serving area level at least, and, if feasible, to even smaller areas such as CBG, census block or grid cell. A state cost study must be the same used to calculate state support levels. The FCC encourages states to use ongoing proceedings to develop permanent unbundled network element prices as the basis for the universal service cost study to prevent differences between unbundled network element pricing and universal service support.

3. Determination of Forward-Looking Economic Cost for Rural Carriers (¶ 252-256)

Support Mechanism for Rural Carriers (¶ 252-53) The FCC will commence a proceeding to determine a forward-looking economic cost mechanism for rural carriers by October 1998. Rural carriers will be able to use forward-looking economic costs only when the FCC determines that results are sufficient and predictable. The FCC encourages the Joint Board to establish a rural task force and report the results of the task force's findings on forward-looking economic costs to the Joint Board before the October 1998 FNPRM. The task force should include broad industry representation, including from rural carriers and carriers from remote and insular areas; its meetings and records should be open to the public.

Criteria for Mechanisms for Rural Carriers (¶ 254-256) The FCC will develop cost inputs and review a model's performance to target support narrowly to specific geographic areas that have high costs for the provision of universal service. It will also seek to promote the deployment of the most efficient technology available and the availability of advanced services. Mechanisms that include a cost model should take into account the particular characteristics of rural carriers that makes their costs higher and develop geographic areas that accurately reflect a rural carrier's costs. The FCC will also consider whether they should include a "maximum shift or change" feature to ensure that costs do not fluctuate more than an established amount from one year to the next. Although the record does not support adoption of competitive bidding as a support mechanism at this time, the FCC will examine whether a competitive bidding process for rural carriers meets the requirements of both §§ 214(e) and 254.

4. Applicable Benchmarks (¶ 257-267)

Establishment of Benchmark (¶ 257-59) The FCC will establish a nationwide benchmark based on average revenues per line for local, discretionary, interstate and intrastate access services, and "other telecommunications revenues that will be used with" cost models in a particular geographic area. A non-rural eligible telecommunications carrier could draw from the federal support mechanism if the forward-looking economic cost of serving the subscriber exceeds the benchmark. The FCC will establish separate benchmarks for residential and single-line business service.

Inclusion of Discretionary Services (¶ 260-261) Discretionary services are included because the costs associated with providing them are included in the cost models. Not including these services would unnecessarily increase the size of the support mechanism. Although competition could "reduce revenues from a particular service," competition will also lead to "the development of new services that will produce additional revenues per line and to

reductions in the costs of providing the services generating those revenues." The FCC will review the benchmark at the same time as it reviews the means for calculation of forward-looking economic costs. At these periodic reviews, the FCC can adjust both the cost methodology and the benchmark to reflect the positive effects of competition. Discretionary services are also included because it is difficult to allocate costs when the same facilities are used to provide both basic and discretionary services.

Inclusion of Access Revenues (¶ 262) Interstate and intrastate access revenues are included in the benchmark because switch port costs are included in the cost models. Until both interstate and intrastate access services are reduced to recover only per-minute switch and transport costs, access revenues should be included in the benchmark.

Use of Nationwide Average (¶ 263) Use of nationwide average revenue per line is reasonable because it reflects a reasonable expectation of revenues that a telecommunications carrier could use to cover its costs, as estimated by the FCC's forward-looking cost methodology. It is also easy to administer and will lead to uniform and predictable results. A nationwide benchmark will benefit rural areas by encouraging carriers to introduce new services. Rural areas will not be affected by the benchmark until 2001 at the earliest and states are free to provide universal service support beyond the federal level.

Separate Benchmarks (¶ 264) Using two separate benchmarks, one for residential and one for single-line business, is necessary to take into account higher business revenues. Using two separate benchmarks will not be administratively difficult because a carrier need only calculate the number of lines, not the precise costs of providing services to each category of service.

Other Benchmark Methodologies (¶ 265-266) A benchmark based on household income is not adopted because issues related to subscribership levels should be addressed through programs designed to help low-income households obtain and retain telephone service. Benchmarks based on local service rates are rejected because this would ignore the support for joint and common costs provided by other services revenues. A cost-based benchmark, as proposed more recently by a majority of Joint Board state members, is rejected because it fails to take into account other revenues that support joint and common costs of facilities used to provide supported services. "Even in some areas with above average costs, revenue can offset high cost without resort to subsidies, resulting in maintenance of affordable rates." There is no difficulty in matching revenues and costs in computing support levels of individual companies.

Benchmark Level (¶ 267) Based on the comments received from a data request from the Joint Board, the benchmark should be approximately $31 for residential, and $51 for single-line business, lines. The FCC does not establish a precise benchmark at this time, but will do so after review of state cost studies to make the figure consistent with the way forward-looking costs are computed. Further comment will be sought at that time, including further information on the appropriate amounts of "access charge revenue and intraLATA toll revenue that should be included in the revenue benchmark."

5. Share of Support Provided by Federal Universal Service Support Mechanisms (¶ 268-272)

Federal Share of Universal Service Support (¶ 268-270) The FCC did not determine the amount of implicit universal service support that is contained in state rates because it expected states to make that determination. The federal share of support is 25 percent of the difference between a carrier's forward-looking economic costs and the benchmark. The same reasons the 25 percent factor is appropriate for separations purposes make the factor appropriate in this context. Because loop costs are the predominant costs associated with supported services, that figure is the best approximation of the interstate portion of universal service costs.

Sufficiency of Program (¶ 271-272) The FCC expects that states will provide for their own mechanisms to fund the intrastate costs of providing universal service and to remove implicit subsidies in state rates. The FCC has no jurisdiction over state rates. It is, therefore, premature to substitute explicit federal support mechanisms for existing implicit intrastate support mechanisms. In order to insure sufficiency of support, the FCC will monitor high cost mechanisms. Competition will compel states to generate support through explicit mechanisms. The FCC will work cooperatively with states to meet the universal service goals of the 1996 Act.

C. Mechanisms for Carriers Until Support is Provided Based on Forward-Looking Economic Cost (¶ 273-318)

1. Non-Rural Carriers (¶ 273-290)

Existing Mechanisms Remain in Place (¶ 273-275) Existing high cost support mechanisms for non-rural carriers remain in place through December 31, 1998. This support will be transferable to new entrants who serve customers in high cost areas. The FCC will limit the amount of "corporate operations expenses" an ILEC can recover through this mechanism and will extend the indexed cap on the growth of the high cost fund. "These modifications to the existing mechanisms" will take effect on January 1, 1998. Existing support for multi-line business lines will continue since an abrupt withdrawal of support may significantly affect carrier operations.

Alternative Approaches Rejected (¶ 276-280) The frozen per-line approach recommended by the Joint Board for rural carriers will not be used as an interim mechanism for non-rural carriers because that methodology would provide inadequate support for necessary and efficient facility upgrades. The FCC will not select one of the proposed cost models, or use an average of the results of all the models as an interim mechanism, because none of those models has solved all design flaws as outlined previously in the Order. The FCC will not base interim support payments on unbundled network element prices because states have not completed cost studies for all elements and prices are largely interim in nature. Leaving existing mechanisms in place will give carriers time to adjust to use of forward-looking costs and will permit the FCC to take into account other regulatory changes and the state of local competition in selecting the forward-looking economic cost methodology.

Indexed USF Fund (¶ 281-282) Until all carriers receive support based on a forward-looking economic cost mechanism, the FCC will continue the existing indexed fund cap mechanism. The index cap will ensure continued sufficient support while limiting the growth of the overall fund.

Corporate Operations Expense (¶ 283-285) The FCC will limit the amount of corporate operations expense, based on the record formulated in response to the 1995 NPRM in CC Docket No. 80-286, because such expenses "do not appear to be costs inherent in providing telecommunications services, but rather may result from managerial priorities and discretionary spending." Allowable corporate operations expenses must be within a range of reasonableness, defined for each study area, which falls between the reported expense per line and a maximum of 115 percent of projected expenses per line. Projected expenses will be based on the number of access lines and calculated using a formula developed by a NECA statistical study of data submitted in its 1995 annual filing. The amount per line is $27.12 for study areas with 10,000 loops or fewer and $7.12 for study areas of greater than 10,000 loops. A waiver seeking to recover an amount greater than 115 percent of these amounts will be granted only in exceptional circumstances. The national average unseparated cost per loop shall be adjusted to reflect any disallowances of corporate operations expense pursuant to this USF calculation adjustment.

Portability of Support (¶ 286-290) In order not to discourage competition in high cost areas, benefits are portable to eligible telecommunications carriers prior to the effective date of the forward-looking mechanism for lines they win from existing ILECs or for lines provided to previously unserved customers. For carriers providing service using unbundled network elements, universal service support is limited to the cost of the elements used to provide supported services. The remainder of the support will go to the ILEC to cover "the ILEC's economic costs of providing that element . . . ." During the period when existing mechanisms define support levels, the amount per-line for eligible carriers will be calculated by dividing the ILEC's service support payment by the number of loops served. That amount will support eligible telecommunications carriers serving customers in that ILEC's study area. The FCC rejected claims that providing support based on ILEC costs gives unfair competitive advantage to CLECs that have lower costs because a CLEC cannot profit by limiting service in low cost areas. CLECs who have lower costs will spur less efficient ILECs to be more efficient or lose customers. Carriers that "provide service throughout their service area solely through resale" are not eligible for support. Carriers that serve part of their lines through their own facilities and part through resale are eligible for support only for lines they serve through their own facilities. The ILEC that constructs the facilities is the carrier that requires support and needs to be encouraged to service high cost areas, not the reseller, who under the resale pricing provisions pays end-user revenues less avoidable costs.

2. Rural Carriers (¶ 291-318)

Use of Embedded Costs (¶ 291-292) After a reasonable period, rural carriers should also base their level of universal support on forward-looking economic costs to promote efficiency, foster competitive neutrality, and send the correct signals to competitors. Because

rural carriers' contributions to universal service support will be small relative to the support they will draw, the FCC did not agree with RTC that current support mechanisms must be maintained to prevent "significant reductions in net support." There is no statutory mandate to use embedded costs to determine support levels.

Use of Forward-Looking Methodology (¶ 293) Forward-looking economic costs should be used to compute universal service support for rural carriers for the same reasons that methodology is utilized for non-rural carriers. Even rural carriers should be able to plan investments to be efficient so that universal service payments are sufficient to support universal services. Because rural carriers serve more sparsely populated areas, they do not generally benefit from economies of scale, and universal service payments make up a large share of carrier revenues, a sudden change in the support mechanism may disproportionately affect rural carriers' operations. Therefore, the forward-looking methodology will not be employed for at least three years. Once a forward-looking methodology for rural carriers is in place, they will shift gradually to that methodology to allow ample time to adjust.

Treatment of Rural Carriers (¶ 295) Provisions of the Act and the separate treatment of price-capped ILECs in the *Access Charge Reform Order* support the use of a different mechanism for universal support for rural carriers from the mechanism for non-rural carriers.

Supported Lines (¶ 296) The issue of whether to continue support for lines other than primary residential and single-line business lines will be made in the process of selecting a forward-looking cost methodology. In the meantime, support will continue for all working loops.

Modifications to Existing Support Mechanisms (¶ 297-299) The Joint Board had recommended that during the transition, the high cost loop support, DEM weighting, and LTS benefits be based on historic costs. Concern was expressed that this might not provide adequate support. The FCC adopts the modifications to the three elements of support, based on a proposal of the ILEC Association with adjustments to limit the growth beginning in 2000.

High Cost Loop Support (¶ 300-301) In order to provide greater support, the FCC rejects the Joint Board recommendation as to high cost loop support and continues the current formulas for this subsidy through December 31, 1999. Beginning January 1, 2000, rural carriers will receive high cost loop support for their average loop costs that exceed 115% of the inflation-adjusted nationwide average cost per loop. The inflation-adjusted nationwide average loop cost is the 1997 average loop cost increased by the percentage increase in the Gross Domestic Product Chained Price Index (GDP-CPI). The high cost loop support will continue to be received through the separations process.

Indexed Cap (¶ 302) The FCC will continue to employ an indexed cap on the high cost loop support, but will recalculate the cap to account for the removal of non-rural carriers in 1999.

DEM Weighting Support (¶ 303-304) Beginning January 1, 1998, the DEM weighting support will be modified. The new support will be determined by multiplying the carrier's

unseparated local switching revenue requirement by a "local switching support factor." This support factor is the difference between the 1996 weighted and unweighted interstate DEM factors. If a carrier's lines increase in 1997 or any subsequent year so that a lower weighting factor would be indicated by the FCC's rules, the 1996 unweighted DEM factor would be recalculated based on the increased number of lines.

Long Term Support (¶ 305-306) LTS will not be calculated on a fixed per line basis as recommended by the Joint Board. Instead, beginning in 1998, a rural carrier's LTS will be increased from its support in the preceding calendar year by the percentage that the nationwide average loop cost increases.

Corporate Operations Expense (¶ 307) The FCC does not prescribe support for corporate operations in excess of 115% of the average per-line expense projected for service areas of the same size.

Sale of Exchanges (¶ 308) If an exchange is sold on or after May 7, 1997, the amount of universal support for that exchange cannot be greater than would have been received by the seller until support is based on forward-looking costs.

Early Use of Forward-Looking Economic Cost Methodology (¶ 309) Rural carriers may not implement a forward-looking cost methodology until the FCC determines what methodology is appropriate for rural carriers.

Certification as a Rural Carrier (¶ 310) Rural carriers are "rural telephone companies" as defined by the Act. The FCC will require annual self-certification by the carriers. The self-certification will be subject to verification by FCC and the state commissions.

Portability of Support (¶ 311-313) Support will be portable and CLECs will be eligible to receive support. The universal service support will be calculated on a per line basis by calculating the total support received by an ILEC and dividing it by the number of lines served. A CLEC will be entitled to support on the same per line basis, but not to exceed the cost of the unbundled network elements used. Where a combination of owned facilities and unbundled network elements are used by a CLEC, the limitation to the cost of the element will apply as the support is allocated to the element. CLEC services by resale are not eligible for universal service support.

Alaska and Insular Areas (¶ 314-318) Because the FCC does not, in this Order, set out a time frame for moving rural carrier support to forward-looking costs, the Commission does not need to decide whether Alaska and insular areas should be according different treatment from other rural areas. However, non-rural carriers serving Alaska and insular areas will be governed by the rules for non-rural carriers, subject to possible waivers. The FCC also declined to adopt the standard of § 251(f)(2) of the Act of 2% of the nation's subscriber lines nationwide as the benchmark above which carriers serving Alaska and insular areas may not receive support. The FCC also confirms that the Guam Telephone Authority

and other companies serving insular areas that are not included in the existing support mechanisms will be able to participate in the modified mechanisms.

D. Use of Competitive Bidding Mechanism (¶ 319-325)

The Joint Board and the FCC believe that competitive bidding as to the amount of support that a carrier would want to provide service to rural, insular, and high cost areas merits serious consideration; however, the record is not sufficient to develop the terms under which such competitive bidding might be employed. Of the commenters, only GTE presented anything approaching a plan for competitive bidding, and even GTE characterized its proposal as an "outline." The FCC will issue a Further Notice of Proposed Rulemaking to examine how, and under what circumstances, a competitive bidding mechanism could be implemented to distribute universal service support.

VIII. SUPPORT FOR LOW-INCOME CONSUMERS (¶ 326-409)

A. Authority to Revise Lifeline and Link Up Programs (¶ 329-340)

Impact of Section 254(j) (¶ 330-340) The FCC agrees with the Joint Board that § 254(j) allows the agency to adopt changes to the Lifeline program to make it consistent with the goals of the 1996 Act if such changes serve the public interest. The FCC also concurs with the Joint Board's finding that Congress intended for § 254(j) to give the Joint Board and the Commission permission to leave the Lifeline program in place without modification despite inconsistencies with other provisions of the 1996 Act. The purpose of § 254(j) is to make clear that Congress is not mandating changes to the Lifeline program.

B. Changes to Structure of Lifeline and Link Up (¶ 341-382)

1. Expanding Lifeline Nationwide (¶ 346-363)

Generally (¶ 346) The FCC shares the Joint Board's concern over low subscribership among low-income consumers and agrees that changes in the Lifeline program are warranted. Like the Joint Board, the FCC is particularly concerned about the deterrent effect of: (1) the fact that several states do not participate in the Lifeline program, and therefore, consumers in those states do not have access to it; and (2) the fact that some low-income consumers in states that do participate do not receive assistance because not all carriers in the affected regions are obligated to offer Lifeline.

Carriers' Obligations to Offer Lifeline (¶ 347) The FCC concurs with the Joint Board's conclusion that the agency should modify the Lifeline program so that qualifying low-income consumers can receive Lifeline service from all eligible telecommunications carriers. Pursuant to §§ 1, 4(i), 201, 205, and 254 of the Act, the FCC is requiring all eligible telecommunications carriers to offer service to qualifying low-income consumers and is making Lifeline part of the universal service support mechanisms.

Expanding Lifeline to Every State and Modifying Matching Requirements (¶ 348-349) The FCC agrees with the Joint Board that the Lifeline program should be amended to allow qualifying low-income consumers in all states to receive Lifeline service. A baseline amount of federal support should be available in all states irrespective of whether the state generates support from the intrastate jurisdiction. The Commission is providing a baseline federal support amount to qualifying low-income consumers in all states with a matching component above the baseline level.

Lifeline Support Amount (¶ 350-363) The FCC agrees with the Joint Board that $5.25 is an appropriate baseline federal support level and adopts the Joint Board recommendation regarding federal Lifeline support amounts in virtually all respects. Lifeline consumers will continue to receive the $3.50 in federal support currently available and the FCC is providing for an additional $1.75 of federal support. For consumers in a given state to receive the additional $1.75, that state need only approve a reduction in the portion of the intrastate rate paid by the end user; no state matching is required. The FCC also agrees with the recommendation that it provide for additional federal support equal to one half of any support generated from the intrastate jurisdiction, up to a maximum of $7.00 in federal support. Under this mechanism, if a state provides the minimum amount of matching support to receive the full federal support amount, the total reduction in end user charges would increase from $7.00 under the current system to $10.50. The FCC expects its overall approach to increase subscribership levels among low-income consumers and maximize matching incentives. The Commission requests further guidance from the Joint Board on how to ensure the integrity of the Lifeline program in light of the changes made to the access charge rules, particularly those modifying certain portions of Part 69.

2. Making Lifeline Competitively Neutral (¶ 364-372)

Generally (¶ 364-367) The FCC agrees with the Joint Board that the funding mechanisms for Lifeline should be made more competitively neutral. As required by § 254, all carriers that provide interstate telecommunications service now will contribute on an equitable and nondiscriminatory basis. In addition, all eligible telecommunications carriers, not just ILECs, should be able to receive support for serving low-income consumers. Support will be provided directly to carriers under procedures determined by the universal service administrator in consultation with the FCC. The distribution of support to non-ILEC carriers cannot be achieved simply by waiving the SLC because non-ILEC carriers do not participate in the formal separations process mandated under the rules for ILECs and thus, do not charge SLCs or distinguish between the interstate and intrastate portions of their charges and costs. Accordingly, in the case of non-ILEC carriers, Lifeline support will be passed through directly to the consumer in the form of a reduction in the total amount due. Because the interstate portion of ILECs' rates to recover loop costs is, almost without exception, greater than the amount of the SLC cap for residential subscribers, this amount is a reasonable proxy for the interstate portion of other eligible telecommunications carriers' costs. Accordingly, the FCC can require an amount equal to the SLC cap for primary residential and single-line business connections to be deducted from carriers' end-user charges without infringing on state ratemaking authority.

Mechanisms for Distributing and Collecting Lifeline Funds (¶ 368) Precise mechanisms for distributing and collecting funds will be determined by the universal service administrator in direct consultation with the FCC. In general, any carrier seeking to receive Lifeline support will be required to demonstrate to the public utility commission of the state in which it operates that it offers Lifeline service in compliance with the FCC's rules. ILECs providing Lifeline service will be required to waive Lifeline customers' federal SLCs and, conditioned on state approval, to pass through to Lifeline consumers an additional $1.75 in federal support. ILECs will then receive a corresponding amount of support from the new support mechanisms. Other eligible carriers will receive, for each qualifying low-income consumer served, support equal to the federal SLC cap for primary residential and single-line business connections, plus $1.75 in additional federal support conditioned on state approval. The federal support amount must be passed through to the consumer in its entirety. All carriers providing Lifeline service will be reimbursed from the new universal service support mechanisms for their incremental cost of providing toll-limitation services to Lifeline customers electing to receive them. Remaining services included in Lifeline must be provided to qualifying consumers at the carrier's lowest tariffed (or otherwise generally available) rate for those services, or at the state's mandated Lifeline rate, if the state mandates such a rate for low-income consumers.

Issues Involving Eligibility to Participate in Lifeline (¶ 369-371) The FCC has the authority to extend Lifeline to include carriers other than eligible telecommunications carriers but declines to do so at the present time. In addition, although carriers that provide service purely by reselling another carrier's services purchased on a wholesale basis pursuant to § 251(c)(4) will not be eligible to receive universal service support, they will be able to offer Lifeline service. Because the *Local Competition Order* provides that all retail services, including below-cost and residential services, are subject to wholesale rate obligations under § 251(c)(4), resellers could obtain Lifeline service at wholesale rates that include Lifeline support amounts, and can pass these discounts through to qualifying low-income consumers. The FCC concludes that it can rely on states to ensure that Lifeline service is available through resellers and that at least one eligible telecommunications carrier is certified in all areas and will reassess this approach if necessary in the future. Finally, consistent with competitive neutrality, the FCC urges states to define service areas in a way that will satisfy the requirements of § 214(e)(2) while at the same time allowing innovative carriers to serve low-income and high cost areas effectively.

3. Consumer Qualifications for Lifeline (¶ 373-378)

Basic Framework (¶ 373) The FCC agrees with the Joint Board that the existing basic framework for administering Lifeline qualification in states that provide intrastate support for the Lifeline program should be maintained. State agencies or telephone companies currently determine consumer qualifications for Lifeline pursuant to standards set by narrowly targeted programs approved by the FCC. This leaves states sufficient flexibility to target support based on the state's particular needs.

Means-Tested Eligibility Standard - Generally (¶ 373-375) The FCC also agrees with the recommendation that it require states that provide intrastate matching funds to base eligibility criteria solely on income or factors directly related to income, such as participation in a low-income assistance program. The Commission is adopting the Joint Board's recommendation that a specific means-tested eligibility standard, such as participation in a low-income assistance program, be applied in states that choose not to provide matching support from the intrastate jurisdiction. Accordingly, the default Lifeline eligibility standard in non-participating states will be participation in Medicaid, food stamps, Supplementary Security Income (SSI), federal public housing assistance or Section 8, or Low Income Home Energy Assistance Program (LIHEAP). The named subscriber to the local telecommunications service must participate in one of these assistance programs to qualify for Lifeline. If this standard for federal eligibility becomes unworkable, it will be revised. The Commission underscores that participation in a low-income assistance program is merely a *suggested* criterion for basing eligibility on income or factors directly related to income; states are free to choose their eligibility criteria provided that those criteria measure income or factors directly related to income. Although the FCC has tied the default Lifeline qualification standards (which will apply in states that do not provide intrastate funds) to programs that will be unaffected or minimally affected by the new welfare legislation, it will continue to monitor the situation and may make further changes in the future if it appears that changes to other programs unduly limit Lifeline eligibility.

Verification (¶ 376) The FCC concludes that states providing matching intrastate Lifeline support should continue to have the discretion to determine the appropriateness of verification of Lifeline customers' qualifications. Because states that are generating matching intrastate support have an interest in controlling the size of the support mechanism, imposition of stricter federal verification requirements is unnecessary to ensure that the size of the support mechanisms remains at reasonable levels. The FCC will revisit this conclusion to ensure the sustainability and predictability of the sizing of the support mechanisms. The FCC also finds it unnecessary to reduce the level of Lifeline support in states that choose not to require that consumer qualification be verified. In states in which the federal default qualification criteria apply, the FCC will require carriers to obtain customers' signatures on a document certifying under penalty of perjury that the customer is receiving benefits from one of the programs included in the default standard, identifying the program or programs from which the customer receives benefits, and agreeing to notify the carrier if the customer ceases to participate in such program or programs.

Link Up Generally (¶ 379-380) Link Up funding mechanisms should be removed from the jurisdictional separations rules and the program should be funded through equitable and non-discriminatory contributions from all interstate telecommunications carriers. Any eligible telecommunications carrier may draw support from the Link Up support mechanism if that carrier offers qualifying low-income consumers a reduction of its service connection charges equal to one half of the carrier's customary connection charge or $30.00, whichever is less. Support is available for the primary residential connection only. When the carrier offers eligible customers a deferred payment plan for connection charges, support will continue to reimburse carriers for waiving interest on the deferred charges. In the absence of evidence

that increasing the level of Link Up support for connecting each eligible customer would significantly promote universal service goals, the present level of support for Link Up will be maintained. The requirement that the commencement-of-service charges eligible for support be filed in a state tariff is eliminated.

Eligibility (¶ 381-382) The same qualification requirements that apply to Lifeline in each state, including its verification standards, also shall apply to Link Up in that state. The requirement that states verify Link Up customers' qualifications for the program is eliminated and instead the FCC relies on the states to determine whether the costs of verification outweigh the potential for fraud, waste, and abuse. In states that do not participate in Lifeline, the federal default Lifeline qualifications also will apply to Link Up. States shall be prohibited from restricting the number of service connections per year for which low-income consumers who relocate can receive Link Up support.

C. Services Included in Lifeline and Link Up (¶ 383-407)

Services for Low-Income Consumers (¶ 384-389) The Lifeline program is amended to provide that Lifeline service must include the following services: single-party service; voice grade access to the public switched telephone network; DTMF or its functional digital equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll-limitation services. All these services, with the exception of toll limitation, also will be supported by universal service support mechanisms for rural, insular, and high cost areas, and therefore low-income consumers should receive support for these services. Carriers providing voluntary toll limitation should be compensated from universal service support mechanisms for the incremental cost of providing toll-limitation services, but carriers should not receive support for their lost revenues in providing toll-limitation services (defined as the amount customers normally would pay for the service). Universal service support should not contribute to the service's joint and common costs. Lifeline subscribers receive toll-limitation services without charge. Lifeline consumers' acceptance of toll blocking is voluntary. State commissions are permitted to grant carriers that are technically incapable of providing toll-limitation services a period of time during which they may receive universal service support for serving Lifeline consumers while they complete upgrading their switches so that they can offer such services. When they make any switch upgrades, eligible telecommunications carriers currently incapable of providing toll-limitation services must add the capability to their switches to provide at least toll blocking in any switch upgrades (but Lifeline support in excess of the incremental cost of providing toll blocking shall not be provided for such switch upgrades). This is not an exception to eligible telecommunications carriers' general obligation to provide toll-limitation services; rather, it is a transitional mechanism to allow eligible telecommunications carriers a reasonable time in which to replace existing equipment that technically prevents the provision of the service. Support should not be provided for toll-limitation services for consumers other than low-income consumers.

No Disconnection of Local Service for Non-Payment of Toll Charges (¶ 390-397) Eligible telecommunications carriers are prohibited from disconnecting Lifeline service for

non-payment of toll charges. In addition, an eligible telecommunications carrier may not deny a Lifeline consumer's request for re-establishment of local service on the basis that the consumer was previously disconnected for non-payment of toll charges. The federal rule is limited to Lifeline subscribers at this time, because only low-income consumers experience dramatically lower subscribership levels that can be attributed to toll charges. However, the states have discretion to apply such a rule to other consumers. Carriers offering Lifeline service must apply partial payments received from Lifeline consumers first to local service charges and then to toll charges. Whether a Lifeline consumer's long distance and local service providers are the same or different entities shall not affect the application of this rule. The rule prohibiting disconnection of local service for non-payment of toll charges is not conditioned on the consumer's agreement to accept toll-limitation services because toll-service providers already have available the functional equivalent of toll limitation by discontinuing toll service to customers, including Lifeline customers, who fail to pay their bills. State utilities regulators should have the ability, in the first instance, to grant carriers a limited waiver of the requirement under limited, special circumstances and carriers may file waiver requests with their state commissions. To obtain a waiver, the carrier must make a three-pronged showing. First, the carrier must show that it would incur substantial costs in complying with such a requirement. Second, the carrier must demonstrate that it offers toll-limitation services to its Lifeline subscribers. If a carrier is permitted by its state commission to disconnect local service for non-payment of toll bills, its Lifeline consumers should at least be able to control their toll bills through toll limitation. Third, the carrier must show that telephone subscribership among low-income consumers in its service area in the state from which it seeks the waiver, is at least as high as the national subscribership level for low-income consumers. Such waivers should be for no more than two years, but they may be renewed. If a party believes that a state commission has made an incorrect decision regarding a waiver request, or if a state commission does not make a decision regarding a waiver request within 30 days of its submission, such party may file an appeal with the Commission. Furthermore, a state commission choosing not to act on waiver requests promptly should refer any such requests to the Commission.

Prohibition on Service Deposits (¶ 398-402) Eligible telecommunications carriers are prohibited from requiring a Lifeline subscriber to pay service deposits in order to initiate service if the subscriber voluntarily elects to receive toll blocking. During the period of time when carriers incapable of providing toll-limitation services are permitted to upgrade their switches to become capable of providing such services, however, Lifeline subscribers may be required to pay service deposits. Neither LECs nor IXCs are required to offer any customer unlimited credit, and this proceeding does not affect any carrier's ability to discontinue providing service to a customer, including a Lifeline customer, who does not pay for the service that carrier has provided. In addition, carriers may protect themselves against consumers' failure to pay local charges by requesting advance payments in the amount of one month's charges, as most ILECs currently do. An advance-payment requirement exceeding one month will be considered to be an improper deposit requirement.

Other Services (¶ 403-407) States are able to determine, pursuant to § 254(f), whether to require carriers to provide Lifeline customers with free access to information about

telephone service. The FCC will not provide additional support to ensure that low-income consumers have access to advanced services through telecommunications connections with fax and modem capability. Issues relating to special-needs equipment for consumers with disabilities will be addressed in a separate proceeding. Although support from federal universal service support mechanisms will not be given to carriers distributing such information, eligible telecommunications carriers will be required to advertise the availability of, and charges for, Lifeline pursuant to their obligations under § 214(e)(1).

D. Implementation of Revised Lifeline and Link Up Programs (¶ 408-409)

Date to Begin New Programs (¶ 408-409) The new Lifeline and Link Up funding mechanisms will commence on January 1, 1998. Additionally, support for toll limitation for Lifeline subscribers shall begin at that same time, because support for this service also should come from the new support mechanisms.

IX. Issues Unique to Insular Areas (¶ 410-423)

A. Overview (¶ 410)

Residents and carriers in insular areas should have access to universal service support mechanisms. Specifically, Guam and the Commonwealth of the Northern Mariana Islands will join the North American Numbering Plan on July 1, 1997, and the Pacific Island territories must integrate their rates for service to the rest of the United States beginning on August 1, 1997.

B. Background (¶ 411-413)

Section 254(b)(3) of the Act requires that consumers in insular areas have service at rates and quality reasonably comparable to consumers in urban areas. Although the Pacific Island territories have historically been treated as foreign points for telecommunications purposes, they will begin to be integrated into the U.S. services in the summer of 1997. Today, in order to get access to U.S. toll free 800/888 numbers, consumers in Guam and the Northern Marianas use 880/881 service, which requires the consumer to pay the cost of the portion of the call from the these islands to Hawaii.

C. Discussion (¶ 414-423)

Insular areas should be included in the universal support mechanisms for rural areas adopted in this Order. The FCC recognizes that the subscribership levels in the insular areas are relatively low and will issue a Public Notice soliciting comment on factors causing the low subscribership and what should be done about it.

The FCC agrees with the Joint Board that nothing should be done at this time to address support for toll-free access and access to information services from insular areas. With the integration of the Pacific Island territories into the North American Numbering Plan and rate integration coming this summer, it is too early to determine whether universal service

support is necessary or appropriate. The FCC expects that the Pacific Island territories will be included in any nationwide service plan in the future, although carriers will still be able to offer services on less than full nationwide basis.

The continued use of 880/881 after the Pacific Island territories join the North American Numbering Plan technically violates the industry agreement which limits this service to inbound calls from "foreign" points, but the FCC uses its authority under § 251(e) of the Act to override the industry agreement on this issue and permit the continued use of 880/881 service until July 1, 1998. The FCC will revisit the need for universal support at that time. Section 228 of the Act and the FCC's "pay-per-call" rules are not violated by the 880/881 service.

X. SCHOOLS AND LIBRARIES (¶ 424-607)

A. Telecommunications Carrier Functionalities and Services Eligible for Support (¶ 426-463)

1. Telecommunications Services (¶ 431-435)

Schools and libraries should have the maximum flexibility to purchase from telecommunications carriers whatever package of commercially available telecommunications services they believe will meet their telecommunications service needs most effectively and efficiently. For example, eligible schools and libraries may obtain support under § 254(h)(1)(B) for POTS lines, ISDN services, private lines, or pagers to enable school security officials to respond promptly to disturbances. There is no need to preempt state or local statutes or regulations that have the effect of excluding wireless carriers because § 253 adequately preempts such laws or regulations.

2. Internet Access (¶ 436-449)

Eligible services (¶ 436-448) Schools and libraries should be able to receive discounts from telecommunications carriers for basic "conduit" access to the Internet. Sections 254(c)(3) and 254(h)(1)(B) grant authority to adopt this policy because (1) § 254(h)(1)(B) refers to "services," not "telecommunications services" and (2) § 254(a) requires the Commission to define the "services" supported by universal service support but does not limit support to telecommunications services. The term "additional services" in § 254(c)(3) does not relate directly back to the "telecommunications services" referenced in § 254(c)(1). Section 254(h)(2)(A) informs this interpretation. The legislative history (Joint Explanatory Statement at 133) also supports this interpretation.

Schools and libraries cannot receive discounts for purchasing information content. Discounts are, however authorized for the data links and associated services, such as protocol conversions and information storage, necessary to provide classrooms with access to education materials. The information services to which discounts apply consist of (1) the transmission of information as a common carrier; (2) the transmission of information as part of a gateway to an

information service, which does not involve the generation or alteration of content but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems, and (3) electronic mail. Other information services, such as voice mail, are not eligible for support at this time.

Schools and libraries may not receive a discount on bundled content and conduit unless the bundled package includes minimal content and provides a more cost-effective means of securing non-content access to the Internet than other non-content alternatives. In such cases, the discount applies only to the portion of the package price that represents the price for the eligible services.

Eligible providers (¶ 449) Any telecommunications carrier, not just "eligible telecommunications carriers," are eligible for support for services provided to schools and libraries. Internet service providers may subcontract with IXCs and LECs to begin to provide access to the Internet.

3. Intra-School and Intra-Library Connections (¶ 450-463)

Support for internal connections (¶ 450-458) Congress intended that telecommunications and other services be provided directly to classrooms. The installation and maintenance of internal connections fall within the broad scope of §§ 254(c)(3) and (h)(1)(B), in the context of the broad goals of 254(h)(2)(A). Nothing in 254 excludes internal connections from the scope of "additional services" for schools and libraries that can be designated for support. That inside wire has been deregulated is not important. The fact that a service has been deregulated and competition has developed does not provide conclusive evidence that in all circumstances, schools and libraries will benefit from competition such that services will be affordable to them without a further discount.

Installation and maintenance of internal connections are services, and the cost of the actual facilities may be relatively small compared to the cost of labor involved. Because the provision of internal connections is a service, the Commission has authority under §§ 254(c)(3) and 254(h)(1)(B) to provide discounts on the installation and maintenance of such connections. The broad purposes of § 254(h)(2) support this authority, as does the legislative history, which refers repeatedly to "classrooms." Telecommunications carriers might subcontract this business to non-telecommunications carriers, such as electricians or cable television system operators.

Finding internal connections ineligible for support would skew the choices of schools and libraries to favor technologies such as wireless. Such technologies should not be discouraged where they are the efficient solution, but favoring them would violate the overall principle of competitive neutrality.

Extent of support for internal connections (¶ 459-463) A given service is eligible for support as a component of an institution's internal connections only if that piece of equipment is necessary to transport information all the way to individual classrooms. Support should be available to fund discounts on such items as routers, hubs, network file servers, and wireless LANs and their installation and basic maintenance. "Internal connections" also include the

software that file servers need to operate. Personal computers are not eligible for support unless they are used solely as a switch or file server. Support is not available for fax machines or modems, or for asbestos removal.

Schools and libraries may contract with the same entity for both supported and unsupported services and still receive support only if the purchasing agreement covering eligible services prices those services separately from ineligible services. Schools and libraries may not be forced by the provider of internal connections to select a particular provider for other services.

B. Discount Methodology (¶ 464-551)

Pre-Discount Price (¶ 473-474) The pre-discount price is the price of services to schools and libraries prior to application of a discount. Because pre-discount prices should be the lowest amounts charged for similar services to other parties, the FCC rejects the use of a nationwide average pre-discount price.

Competitive Environment (¶ 475-480) Eligible schools and libraries will generally qualify for universal service discounts and prices below tariffed rates for interstate services only if any consortia they join include only other eligible schools and libraries, rural health care providers, and public sector (governmental) customers. Eligible schools and libraries participating in consortia that include ineligible private sector members will not be eligible to receive universal service discounts unless the pre-discount prices of any interstate services that such consortia receive from ILECs are generally tariffed rates.

Competitive Bidding (¶ 481-482) Eligible schools and libraries must seek competitive bids for all services eligible for § 254(h) discounts. Schools and libraries may take other factors into account, but price should be the primary factor in selecting a bid. The following factors are also a reasonable basis on which to evaluate whether a bid is cost effective: prior experience; personnel qualifications; management capability; and environmental objectives. The FCC imposes no bidding requirements but does not exempt eligible schools or libraries from compliance with any state or local procurement rules with which they must otherwise comply. Regarding pricing rules, FCC policies on ILEC pricing flexibility apply only to interstate services and the ILECs' abilities to offer intrastate services in competitive bidding situations will be governed by the relevant state public utility commission policies.

ILEC Pricing (¶ 483) ILECs are free under §§ 201(b) and 254 to participate in certain competitive bidding opportunities with rates other than those in their generally tariffed offerings. More specifically, ILECs are free to offer different rates to consortia that consist solely of governmental entities, eligible health care providers, and schools and libraries eligible for preferential rates under § 254. These pre-discount rates will be generally available to all eligible members of these classes under tariffs filed with the FCC. ILECs may obtain further freedom to participate in competitive bidding situations as a result of decisions in the Access Charge Proceeding in which the FCC will determine whether to permit ILECs to provide targeted offerings in response to competitive bidding situations once certain competitive thresholds are met.

Lowest Price Charged to Similarly Situated Non-Residential Customers for Similar Services (¶ 484-485) A carrier must offer services to eligible schools and libraries at prices no higher than the lowest price it charges to similarly situated non-residential customers for similar services ("lowest corresponding price"). This lowest corresponding price is an upper limit on the price that carriers can charge schools and libraries in non-competitive markets as well as competitive markets so that eligible schools and libraries can take advantage of any cost-based rates that other customers may have negotiated with carriers during a period when the market was subject to actual, or even potential, competition. Similar services include those provided under contract as well as those provided under tariff.

Geographic Area (¶ 486-488) Under § 254(h)(1)(B), telecommunications carriers must make services available to all schools and libraries in any geographic area the carriers serve. Geographic area is defined as the area in which a telecommunications carrier is seeking to serve customers with any of its services covered by § 254(h)(1)(B). The area in which a telecommunications carrier or a subsidiary or affiliate owned or controlled by it can choose to provide service is not limited. Telecommunications carriers are required to offer schools and libraries services at their lowest corresponding prices throughout their geographic area. As a condition of receiving support, carriers are required to certify that the price they offer to schools and libraries is no greater than the lowest corresponding price based on the prices the carrier has previously charged or is currently charging in the market. This obligation would extend, for example, to CLECs, wireless carriers, or cable companies, to the extent they offer telecommunications for a fee to the public. A provider of telecommunications services, Internet access, and internal connections need not offer the same lowest corresponding price to different schools and libraries in the same geographic area if they are not similarly situated and subscribing to a similar set of services. Providers may only offer schools and libraries prices above the prices charged to other similarly situated customers when those providers can show that they face demonstrably and significantly higher costs to serve the school or library seeking service. The FCC expects state commissions to employ these same standards when evaluating differences between customers of intrastate services.

Pricing (¶ 489-491) If the services sought by a school or library include significantly lower traffic volumes or their provision is significantly different from that of another customer with respect to any other factor that the state public service commission has recognized as being a significant cost factor, then the provider will be able to adjust its price above the level charged to the other customer to recover the additional cost incurred so that it is able to recover a compensatory pre-discount price. The FCC establishes a rebuttable presumption that rates offered within the previous three years are still compensatory. A provider is not required to match a price it offered to a customer who is receiving a special regulatory subsidy or that appeared in a contract negotiated under very different conditions, if that would force the provider to offer services at a rate below TSLRIC. Schools, libraries, and carriers should be permitted to seek recourse from the FCC regarding interstate rates and from state commissions regarding intrastate rates if they believe that the lowest corresponding price is unfairly high or low. However, the FCC has determined that it would not be practical to set the lowest corresponding price based on TSLRIC. In addition, the FCC clarifies that the tariffed rates would represent a carrier's lowest corresponding price in a geographic area in which the carrier has not negotiated

rates that differ from the tariffed rates, and carriers are not required to file new tariffs to reflect discounts for schools and libraries.

Discounts (¶ 491-493) There will be a percentage discount mechanism, adjusted for schools and libraries that are defined as economically disadvantaged and those located in areas facing particularly high prices for telecommunications services. The discounts will range from 20 percent to 90 percent for all telecommunications services, Internet access, and internal connections, with the range correlated to indicators of economic disadvantage and high prices.

Discounts in High Cost Areas (¶ 494-496) The FCC adopts discount matrices similar to those recommended by the Joint Board, as shown in § X.C.2.d of this Order. The FCC also notes that schools and libraries in high cost areas will benefit in the short term from the high cost support for multiline businesses, as discussed in § VII.C.4.

Discounts for Economically Disadvantaged Schools and Libraries (¶ 497) Schools and libraries which are most economically disadvantaged will have greater discounts, but no entities will receive a 100 percent discount.

Discount Matrix (¶ 498-507) The FCC adopts the Joint Board's discount matrix with minor modifications. The FCC has determined that eligible schools and libraries will be classified as high cost if they are in a rural area and low cost if they are in an urban area. For purposes of the schools and libraries discount program, rural areas should be defined in accordance with the definition of adopted by the Department of Health and Human Services' Office of Rural Health Policy which uses the Office of Management and Budget's Metropolitan Statistical Area designation, adjusted by the most currently available Goldsmith Modification, which identifies rural areas within large metropolitan counties. Schools and libraries will only have to consult a list to determine their category. Based on this system, there will only be two categories of schools and libraries.

Schools (¶ 508-511) The FCC agrees with the Joint Board that using eligibility for the national school lunch program to determine eligibility for a greater discount accurately fulfills the statutory requirement to ensure affordable access to and use of telecommunications and other supported services for schools and will be relatively simple and inexpensive to administer. A school may either use an actual count of students eligible for the national school lunch program or federally-approved alternative mechanisms to determine the level of poverty for purposes of the universal service discount program. Schools that choose not to use an actual count of students eligible for the national school lunch program may use only the federally-approved alternative mechanisms contained in Title I of the Improving America's Schools Act, which equate one measure of poverty with another.

Libraries (¶ 512-518) A library's level of poverty should be calculated on the basis of school lunch eligibility in the school district in which the library is located, with one modification. It would be less administratively burdensome to base a library's level of poverty on the percentage of students eligible for the national school lunch program only in the public school district in which the library is located. The procurement officer responsible for ordering

telecommunications and other supported services for a library or library system need only obtain from the school district's administrative office the percentage of students eligible for the national school lunch program in the district in which the library is located.

Levels of Poverty (¶ 519-521) The FCC agrees with the Joint Board's recommendation to adopt a step function to define the level of discount available to schools and libraries, based on the level of poverty in the areas they serve. The number of steps should be based on the existing Department of Education categorization of schools eligible for the national school lunch program. The Department of Education places schools in five categories, based on the percentage of students eligible for free or reduced-price lunches, and the FCC adopts the same categories. The following chart shows the discounts for each category:

SCHOOLS AND LIBRARIES DISCOUNT MATRIX		DISCOUNT LEVEL	
HOW DISADVANTAGED?		urban discount (%)	rural discount (%)
% of students eligible for national school lunch program	(estimated % of US schools in category)		
< 1	3	20	25
1-19	31	40	50
20-34	19	50	60
35-49	15	60	70
50-74	16	80	80
75-100	16	90	90

Self-Certification Requirements (¶ 522-525) When ordering telecommunications and other supported services, the procurement officer responsible for ordering such services for a school or library must certify its degree of poverty to the universal service administrator. For eligible schools ordering telecommunications and other supported services at the individual school level, which the FCC anticipates will be primarily non-public schools, the procurement officer ordering such services must certify to the universal service administrator the percentage of students eligible in that school for the national school lunch program. For eligible libraries ordering telecommunications and other supported services at the individual library level, which the FCC anticipates will be primarily single-branch libraries, the procurement officer ordering such services must certify to the universal service administrator the percentage of students

eligible for the national school lunch program in the school district in which the library is located. For eligible schools ordering telecommunications and other supported services at the school district or state level, the procurement officer for each school district or state applicant is required to certify to the universal service administrator the percentage of students in each of its schools that is eligible for the national school lunch program, calculated either through an actual count of eligible students or through the use of a federally-approved alternative mechanism. For libraries ordering telecommunications and other supported services at the library system level, library systems should be able to compute discounts on either an individual branch basis or based on an average of all branches within the system. Similarly, for library consortia ordering telecommunications and other supported services, each consortium's procurement officer must certify to the administrator the percentage of students eligible for the national school lunch program for the school district in which each of its members is located. Each library consortium may compute the discounts on the basis of the school district in which each consortium member is located or it may compute an average discount.

Additional Considerations (¶ 526-528) Information about the universal discounts for which individual schools and libraries are eligible, based on their level of poverty and rural status, will be posted on the same website as that on which schools and libraries RFPs will be posted. The actual discounts should also be calculated and posted on the website, as discussed below.

Cap and trigger (¶ 529-534) There will be an annual cap of $2.25 billion on universal service support for schools and libraries at this time. If the annual cap is not reached due to limited demand from eligible schools and libraries, the unspent funds will be available to support discounts for schools and libraries in subsequent years. The Joint Board's recommendation is modified slightly, however, to limit collection and spending for the period through June 1998, in light of both the need to implement the necessary administrative processes and the need to make the fund sufficiently flexible to respond to demand. Thus, for the funding period beginning January 1, 1998 and ending June 1998, the administrator will only collect as much as required by demand, but in no case more than $1 billion. Furthermore, if less than $2.25 billion is spent in calendar year 1998, then no more than half of the unused portion of the funding authority for calendar year 1998 shall be spent in calendar year 1999. Similarly, if the amount allocated in calendar years 1998 and 1999 is not spent, no more than half of the unused portion of the funding authority for these two years shall be spent in calendar year 2000. The administrator will collect $100 million per month for the first three months of 1998 and will adjust future contribution assessments quarterly based on its evaluation of school and library demand for funds, within the limits of the spending caps established here. The administrator will report to the FCC on a quarterly basis, on both the total amount of payments made to entities providing services and facilities to schools, libraries, and library consortia to finance universal service support discounts, and its determination regarding contribution assessments for the next quarter.

Timing and Funding Requests (¶ 535-538) Funding should be committed to eligible entities on a first-come, first-served basis. The funding year will be the calendar year and requests for support will be accepted beginning on the first of July for the following year. Eligible schools and libraries will be permitted to submit funding requests once they have made

agreements for specific eligible services, and the administrator will commit funds based on those agreements until total payments committed during a funding year have exhausted any funds carried over from previous years and there are only $250 million in funds available for the funding year. Thereafter, the Joint Board's proposed system of priorities will govern the distribution of the remaining $250 million. Schools and libraries must file new funding requests for each funding year. Such requests will be placed in the funding queue based on the date and time they are received by the administrator. If the administrator estimates that the $2.25 billion cap will be reached for the current funding year, it shall recommend to the FCC a reduction in the guaranteed percentage discounts necessary to permit all expected requests in the next funding year to be fully funded. There will be no per-institution cap.

Effect of the Trigger (¶ 539-541) Once there is only $250 million in funds available to be committed in a given funding year, only those schools and libraries that are most economically disadvantaged and have not yet received discounts from the universal service mechanism in the previous year would be granted guaranteed funds, until the cap is reached. A priority system will operate as follows. The administrator shall ensure, as explained below, that the total level of the administrator's commitments, as well as the day that only $250 million remains available under the cap in a funding year, are made publicly available on the administrator's website on at least a weekly basis. If the trigger is reached, the administrator will ensure that a message is posted on the website, notify the FCC, and take reasonable steps to notify the educational and library communities that commitments for allocating the remaining $250 million of support will be made only to the most disadvantaged eligible schools and libraries for the next 30 days (or the remainder of the funding year, whichever is shorter). That is, during the 30-day period, applications from schools and libraries will continue to be accepted and processed, but the administrator will only commit funds to support discount requests from schools and libraries that are in the two most-disadvantaged categories on the discount matrix and that did not receive universal service supported discounts in the previous or current funding years. Schools and libraries that received discounts only for basic telephone service in the current or prior year shall not be deemed to have received discounts for purposes of the trigger mechanism. For this purpose, the FCC will ignore support for basic telephone service, because it does not want to discourage disadvantaged schools and libraries from seeking support for this service to avoid forfeiting their priority status for securing support for more advanced services. After the initial 30-day period, if uncommitted funds remain, the administrator will process any requests it received during that period from eligible institutions in the two most disadvantaged categories that had previously received funds. If funds still remain, the administrator will allocate the remaining available funds to schools and libraries in the order that their requests were received until the $250 million is exhausted or the funding year ends.

Adjustments to Discount Matrix (¶ 542-543) The FCC does not anticipate that the cost of funding discount requests will exceed the cap and does not want to create incentives for schools and libraries to file discount requests prematurely to ensure full funding. Furthermore, the FCC will consider the need to revise the cap in the three-year review proceeding, but if estimated funding requests for the following funding year demonstrate that the funding cap will be exceeded, the FCC will consider lowering the guaranteed percentage discounts available to all schools and libraries, except those in the two most disadvantaged categories, by the uniform

percentage necessary to permit all requests in the next funding year to be fully funded. If funds remain under the cap at the end of a funding year in which discounts have been reduced below those set in the matrix, the administrator shall consult with the FCC to establish the best way to distribute those funds.

Advance Payment for Multi-Year Contracts (¶ 544-551) While eligible schools and libraries should be able to enter into pre-paid/multi-year contracts for supported services, the administrator will only commit funds to cover the portion of a long-term contract that is scheduled to be delivered and installed during the funding year. Eligible schools and libraries may structure their contracts so that payment is required on at least a yearly basis, or they may enter into contracts requiring advance payment for multiple years of service. If they choose the advance payment method, eligible schools and libraries may use their own funds to pay full price for the portion of the contract exceeding one year (pro rata), and may request that the service provider seek universal service support for the pro rata annual share of the pre-payment. The eligible school or library may also request that the service provider rebate the payments from the support mechanisms that it receives in subsequent years to the school or library, to the extent that the school or library secures approval of discounts in subsequent years from the administrator.

Existing Contracts (¶ 545-549) Schools and libraries are permitted to apply the relevant discounts adopted in this Order to contracts that they negotiated prior to the Joint Board's Recommended Decision for services that will be delivered and used after the effective date of the rules, provided the expenditures are approved by the administrator according to the procedures set forth above. No discount would apply, however, to charges for any usage of telecommunications or information services or installation or maintenance of internal connections prior to the effective date of the rules promulgated pursuant to this Order. While schools or libraries are not required to breach existing contracts to become eligible for discounts, this exemption from the competitive bidding requirements shall not apply to voluntary extensions of existing contracts. Schools and libraries are not released from their current negotiated contracts.

Interstate and Intrastate Discounts (¶ 550-551) The FCC adopts rules providing federal funding for discounts for eligible schools and libraries on both interstate and intrastate services to the levels discussed above and requiring states to establish intrastate discounts at least equal to the discounts on interstate services as a condition of federal universal service support for schools and libraries in that state. The FCC does not adopt block grants for the states to spend as they choose. However, states retain full discretion to require providers to set pre-discount prices for intrastate services even lower than the market might produce and to provide the support required, if any, from intrastate support obligations. It would also be permissible for states to choose not to supplement the federal program and thus prohibit their schools and libraries from purchasing services at special state-supported rates if the schools and libraries intend to secure federal-supported discounts. If a state wishes to provide an intrastate discount mechanism that is less than the federal discount, it may seek a waiver of the requirement that it match the federal discount levels, although the FCC would only expect to grant such waivers on a temporary basis and only for states with unusually compelling cases.

C. Restrictions Imposed on Schools and Libraries (¶ 552-582)

Eligibility (¶ 554-565) To be eligible for support, a school must meet the statutory definition of an elementary or secondary school, not operate as a for-profit business, and not have an endowment exceeding $50 million. All schools meeting these criteria, whether public or private, are eligible for support. The definition of "library" in the Library Services and Technology Act ("LSTA") is adopted, but a library's eligibility for funding will depend on its funding as an independent entity. Library consortia (as defined in LSTA, except for an "international cooperative association of library entities") are eligible for support even if they include ineligible entities. However, the ineligible entities must pay the negotiated pre-discount prices; the eligible members get an additional discount supported by the universal service mechanism.

Resale (¶ 566-569) Any resale to an ineligible entity, even if the resale if not for profit, is prohibited. However, an eligible entity may charge fees for any services that it purchases that are not subject to a universal service discount, such as assessing computer lab fees or training fees. Providers of supported services must keep careful records of how they have allocated the costs of shared facilities in order to charge eligible schools and libraries the appropriate amounts.

Bona fide request for educational purposes (¶ 570-580) Schools and libraries are required to (1) conduct internal assessments of the components necessary to use effectively the discounted services they order, including specific plans for using these technologies and integrating them into the curriculum, and receive independent approval of the technology plan, ideally by a state agency that regulates schools or libraries; (2) submit a complete description of services they seek so that it may be posted for competing providers to evaluate; and (3) certify to certain criteria under penalty of perjury, including that the school or library is an eligible entity, that the services will be used solely for educational purposes and will not be resold, and that all necessary funding in the current funding year has been budgeted and will have been approved to pay for the "non-discounted" portion. The administrator, after receiving recommendations submitted by the Department of Education, must select a subcontractor to manage exclusively the application process for eligible schools and libraries.

Auditing (¶ 581) Schools and libraries, as well as carriers, must maintain appropriate records to assist in future audits and must produce those records upon request of any auditor appointed by a state education department, the fund administrator, or any other state or federal agency with jurisdiction.

No annual carrier notification requirement (¶ 582) The Commission declined to impose a requirement that carriers annually notify schools and libraries about the availability of discounted services.

D. Funding Mechanisms for Schools and Libraries (¶ 583-586)

No separate funding mechanisms (¶ 585) The universal service administrator should distribute support for schools and libraries from the same source of revenues used to support

other universal service purposes under § 254. The fund administrator should maintain separate accounting categories.

Offset versus reimbursement (¶ 586) Service providers should be permitted to choose either reimbursement or offset. They should not be able to demand full payment from schools and libraries. Service providers, rather than schools and libraries, should seek compensation from the universal service administrator.

E. Access to Advanced Telecommunications and Information Services (¶ 587-600)

Discounts will be provided for Internet access and internal connections provided by non-telecommunications carriers pursuant to authority granted under §§ 4(i) and 254(h)(2)(A). Unlike § 254(h)(1), (h)(2)(A) does not limit support to telecommunications carriers. Section 254(e), which provides that "only an eligible telecommunications carrier" is eligible to receive universal service support, is inapplicable to 254(h)(2). In addition, to the extent internal connections are viewed as facilities rather than services, the Commission has independent jurisdiction to include them in the discount program under §§ 4(i) and 254(h)(2)(A). The same non-telecommunications services eligible for discounts if provided by telecommunications carriers under § 254(h)(1)(B) are eligible for discounts if provided by non-telecommunications carriers under § 254(h)(2)(A). The same requirements that apply to the discount program for services provided by telecommunications carriers shall apply to non-telecommunications carriers, except that non-carriers that are not required to contribute to universal service support are entitled only to reimbursement, not to an offset. The funds under (h)(1)(B) and (h)(2)(A) should be combined into a single fund as a matter of administrative convenience.

F. Sections 706 and 708 of the 1996 Act (¶ 601-605)

Section 706 directs the Commission and states to encourage the deployment of advanced telecommunications capabilities to all Americans, including elementary and secondary schools. Section 708 establishes the National Education Technology Funding Corporation. The Commission defers action under § 706 until it can develop a more complete record through a separate proceeding. The Commission does not rely on ¶ 708 to provide advanced services to schools and libraries within the context of this proceeding. That section will be considered further after implementation of § 254.

G. Initiation (¶ 606-607)

The Commission adopts rules implementing the schools and libraries discount program at the start of the 1997-1998 school year. The funding year will be the calendar year, and support will begin to flow on January 1, 1998.

XI. Health Care Providers (¶ 608-749)

A. Services Eligible for Support (¶ 609-637)

Medical Applications Eligible for Support (¶ 616-619) Health care providers are best able to determine the medical applications to be provided by supported telecommunications services. (See the Advisory Committee's "market basket of services.") The "health care services" referenced in the statute are not limited to patient care, diagnosis, or treatment, and do not exclude general administrative lines or all bedside services. Because the definition of "health care provider" includes local health departments, supported telecommunications services need not be used solely for individual patient care. Thus, telecommunications services necessary to provide "public health services" (such as non-clinical, information, and educational services performed under the color of federal or state law), may receive universal service support. Supported telecommunications services need only be "reasonably related" to the provision of the covered services or instruction and may include services in addition to those identified under the general universal service criteria in § 254(c)(1).

Bandwidth Limitations (¶ 620-624) Within limitations described below, universal service support mechanisms for health care providers should support commercially available services of bandwidths up to and including 1.544 Mbps or the equivalent transmission speed, but not higher speeds. Lower capacity services may limit video applications or unreasonably depress transmission speeds. But, higher capacity services are not necessary at the present time. Because this limitation applies to the service supported, not the facilities over which it is provided, support may be received for services such as Frame Relay, ISDN, satellite, and other services at speeds not exceeding 1.544 Mbps even when offered over facilities capable of carrying services at higher bandwidths.

Bifurcated Support (¶ 625) The FCC declined to create two tiers of support for eligible health care providers by differentiating between large hospitals and small clinics with respect to the availability of support for high capacity services.

Scope of Services Eligible for Support (¶ 626-628) The FCC adopts the Joint Board's recommendations that terminating services should be supported when they are billed to the eligible health care provider, as with cellular air time charges, but not otherwise, and that acquisition of customer premises equipment such as computers and modems not be supported. Only telecommunications services should be designated for support under § 254(h)(1)A), and only eligible telecommunications carriers may receive such support. However, both eligible telecommunications carriers and other telecommunications carriers may receive support for providing access to advanced services for eligible health care providers under § 254(h)(2).

Internet Access (¶ 629-631) Information services are not eligible for support under § 254(h)(1)(A), but the telecommunications component of access to Internet service providers provided by an eligible telecommunications carrier may receive support. This applies to any telecommunications service within the prescribed bandwidth limitations. Because access to the Internet may provide many benefits to health care providers, support will be provided for