues suggest that the Commission has not acted to fulfill the Act's requirements regarding support for high cost carriers and low-income consumers. Pursuant to the 1996 Act, the Commission has taken significant action to implement the universal service provisions of the Act. As we noted earlier, rural, insular, and high cost telephone subscribers continue to receive high cost support at the same level that they have received for years. In addition, one of the first steps in universal service reform was to make existing high cost support explicit. With respect to low-income consumers, we substantially expanded the reach of the Commission's Lifeline and Link Up programs. We are considering petitions for reconsideration of some aspects of our actions, as well as requests from the Joint Board that we refer some issues to it, including the so-called ''25/75'' issue. We believe that a second referral to the Joint Board, if clearly defined in terms of issues and timing, could be extremely valuable. We are also actively developing an economic model that will assist us in determining the level of high cost support due to carriers in a way that produces neither a windfall for carriers at the expense of consumers nor a spike in local telephone rates. We are confident that in this manner we will fulfill Congress's goals embodied in section 254. These actions demonstrate the Commission's firm commitment to implementing *all* parts of universal service. We look forward to working with Congress, the States, the industry, consumers, and our dissenting colleagues, as we move forward in achieving this goal.

II. Supplemental Final Regulatory Flexibility Analysis

36. In compliance with the Regulatory Flexibility Act (RFA) and the Initial Regulatory Flexibility Analysis (IRFA) that accompanied the *Collection Public Notice* in the **Federal Register**, this Supplemental Final Regulatory Flexibility Analysis (SFRFA) supplements the Final Regulatory Flexibility Analysis (FRFA) included in the *Universal Service Order,* only to the extent that changes to that Order adopted here on reconsideration require changes in the conclusions reached in the FRFA. As required by section 603 RFA, 5 USC 603, the FRFA was preceded by an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Notice of Proposed Rulemaking and Order Establishing the Joint Board (NPRM), and an IRFA, prepared in connection with the Recommended Decision, which sought written public comment on the proposals in the NPRM and the Recommended Decision.

A. Need for and Objectives of This Report and Order and the Rules Adopted Herein

37. The Commission is required by section 254 of the Act to promulgate rules to implement promptly the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules whose principle goal is to reform our system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. In this Order, we reconsider five aspects of those rules. First, to ameliorate the concerns of applicants seeking support for internal connections that they will be unable to complete installation before December 31, 1998, we reconsider, on our own motion, the funding cycle for schools and libraries. We conclude that it is in the public interest to change the funding year for the schools and libraries universal service support mechanism from a

calendar year cycle to a fiscal year cycle running from July 1 to June 30. Moreover, this change to a fiscal year funding cycle will synchronize the schools and libraries universal service support mechanism with the budgetary and planning cycles of most schools and libraries and will align universal service contribution levels with projected reductions in access charges. Second, in order to reduce financial burdens on all contributors to universal service, we reconsider, on our own motion, the amounts that will be collected during the second six months of 1998 and the first six months of 1999 for the schools and libraries support mechanism, and the amounts that will be collected during the second six months of 1998 for the rural health care support mechanism. Third, we modify the rules of priority for the schools and libraries mechanism to provide for the greatest assurance of support to schools and libraries with the greatest levels of economic disadvantage while ensuring that all applicants filing during a filing window period receive at least some support in the event that the amounts requested for support submitted during the filing window exceed the total support available in a funding year. In addition, we adopt a rule to pro-rate the distribution of support to health care providers if demand by health care providers exceeds the total support allocated for a given funding year. Fourth, we conclude, consistent with the will of Congress, that the universal service administrator must, as a condition of continued service, compensate all officers and employees of SLC and RHCC at an annual rate of pay, including any non-regular payments, bonuses, or other compensation, that does not exceed the rate of basic pay in effect for Level I of the Executive Schedule under section 5312 of Title 5 of the United States Code, effective July 1, 1998. Fifth, we amend our rule regarding publication of the proposed universal service contribution factors to state that the proposed contribution factors will be deemed approved, in the absence of further Commission action, 14 days after release of the Public Notice in which they are announced. We conclude that this rule change will eliminate ambiguity regarding publication requirements currently existing in our rules.

B. Summary and Analysis of the Significant Issues Raised by Public Comments in Response to the IRFA

38. No entities commented directly in response to either the *September 10 Public Notice* or the *Collection Public Notice,* although some commenters urged the Commission to modify the rules of priority to ensure that applicants in all states, including small applicants, would receive some opportunity to receive funding. In response to the *Collection Public Notice,* some commenters urged the Commission to ensure that schools and libraries that filed applications within the initial 75-day filing window are fully funded, and to ensure that schools and libraries have a predictable level of funding. Other commenters disagreed with the Commission's proposal to link access charge reductions with universal service funding for schools, libraries, and rural health care providers.

C. Description and Estimates of the Number of Small Entities to Which the Rules Adopted in This Report and Order Will Apply

39. In the FRFA at paragraphs 890–925 of the *Universal Service Order,* we described and estimated the number of small entities that would be affected by the new universal service rules. The rules adopted herein may apply to the same entities affected by the universal service rules. We therefore incorporate by reference paragraphs 890–925 of the *Universal Service Order.*

D. Summary Analysis of the Projected Reporting, Recordkeeping, and Other Compliance Requirements and Significant Alternatives

40. In the FRFA to the *Universal Service Order,* we described the projected reporting, recordkeeping, and other compliance requirements and significant alternatives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order.* Because the rules adopted herein may only affect those requirements in a marginal way, we incorporate by reference paragraphs 956–60, 968–71, and 980 of the *Universal Service Order,* which describe those requirements and provide the following analysis of the new requirements adopted herein.

41. Under the rules adopted herein, we revise the funding year for the schools and libraries support mechanism from a calendar year cycle (January 1—December 31) to a fiscal year cycle (July 1—June 30). This revision will benefit schools and libraries in three ways: (1) it will ameliorate the concerns of applicants seeking support for internal connections that they will be unable to complete installation before December 31, 1998; (2) it will synchronize the schools and libraries support mechanism with the budgetary and planning cycles of most schools and libraries; and (3) it will align universal service contribution levels with projected reductions in access charges. These changes will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools and libraries and rural health care universal service support mechanisms.

42. In addition, we do not revise the annual caps adopted in the *Universal Service Order,* but we do adjust the maximum amounts that may be collected and spent during the initial eighteen months of implementation for the schools and libraries support mechanism and during the initial year of implementation for the rural health care provider support mechanism. The Administrator is instructed to collect only as much as required by demand, but in no event more than $25 million per quarter for the third and fourth quarters of 1998 to support the rural health care universal service support mechanism and no more than $325 million per quarter for the third and fourth quarters of 1998 and the first and second quarters of 1999 to support the schools and libraries universal service support mechanism. We also direct the Administrator neither to commit nor disburse more than $100 million for the rural health care support mechanism for 1998 and no more than $1.925 billion for the schools and libraries support mechanism for the eighteen month period from January 1, 1998 through June 30, 1999. These changes will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools and libraries and rural health care universal service support mechanisms.

43. In addition, we modify the rules of priority for the schools and libraries support mechanism to equitably provide the greatest assurance of support to the schools and libraries with the greatest level of economic disadvantage while ensuring that all applicants filing during a filing window period receive at least some support in the event that the amounts requested for support submitted during the filing window exceed the total support available in a funding year. We also adopt a rule to pro-rate the distribution of support to health care providers if demand by health care providers exceeds the total fund allocated for a given funding year. These changes will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools and libraries and rural health care universal service support mechanisms.

44. Moreover, consistent with the will of Congress, we conclude that the universal service Administrator must, as a condition of continued service, compensate all officers and employees of SLC and RHCC at an annual rate of pay, including any non-regular payments, bonuses, or other compensation, that does not exceed the rate of basic pay in effect for Level I of the Executive Schedule under section 5312 of Title 5 of the United States Code, effective July 1, 1998. We also amend our rule regarding publication of the proposed universal service contribution factors to state that the proposed contribution factors will be deemed approved, in the absence of further Commission action, 14 days after release of the Public Notice in which they are announced. Neither of these changes will have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools and libraries and rural health care universal service support mechanisms.

E. Steps Taken to Minimize the Significant Economic Impact on a Substantial Number of Small Entities, and Significant Alternatives Considered

45. In the FRFA to the *Universal Service Order*, we described the steps taken to minimize the significant economic impact on a substantial number of small entities consistent with stated objectives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order*. Because the rules adopted herein may only affect those requirements in a marginal way, we incorporate by reference paragraphs 961–67, 972–76, and 981–82 of the *Universal Service Order*, which describe those requirements and provide the following analysis of the new requirements adopted herein.

46. As described above, our decision to change to a fiscal year funding cycle will benefit schools and libraries, as well as their chosen service providers, who may be small entities, by equitably providing the greatest assurance of support to the schools and libraries with the greatest levels of economic disadvantage while ensuring that all applicants filing during a window receive at least some support in the event that the amounts requested for support submitted during the filing window exceed the total support available in a funding year. Some schools and libraries that did not file within the initial window in 1998 will not be eligible to receive funding until July 1999, rather than January 1999. We find, however, that on balance, the benefits that will be conferred on the approximately 30,000 applicants that filed within the initial window outweigh this potential six-month delay in funding for some applicants. We also find that this approach strikes the best balance between fulfilling the statutory mandate to enhance access to advanced telecommunications and information services for schools and libraries, and fulfilling the statutory principle of providing quality services at ''just, reasonable, and affordable rates,'' without imposing unnecessary burdens on schools and libraries or service providers, including small entities.

47. As described above, we adopt the decision to adjust the amount of money to be collected in 1998 and the first and second quarters of 1999 for the schools and libraries universal service support mechanism and in 1998 for the rural health care support mechanism because we do not want to impose unnecessary financial requirements on service provider contributors to universal service, including contributors that are small entities. We find that our decision to adjust the maximum collectible amounts provides substantial support to schools, libraries, and rural health care providers without imposing unnecessary burdens on carriers or subscribers, including small entities.

48. Moreover, our conclusion that the universal service Administrator must, as a condition of continued service, compensate all officers and employees of SLC and RHCC at an annual rate of pay that does not exceed the rate of basic pay in effect for Level I of the Executive Schedule under section 5312 of Title 5 of the United States Code, effective July 1, 1998 will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools and libraries and rural health care universal service support mechanisms on any entities other than SLC and RHCC. For those entities, compliance with the amended rule will have a significant impact on the level of compensation afforded some of their employees, but we conclude that this decision is consistent with the intent of Congress. Our decision to amend our rule regarding publication of the proposed universal service contribution factors will not have a significant impact on the reporting, recordkeeping, and other compliance requirements for the schools and libraries and rural health care universal service support mechanisms.

III. Ordering Clauses

49. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 USC 151–154, 201–205, 218–220, 254, 303(r), 403, and 405, section 1.108 of the Commission's rules, 47 CFR 1.108, the Fifth Order on Reconsideration in CC Docket No. 96–45 is adopted.

50. It is further ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 USC 151–154, 201–205, 218–220, 254, 303(r), 403, and 405, section 1.108 of the Commission's rules, 47 CFR 1.108, the Fourth Report and Order in CC Docket No. 96–45 is adopted.

51. It is further ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 USC 151–154, 201–205, 218–220, 254, 303(r), 403, and 405, section 1.108 of the Commission's rules, 47 CFR 1.108, Part 54 of the Commission's rules, 47 CFR Part 54, and Part 69 of the Commission's rules, 47 CFR Part 69, are amended.

52. It is further ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 USC 151–154, 201–205, 218–220, 254, 303(r), 403, and 405, section 1.108 of the Commission's rules, 47 CFR 1.108, effective July 1, 1998, Universal Service Administrative Company shall compensate all officers and employees of Schools and Libraries Corporation and Rural Health Care Corporation at an annual rate of pay, including any non-regular payments, bonuses, or other compensation, that does not exceed the rate of basic pay in effect for Level I of the Executive Schedule under section 5312 of title 5 of the United States Code.

53. It is further ordered that, because the Commission has found good cause, the rule changes are effective August 12, 1998.

54. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Fifth Order on Reconsideration and Fourth Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 54

Healthcare providers, Libraries, Reporting and recordkeeping

requirements, Schools, Telecommunications, Telephone.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission

Magalie Roman Salas,

Secretary.

Rule Changes

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

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. Secs. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Section 54.507 is amended by revising paragraphs (a), (b) and (g) to read as follows:

§ 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 in that funding year shall be carried forward into subsequent funding years for use in accordance with demand, with the following exceptions:

(1) No more than $625 million shall be collected or spent for the funding period from January 1, 1998 through June 30, 1998. No more than $325 million shall be collected for the funding period from July 1, 1998 through September 30, 1998. No more than $325 million shall be collected for the funding period from October 1, 1998 through December 31, 1998. No more than $325 million shall be collected for the funding period from January 1, 1999 through March 31, 1999. No more than $325 million shall be collected for the funding period from April 1, 1999 through June 30, 1999. No more than $1.925 billion shall be collected or disbursed during the eighteen month period from January 1, 1998 through June 30, 1999.

(2) The carryover of unused funding authority will not apply for the funding period January 1, 1998 through June 30, 1999. To the extent that the amounts collected in the funding period January 1, 1998 through June 30, 1999 are less than $2.25 billion, the difference will not be carried over to subsequent funding years. Carryover of funds will occur only to the extent that funds are collected but not disbursed in the funding period January 1, 1998 through June 30, 1999.

(b) *Funding year.* A funding year for purposes of the schools and libraries cap shall be the period July 1 through June 30. For the initiation of the mechanism only, the eighteen month period from January 1, 1998 to June 30, 1999 shall be considered a funding year. Schools and libraries filing applications within the initial 75-day filing window shall receive funding for requested services through June 30, 1999.

* * * * *

(g) *Rules of priority.* Schools and Libraries Corporation shall act in accordance with paragraph (g)(1) of this section with respect to applicants that file a Form 471, as described in § 54.504(c) of this part, when a filing period described in paragraph (c) of this section is in effect. Schools and Libraries Corporation shall act in accordance with paragraph (g)(2) of this section with respect to applicants that file a Form 471, as described in § 54.504(c) of this part, at all times other than within a filing period described in paragraph (c) of this section.

(1) When the filing period described in paragraph (c) of this section closes, Schools and Libraries Corporation shall calculate the total demand for support submitted by applicants during the filing period. If total demand exceeds the total support available for that funding year, Schools and Libraries Corporation shall take the following steps:

(i) Schools and Libraries Corporation shall first calculate the demand for telecommunications services and Internet access for all discount categories, as determined by the schools and libraries discount matrix in § 54.505(c) of this part. These services shall receive first priority for the available funding.

(ii) Schools and Libraries Corporation shall then calculate the amount of available funding remaining after providing support for all telecommunications services and Internet access for all discount categories. Schools and Libraries Corporation shall allocate the remaining funds to the requests for support for internal connections, beginning with the most economically disadvantaged schools and libraries, as determined by the schools and libraries discount matrix in § 54.505(c) of this part. Schools and libraries eligible for a 90 percent discount shall receive first priority for the remaining funds, and those funds will be applied to their requests for internal connections.

(iii) To the extent that funds remain after the allocation described in §§ 54.507(g)(1) (i) and (ii), Schools and Libraries Corporation shall next allocate funds toward the requests for internal connections submitted by schools and libraries eligible for an 80 percent discount, then for a 70 percent discount, and shall continue committing funds for internal connections in the same manner to the applicants at each descending discount level until there are no funds remaining.

(iv) If the remaining funds are not sufficient to support all of the funding requests within a particular discount level, Schools and Libraries Corporation shall divide the total amount of remaining support available by the amount of support requested within the particular discount level to produce a pro-rata factor. Schools and Libraries Corporation shall reduce the support level for each applicant within the particular discount level, by multiplying each applicant's requested amount of support by the pro-rata factor.

(v) Schools and Libraries Corporation shall commit funds to all applicants consistent with the calculations described herein.

(2) When a filing period described in paragraph (c) of this section is not in effect, and 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 with the following rules of priority:

3. Section 54.511 is amended by revising paragraph (d) to read as follows:

§ 54.511 Ordering services.

* * * * *

(d) The exemption from the competitive bid requirements set forth in paragraph (c) of this section shall not apply to voluntary extensions of existing contracts, with the exception that an eligible school or library as defined under § 54.501 or consortium that includes an eligible school or library, that filed an application within the 75-day initial filing window (January 30, 1998–April 15, 1998) may voluntarily extend, to a date no later than June 30, 1999, an existing contract that otherwise would terminate between December 31, 1998 and June 30, 1999.

4. Section 54.623 is amended by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 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, with the following exceptions. No more than $50 million shall be collected for the

funding period from January 1, 1998 through June 30, 1998. No more than $25 million shall be collected for the funding period from July 1, 1998 through September 30, 1998. No more than $25 million shall be collected for the funding period from October 1, 1998 through December 31, 1998. No more than $100 million shall be committed or disbursed for the 1998 funding year.

* * * * *

(f) *Pro-rata reductions.* Rural Health Care Corporation shall act in accordance with this paragraph when a filing period described in paragraph (c) of this section is in effect. When a filing period described in paragraph (c) of this section closes, Rural Health Care Corporation shall calculate the total demand for support submitted by all applicants during the filing window. If the total demand exceeds the total support available for the funding year, Rural Health Care Corporation shall take the following steps:

(1) Rural Health Care Corporation shall divide the total funds available for the funding year by the total amount of support requested to produce a pro-rata factor.

(2) Rural Health Care Corporation shall calculate the amount of support requested by each applicant that has filed during the filing window.

(3) Rural Health Care Corporation shall multiply the pro-rata factor by the total dollar amount requested by each applicant. Rural Health Care Corporation shall then commit funds to each applicant consistent with this calculation.

5. Section 54.709 is amended by revising paragraph (a)(3) to read as follows:

§ 54.709 Computations of required contributions to universal service support mechanisms.

(a) * * *

(3) Total projected expenses for universal service support programs for each quarter must be approved by the Commission before they are used to calculate the quarterly contribution factors and individual contribution. For each quarter, the High Cost and Low Income Committee or the permanent Administrator once the permanent Administrator is chosen and the Schools and Libraries and Rural Health Care Corporations must submit their projections of demand for the high cost and low-income programs, the school and libraries program, and rural health care program, respectively, and the basis for those projections, to the Commission and the Common Carrier Bureau at least 60 calendar days prior to the start of that quarter. For each quarter, the Administrator and the Schools and Libraries and Rural Health Care Corporations must submit their projections of administrative expenses for the high cost and low-income programs, the schools and libraries program and the rural health care program, respectively, and the basis for those projections to the Commission and the Common Carrier Bureau at least 60 calendar days prior to the start of that quarter. Based on data submitted to the Administrator on the Universal Service Worksheets, the Administrator must submit the total contribution bases to the Common Carrier Bureau at least 60 days before the start of each quarter. The projections of demand and administrative expenses and the contribution factors shall be announced by the Commission in a public notice and shall be made available on the Commission's website. The Commission reserves the right to set projections of demand and administrative expenses at amounts that the Commission determines will serve the public interest at any time within the 14-day period following release of the Commission's public notice. If the Commission takes no action within 14 days of the date of release of the public notice announcing the projections of demand and administrative expenses, the projections of demand and administrative expenses, and contribution factors shall be deemed approved by the Commission. Once the projections and contribution factors are approved, the Administrator shall apply the quarterly contribution factors to determine individual contributions.

* * * * *

PART 69—ACCESS CHARGES

6. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, and 403 unless otherwise noted.

7. Section 69.620 is amended by revising paragraph (a) to read as follows:

§ 69.620 Administrative expenses of independent subsidiary, Schools and Libraries Corporation, and Rural Health Care Corporation.

(a) The annual administrative expenses of the independent subsidiary, Schools and Libraries Corporation and Rural Health Care Corporation, should be commensurate with the administrative expenses of programs of similar size, with the exception of the salary levels for officers and employees of the corporations. The annual administrative expenses may include, but are not limited to, salaries of officers and operations personnel, the costs of borrowing funds, equipment costs, operating expenses, directors' expenses, and costs associated with auditing contributors of support recipients.

(1) All officers and employees of the independent subsidiary, Schools and Libraries Corporation and Rural Health Care Corporation, may be compensated at an annual rate of pay, including any non-regular payments, bonuses, or other compensation, in an amount not to exceed the rate of basic pay in effect for Level I of the Executive Schedule under section 5312 of title 5 of the United States Code.

(2) The level of compensation described in § 69.620(a)(1) shall be effective July 1, 1998.

* * * * *

[FR Doc. 98–21588 Filed 8–11–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–179; RM–9064]

Radio Broadcasting Services; Old Forge and Newport Village, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of 21st Century Radio Ventures, Inc., reallots Channel 259A from Old Forge, NY, to Newport Village, NY, as the community's first local aural service, and modifies petitioner's construction permit (BPH–940203MC) to specify Newport Village as its community of license, and allots Channel 223A to Old Forge as the community's second local FM service. Channel 259A can be allotted to Newport Village in compliance with the Commission's minimum distance separation requirements with a site restriction of 10 kilometers (6.2 miles) northwest, at coordinates 43–15–43; 75–05–02, to avoid a short-spacing to Station WTKW, Channel 258A, Bridgeport, New York, and Station WRVE, Channel 258B, Schenectady, New York. Channel 223A can be allotted to Old Forge in compliance with the Commission's minimum distance separation requirements with regard to all domestic allotments without the imposition of a site restriction, at coordinates 43–42–42; 74–58–24, but is short-spaced to Station KFQR–FM, Channel 223C1, Montreal, Quebec, Canada. Canadian concurrence in both allotments has been received