protecting contributors from excessive universal service contribution requirements, while allowing the high cost loop fund to grow to support the growth in lines served by carriers in high cost areas.

B. DEM Weighting Assistance (Local Switching Support)

1. Calculation of Local Switching Support Based on Projections of Costs

a. Background

40. In 1987 the Commission created the Dial Equipment Minutes (DEM) weighting assistance program to provide additional assistance, apart from the assistance provided through the high cost loop fund, to smaller telephone companies.[110] Under the DEM weighting program a carrier serving 50,000 or fewer access lines may allocate a greater portion of its local switching costs to the interstate jurisdiction by multiplying (or "weighting") its interstate minutes by a factor, up to three, depending on the number of lines served. Thus, in the past, the DEM weighting program has shifted local switching costs from the intrastate jurisdiction to the interstate jurisdiction. The additional switching costs allocated to the interstate jurisdiction have been recovered from IXCs through local access charges for switching.[111]

41. In the *Order*, the Commission altered the recovery mechanism for local switching costs allocated to the interstate jurisdiction. The Commission found that DEM weighting was an implicit subsidy and, therefore, inconsistent with section 254(e) of the Act.[112] In recognition of section 254(e)'s directive to eliminate implicit support, the Commission replaced the local switching support that carriers had received through DEM weighting with explicit support from the new system of federal universal service support.[113] Consistent with this change, beginning January 1, 1998, a carrier formerly eligible to use

[110] MTS and WATS Market Structure, CC Docket Nos. 78-72, 80-286, 86-297, *Report and Order*, 2 FCC Rcd 2639, 2641-2642 (1987). Under the current jurisdictional separations rules, LECs allocate their local switching costs between the state and interstate jurisdictions based on relative dial equipment minutes.

[111] For a further discussion of the DEM weighting assistance program, *see Order*, 12 FCC Rcd at 8892-93.

[112] *Order*, 12 FCC Rcd at 8892-93.

[113] *Order*, 12 FCC Rcd at 8940-41 (replacing DEM weighting subsidy program with section 254 program). *See also* Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges, CC Docket Nos. 96-262, 94-1, 91-213, 95-72, *Order on Reconsideration*, FCC 97-247 (rel. July 10, 1997) (*Access Charge Reform Reconsideration Order*) at paras. 5-6. As required by section 254(d), the new program will be funded by providers of interstate telecommunications services. 47 U.S.C. § 254(d).

DEM weighting will no longer be permitted to recover through access charges the portion of its local switching costs that are allocated to the interstate jurisdiction via the DEM weighting assistance program. Instead, the carrier's local switching access charges will be set using measured interstate DEM, and the portion of costs attributable to DEM weighting will be recovered from the new universal service support system.[114] Under the modified DEM weighting assistance program, the amount of local switching support that a qualifying carrier will receive will be calculated by multiplying the carrier's annual unseparated local switching revenue requirement by a local switching support factor. This local switching support factor will equal the difference between the 1996 weighted and unweighted interstate DEM factors, adjusted, if necessary, in successive years to reflect any increase in access lines.[115] The *Order* did not specify whether support for local switching costs under the modified DEM weighting assistance program will be based on projections of carriers' unseparated local switching revenue requirement or whether, as is the case under the existing high cost loop fund, support will be based on historical cost data.

b. Pleadings

42. Alaska Telephone and Western Alliance contend that the Commission's decision to remove the DEM weighting assistance program from the access charge system and transfer it to the new universal service system of support beginning January 1, 1998 will

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[114] *Order*, 12 FCC Rcd at 8940-41; *Access Charge Reform Reconsideration Order* at paras. 5-6.

[115] 47 C.F.R. § 54.301. Section 54.301 was amended by the Accounting and Audits Division of the Commission's Common Carrier Bureau on December 3, 1997. Federal-State Joint Board on Universal Service and Changes to the Board of Directors of the National Exchange Carrier Association, Inc., CC Dockets. 96-45, 97-21, *Errata*, DA 97-2477 (Comm. Carr. Bur., Acct. & Audits Div. rel. Dec. 3, 1997) (*Universal Service Rules Errata*). As corrected, section 54.301 currently states:

> Beginning January 1, 1998, eligible rural telephone company study areas with 50,000 or fewer access lines shall receive support for local switching costs, defined as Category 3 local switching costs under Part 36, using the following formula: the carrier's annual unseparated local switching revenue requirement shall be multiplied by the local switching support factor. The local switching support factor shall be defined as the difference between the 1996 weighted interstate DEM factor, calculated pursuant to § 36.125(f) of this chapter, and the 1996 unweighted interstate DEM factor. If the number of a study area's access lines increases such that, under § 36.125(f) of this chapter, the weighted interstate DEM factor for 1997 or any successive year would be reduced, that lower weighted interstate DEM factor shall be applied to the carrier's 1996 unweighted interstate DEM factor to derive a new local switching support factor. Beginning January 1, 1998, the sum of the unweighted interstate DEM factor and the local switching support factor shall not exceed .85. If the sum of those two factors would exceed .85, the local switching support factor must be reduced to a level that would reduce the sum of the factors to .85.

create a two-year lag in the receipt of DEM weighting assistance.[116] Petitioners observe that the current DEM weighting assistance program provides for the recovery of supported costs through interstate access charges, calculated on the basis of current cost data. Because local switching support will be recovered under the new universal service system of support, beginning January 1, 1998, petitioners assume that the Commission intended local switching support to be calculated on the basis of historical costs, which is the method used to calculate support under the existing high cost loop fund.[117] Petitioners contend that the Commission's determination to calculate local switching support based on historical costs will have an adverse impact on the cash flow of small carriers by creating a two-year lag in the recovery of local switching support.

c. Discussion

43. Although the Commission removed the DEM weighting assistance program from the access charge system and transferred it to the new universal service system of support, the Commission did not alter significantly the level of support received by carriers under this program. Indeed, in adopting the modifications to the existing support mechanisms, the Commission was persuaded that it should act more cautiously with respect to small rural carriers.[118] Therefore, the DEM weighting assistance program will continue to be administered and calculated separately from the existing high cost loop fund. Specifically, support payments for these local switching costs will be based on projections of annual costs, and, therefore, payments will not be lagged in the manner prescribed by our rules governing the existing high cost loop fund.[119]

44. Under the modified DEM weighting assistance program, a carrier will be eligible to receive local switching support based on the carrier's projected annual unseparated local switching revenue requirement for the upcoming calendar year, beginning January 1, 1998, and each year thereafter that DEM weighting assistance continues.[120] We amend section

[116] Alaska Telephone petition at 4; Western Alliance petition at 11.

[117] Alaska Telephone petition at 4; Western Alliance petition at 11.

[118] *See, e.g.*, *Order*, 12 FCC Rcd at 8938-39.

[119] As discussed below, we now adopt in this Order a "true-up" mechanism that will adjust the support amounts based on projected costs to reflect historical costs once the necessary data becomes available. This adjustment will occur within 15 months of the conclusion of each study period and will not result in delayed payments to carriers.

[120] Insofar as the *Order* did not specify a method for calculating the unseparated local switching revenue requirement, below we amend section 54.303 to provide the proper method of calculating that revenue requirement.

54.301 by adding the word "projected" to the first sentence of that rule to clarify that support for local switching costs will be based on projections of costs and not historical cost data. As reflected in Appendix A hereto, section 54.301 is amended to read in relevant part:

> Beginning January 1, 1998, an incumbent local exchange carrier that has been designated an eligible telecommunications carrier and that serves a study area with 50,000 or fewer access lines shall receive support for local switching costs using the following formula: the carrier's *projected* annual unseparated local switching revenue requirement shall be multiplied by the local switching support factor.[121]

Thus, the Commission's determination to remove the DEM weighting assistance program from the access charge system and transfer it to the new universal service system of support will not create a two-year lag in the recovery of local switching investment, as argued by petitioners.

45. We also, on our own motion, amend section 54.301 to clarify that, to receive local switching support, an incumbent LEC must satisfy the requirements of an eligible telecommunications carrier.[122]

2. Calculating the Annual Unseparated Local Switching Revenue Requirement

a. Background

46. As explained above, under the modified DEM weighting assistance program, the amount of local switching support that an eligible carrier will receive beginning January 1, 1998, will be calculated by multiplying the carrier's projected annual unseparated local switching revenue requirement by a local switching support factor.[123] Section 54.301 of the Commission's rules sets forth the method for calculating the local switching support factor, but does not specify the method for calculating the annual unseparated local switching

[121] 47 C.F.R. § 54.301(a)(1) (emphasis added).

[122] As reflected in the blocked text above, we replace the term "eligible rural telephone company" with the term "an incumbent local exchange carrier that has been designated an eligible telecommunications carrier" in section 54.301(a)(1). Further, to make our rules easier to read, we amend part 54.301 by adding subsections that make no substantive changes other than those explicitly adopted herein, as reflected in Appendix A.

[123] *See supra* section IV.B.1.a.

revenue requirement.[124]

47. In its October 31, 1997 report containing projections of demand for the modified DEM weighting assistance program, USAC reported that 1,092 study areas with 50,000 or fewer access lines are represented in the NECA traffic sensitive pool.[125] The report stated that an additional 196 study areas with fewer than 50,000 access lines are not represented in this pool.[126] The report stated that, when the Commission adopts a mechanism for computing unseparated local switching support, "USAC will issue a data request to obtain actual support requirements from the individual study areas that qualify for local switching support."[127] The report also stated that NECA had devised a formula for calculating the unseparated local switching revenue requirement for average schedule companies.[128]

b. Pleadings

48. GVNW and NECA comment that the Commission's rules do not provide a method for calculating a carrier's annual unseparated local switching revenue requirement.[129] Noting that carriers currently use various methods for determining the unseparated local switching revenue requirement, GVNW lists five possible methods.[130] Due to its simplicity,

[124] 47 C.F.R. § 54.301.

[125] Universal Service Administrative Company, Federal Universal Service Programs-Fund Size Projections and Contribution Base for First Quarter 1998 at 7 (filed Oct. 31, 1997) (*USAC Universal Service Oct. 1997 Filing*). Although most carriers that qualify for DEM weighting participate in NECA pools, pool participation is not a condition of receiving DEM weighting assistance. For carriers that participate in the NECA traffic sensitive pool, the weighted DEM costs have been allocated to the switching rate element of NECA's traffic sensitive rate. If a carrier receiving DEM weighting assistance is not a member of the traffic sensitive pool, that carrier will recoup these weighted DEM charges through its own access rates.

[126] *USAC Universal Service Oct. 1997 Filing* at 8.

[127] *USAC Universal Service Oct. 1997 Filing* at 9 n.19.

[128] *USAC Universal Service Oct. 1997 Filing* at 7, Exh. 1.

[129] GVNW petition at 12-14; NECA petition at 8.

[130] GVNW petition at 13-14. The five possible methods for calculating the unseparated local switching revenue requirement offered by GVNW include the following: (1) Perform a special Part 36 study using the interstate rate of return and isolate the costs associated with local switching investment; (2) Divide the interstate local switching revenue requirement by the interstate local switching factor that was used to assign the portion of interstate investment; (3) Perform a Part 69 study on the unseparated costs subject to separations; (4) Divide the interstate local switching revenue requirement by the interstate switching investment to develop an annual carrying charge and then multiply the total unseparated local switching investment by the annual charge factor to

GVNW recommends a method for calculating the annual local switching revenue requirement that is accomplished by dividing the interstate local switching revenue requirement by the interstate DEM weighting factor that is used to assign the local switching investment to the interstate jurisdiction under our Part 36 rules.[131] NECA recommends a method for calculating the unseparated local switching revenue requirement that is similar to GVNW's fifth proposal and similar to the method NECA currently uses to calculate high cost loop assistance and assign interstate costs to the local switching rate element under the Commission's Part 69 rules. NECA's proposal is based on specified account and cost data that carriers maintain pursuant to the Commission's Part 32 rules.[132] NECA asserts that the use of Part 32 account data as detailed in NECA's October 30, 1997 and December 4, 1997 letters represents the most accurate method of calculating the unseparated local switching revenue requirement.[133]

c. Discussion

49. We adopt the method of calculating the annual unseparated local switching revenue requirement proposed in NECA's *ex parte* letters because it provides the most accurate calculation of the local switching revenue requirement. Under this method, a carrier's annual unseparated local switching revenue requirement will be calculated pursuant to a formula that relies upon specified account and cost data that carriers maintain pursuant to the Commission's Part 32 rules. Thus, as reflected in our amendments to Part 54 in Appendix A hereto, we direct the Administrator to use the Part 32 account data as specified in NECA's October 30th, 1997 and December 4, 1997 letters to determine the unseparated local switching revenue requirement. Consistent with our adoption of a methodology that relies upon Part 32 account data, we authorize the Administrator to issue a data request annually to the carriers that serve study areas with 50,000 or fewer access lines but that are not members of the NECA traffic sensitive pool in order to obtain the relevant Part 32 data from these carriers.[134] Because the Administrator requires data to calculate local switching support in 1998 from carriers that do not participate in the NECA common line pool, we direct the

determine the unseparated local switching revenue requirement; (5) Adopt a rule that requires the use of specific Part 32 accounts to determine the unseparated local switching revenue requirement. This final method would be similar to the process currently being used by NECA to determine the unseparated loop cost by study area for administration of the existing high cost loop fund. *Id.*

[131] GVNW petition at 13.

[132] Letter from Robert Haga, NECA, to William F. Caton, FCC, dated October 30, 1997, attachment. *See* 47 C.F.R. Part 32.

[133] Letter from Robert Haga, NECA, to William F. Caton, FCC, dated October 30, 1997, attachment; Letter from Robert Haga, NECA, to Magalie Roman Salas, FCC, dated December 4, 1997, attachment.

[134] This information collection is subject to the approval of the Office of Management and Budget.

Administrator to issue a data request to those carriers as soon as practicable after the release of this Order. We note that, as with all high cost support, a competitive local exchange carrier will receive the same amount of local switching support formerly received by an incumbent LEC if the competitive local exchange carrier begins to serve a customer formerly served by an incumbent LEC receiving local switching support for that customer.[135]

50. We conclude that GVNW's proposal to calculate the local switching revenue requirement by dividing the interstate local switching revenue requirement by the interstate DEM weighting factor that is used to assign the local switching investment to the interstate jurisdiction under Part 36 of our rules would not provide as accurate a measure of the unseparated local switching revenue requirement as the methodology we adopt. If all local switching expenses and investment used to determine the revenue requirement for the local switching rate element were allocated between the interstate and intrastate jurisdictions on the basis of weighted DEM, the formula suggested by GVNW would produce an accurate calculation of the unseparated local switching revenue requirement. Weighted DEM, however, is only one of several mechanisms used to allocate local switching expenses and investment between the interstate and intrastate jurisdictions for purposes of determining local switching access charges. The Commission's rules prescribe different allocators for other local switching expenses and related investment, such as those associated with general support facilities. We conclude that the approach suggested by NECA, because it allocates local switching expenses and related investment in a manner that is consistent with the allocation methods prescribed under Parts 36 and 69 of our rules, provides a more accurate method for calculating the unseparated local switching revenue requirement. Because all carriers, including small carriers, already maintain the information necessary to calculate the local switching revenue requirement and because carriers must already submit similar information to the Administrator for high cost loop support, we conclude that any additional burden placed on carriers will be small, and that the benefits of using a more accurate method will outweigh any additional burden placed on carriers.

51. In its October 31, 1997 report containing projections of demand for the modified DEM weighting assistance program, USAC reported that NECA had devised a formula for calculating the unseparated local switching revenue requirement for average schedule companies.[136] For average schedule companies, local switching support will be calculated in accordance with a formula that the Administrator will submit annually to the Commission for review and approval. The formula submitted by the Administrator will be designed to produce disbursements to an average schedule company to simulate the disbursements that would be received pursuant to section 54.301 by a company that is representative of average schedule companies. We delegate to the Chief, Common Carrier

[135] *See Order*, 12 FCC Rcd at 8932-34, 8944-45; 47 C.F.R. § 54.307.

[136] *USAC Universal Service Oct. 1997 Filing* at 7, Exh. 1.

Bureau the authority to review, modify, and approve the formula submitted by the Administrator.

3. True-up Mechanism for Adjusting Local Switching Revenue Requirement

a. Background

52. As noted above, DEM weighting support payments under the modified DEM weighting assistance program will continue to be based on projections of costs, not on historical cost data.[137] The Commission's rules are silent as to whether adjustments to the local switching support should be made to reflect carriers' historical switching costs.

b. Pleadings

53. Given that the Administrator will be relying on projections of costs to determine DEM weighting support for 1998, NECA asks the Commission to provide a mechanism for correcting errors resulting from the use of projected costs.[138] NECA points out that the historical 1998 local switching revenue requirement will not be known until cost studies are completed in late 1999. NECA notes that its current pooling procedures permit carriers to recover historical, or "trued-up," interstate costs from the NECA traffic sensitive pool for a period of up to 24 months after the month the projected costs are submitted to NECA.[139] NECA asserts that, in order to ensure that the modified DEM weighting assistance program is neither over- nor under-funded, there will be an ongoing need to adjust support levels in the future to reflect historical costs in current or prior funding years.[140] NECA proposes that projected local switching support be reconciled with historical local switching costs within 15 months from the end of the relevant study period.[141]

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[137] *See supra* section IV.B. Section 54.301 of the Commission's rules provides that, beginning January 1, 1998, local switching support will be calculated by multiplying an eligible carrier's projected annual unseparated local switching revenue requirement by the local switching support factor, which is defined as the difference between the 1996 weighted and unweighted interstate DEM factors, adjusted thereafter, if necessary, to reflect access line growth. 47 C.F.R. § 54.301.

[138] NECA petition at 5.

[139] NECA petition at 5 n.14.

[140] NECA petition at 7. *See also* Letter from Robert Haga, NECA, to William F. Caton, FCC, dated October 30, 1997 (asserting that a true-up mechanism is necessary to maintain the accuracy and integrity of the local switching support payments from the modified universal service support programs).

[141] Letter from Robert Haga, NECA, to William F. Caton, FCC, dated October 30, 1997.

c. Discussion

54. We agree with NECA that the Administrator should adjust DEM weighting support levels to correct errors that may result from the use of projected local switching costs. Accordingly, we direct the Administrator to adjust annually the levels of local switching support projected for each study period to reflect the historical support requirements determined from the data filed by the carrier for that study period.[142] As a result, a carrier's local switching support will not be delayed until historical data are available, but, after the adjustment, such support will accurately reflect a carrier's historical costs. As proposed by NECA, we conclude that all such adjustments must be made within 15 months of the conclusion of the relevant study period.[143] We emphasize that, unlike the current high cost loop data submissions, all carriers must submit accurate, historical data when they become available and that the Administrator must increase or decrease a carrier's subsequent payments by the amount that the cost projection for that carrier differs from the costs which are in fact incurred.[144]

55. We note that local switching support also may be affected by changes in the weighting factor resulting from the number of lines served by a carrier. As provided in section 54.301 of the Commission's rules, "[i]f the number of a study area's access lines increases such that, under § 36.125(f) of this chapter, the weighted interstate DEM factor . . . would be reduced, that lower weighted interstate DEM factor shall be applied to the carrier's 1996 unweighted interstate DEM factor to derive a new local switching support factor."[145]

C. Long Term Support (LTS)

1. LTS Background

[142] To illustrate, the amount a carrier would otherwise receive for any given year will be increased or decreased by the "true-up" amount.

[143] Thus, for example, for the 1998 calendar year, the true-up period will extend for 15 months beyond the end of 1998, until April 1, 2000.

[144] We note that the Commission has previously designated for investigation NECA's resizing adjustment for high cost loop support. 1997 Annual Access Tariff Filings, National Exchange Carrier Association Universal Service Fund and Lifeline Assistance Rates Transmittal No. 759, CC Docket No. 97-149, *Memorandum Opinion and Order*, DA 97-1350 at para. 73 (Comm. Carr. Bur. rel. June 27, 1997). The true-up adjustment we are adopting for local switching support does not raise the same concerns as the high cost loop adjustment because the submission of historical data is mandatory, and carriers' payments will increase or decrease consistent with the historical data submitted. *Compare* 47 C.F.R. § 36.612 *with* 47 C.F.R. § 54.301(e).

[145] 47 C.F.R. § 54.301(a)(2)(ii).

56. Currently the Commission's separations rules assign 25 percent of incumbent LECs' loop costs to the interstate jurisdiction.[146] Incumbent LECs have previously recovered these interstate allocated loop costs through subscriber line charges (SLCs) and carrier common line (CCL) charges.[147] Prior to 1989, all incumbent LECs were required to participate in the common line pool administered by NECA and were also required to charge IXCs a CCL charge equal to the average rate of all pool members.[148] When individual incumbent LECs were allowed to leave the pool in 1989, they were required to contribute to the pool in order to prevent the CCL charges of incumbent LECs that remained in the pool from rising significantly above the national average.[149] The incumbent LECs that have left the pool since 1989 are predominantly the larger, lower-cost incumbent LECs and those that have remained in the pool typically are smaller, higher-cost incumbent LECs.[150] The incumbent LECs that contribute to LTS recover the cost of their payments by increasing their own CCL charges.[151] The incumbent LECs that remain in the pool are able to set their CCL charge at the nationwide average CCL rate because the LTS payments make up the difference between the pool participants' carrier common line revenue requirement and the revenue received from the pool's CCL charges.

57. In the *Order*, the Commission concluded that the former LTS program is inconsistent with the Act's requirements that support be collected from all providers of

[146] 47 C.F.R. § 36.154(c). The jurisdictional separations process divides between the state and federal jurisdictions the costs of those portions of the incumbent LECs' telephone plant that are used for interstate and intrastate services. Each jurisdiction then specifies how rate-regulated incumbent LECs may recover the costs assigned to that jurisdiction.

[147] *See supra* section IV.A.1.

[148] The Commission adopted a schedule in 1987 which allowed incumbent LECs to withdraw from the pool no later than June 1989. MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72, 80-286, *Report and Order,* 2 FCC Rcd 2953, 2956-58 (1987) (*1987 Part 67 Order*); *Order*, 12 FCC Rcd at 9163. NECA administers the current national loop-cost pool, and files a CCL tariff for pool participants.

[149] *1987 Part 67 Order*, 2 FCC Rcd 2953, 2956-58. Once incumbent LECs withdraw from the pool, they may not choose to participate in the pool at a later date. MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket Nos. 78-72, 80-286, *Memorandum Opinion and Order on Reconsideration and Order Inviting Comments*, 3 FCC Rcd at 4557 n.17 (1988) (*Part 67 Reconsideration Order*).

[150] *See* FEDERAL AND STATE STAFF FOR THE 80-286 FEDERAL-STATE JOINT BOARD, MONITORING REPORT, CC Docket 87-339 at 651 (1997). By leaving the pool, a carrier would gain the flexibility to set its own CCL rate. A carrier's desire to convert to price cap company status also may influence that carrier's decision to leave the pool.

[151] *Order*, 12 FCC Rcd at 9163.

interstate telecommunications services on a non-discriminatory basis[152] and be available to all eligible telecommunications carriers.[153] Accordingly, the Commission removed the LTS program from the access charge system.[154] The Commission found, however, that the LTS program serves the public interest by reducing the amount of loop costs that high cost LECs must recover from IXCs through CCL charges and thereby facilitating interexchange service in high cost areas consistent with the express goals of section 254.[155] The Commission therefore concluded that eligible telecommunications carriers should receive support comparable to LTS from the new universal service support system.[156]

58. The Commission determined that support will be computed for each incumbent LEC currently receiving LTS, based on the level of LTS that the carrier would receive under the existing LTS program, adjusted to reflect the annual percentage change in the actual nationwide average cost per loop in 1998 and 1999 and adjusted, thereafter, by an inflation factor.[157] Section 54.303 of the Commission's rules provides that LTS will equal the difference between the projected CCL revenue requirement of NECA common line tariff participants and the projected revenue recovered by the NECA CCL charge, calculated pursuant to section 69.105(b) of the Commission's rules.[158] Section 69.105(b) currently sets

[152] 47 U.S.C. § 254(d).

[153] 47 U.S.C. § 254(e). Under the former LTS system, only incumbent LECs participating in the NECA CCL tariff could receive LTS support and only incumbent LECs that did not participate in the NECA CCL tariff made LTS payments. *Order*, 12 FCC Rcd at 9164-65.

[154] *Order*, 12 FCC Rcd at 9164-65 and n.1946.

[155] *Order*, 12 FCC Rcd at 9165.

[156] *Order*, 12 FCC Rcd at 9164-65.

[157] *Order*, 12 FCC Rcd at 8942. Beginning January 1, 2000, LTS will be adjusted to reflect the annual percentage change in the Department of Commerce's Gross Domestic Product-Chained Price Index (GDP-CPI). 47 C.F.R. § 54.303.

[158] 47 C.F.R. § 54.303. Section 54.303 was amended in an errata released by the Accounting and Audits Division of the Commission's Common Carrier Bureau on December 3, 1997. *Universal Service Rules Errata*. As corrected, section 54.303 currently states:

> Beginning January 1, 1998, eligible telephone companies that participate in the association Carrier Common Line pool and competitive eligible local telecommunications carriers will receive Long Term Support. Long Term Support shall be the equivalent of the difference between the projected Carrier Common Line revenue requirement of association Common Line tariff participants and the projected revenue recovered by the association Carrier Common Line charge as calculated pursuant to § 69.105(b)(2) of this chapter. For calendar years 1998 and 1999, the Long Term Support for each eligible service area shall be adjusted each year to

the NECA pool rate at the average of price-cap incumbent LECs' CCL charges.[159] After January 1, 1998, however, the pool rate will no longer be calculated in this manner.[160] On October 8, 1997, the Commission granted NECA's petition for waiver of section 69.105(b)(2)-(3) for purposes of calculating the NECA pool rate that will become effective January 1, 1998.[161] In granting NECA's petition for waiver of section 69.105(b)(2)-(3), the Commission made no change to section 69.105(b), which sets forth the method of calculating the NECA CCL charge.

2. Technical Amendments to Section 54.303 Governing Calculation of LTS

a. Pleadings

59. GVNW asserts that the method for calculating LTS for 1998 under section 54.303 is unclear.[162] GVNW identifies three possible methods for calculating 1998 LTS that

reflect the annual percentage change in the actual nationwide average loop cost as filed by the Administrator in the previous calendar year, pursuant to § 36.622 of this chapter. Beginning January 1, 2000, the Long Term Support shall be adjusted each year to reflect the annual percentage change in the Department of Commerce's Gross Domestic Product-Chained Price Index (GDP-CPI).

[159] 47 C.F.R. § 69.105(b).

[160] *See Order*, 12 FCC Rcd at 9165, 9169-70. In the *Order* the Commission observed that the replacement of LTS with per-line support from the new universal service support system would require changes to our rules governing calculation of CCL charges and would be addressed in the access charge reform proceeding. *Id.* In the *Access Charge Reform Order*, the Commission postponed making conforming revisions to section 69.105(b) regarding the CCL rate calculation for NECA tariff participants based on its plan to address this issue in a proceeding on access charge reform for small, non-price cap LECs. *Access Charge Reform Order* at paras. 374-77. NECA subsequently petitioned the Commission to revise our rules governing the calculation of NECA CCL rates without waiting for conclusion of the other proceeding or, in the alternative, to issue an order waiving section 69.105(b)(2)-(3) for NECA's common line pool participants, so as to allow NECA to reflect revised LTS formula amounts in its CCL tariff rates effective January 1, 1998. On October 8, 1997, the Commission adopted the *Access Charge Reform Second Reconsideration Order*, which, in relevant part, granted NECA's waiver request on the condition that NECA compute the CCL charge as set forth therein. Access Charge Reform, *et al.*, CC Docket No. 96-262, *et al., Second Order on Reconsideration and Memorandum Opinion and Order*, FCC 97-368 at paras. 4, 89 (rel. Oct. 9, 1997) (*Access Charge Reform Second Reconsideration Order*).

[161] *Access Charge Reform Second Reconsideration Order* at para 89.

[162] GVNW petition at 14-16.

would be supported by the current rule.[163] No party commented on GVNW's petition with respect to this issue. In addition, NECA asserts that the reference to "average loop cost" in section 54.303 of the Commission's rules is unclear because it could be read to refer only to changes in loop costs, not numbers of loops.[164] NECA suggests that the proper calculation should reflect both the percentage change in actual nationwide average loop costs and the numbers of working loops for all eligible telecommunications carriers.[165] No party commented on NECA's petition with respect to this issue.

b. Discussion

60. In response to GVNW's petition, we amend section 54.303 of our rules, as set forth below, to specify how LTS will be calculated for 1998. First, we clarify that currently, and until January 1, 1998, LTS support is based on the difference between the NECA common line pool revenue requirement and the sum of the revenues obtained from charging a nationwide CCL rate calculated pursuant to section 69.105(b)(2) and the revenues obtained through SLCs.[166] This clarification is necessary because the *Order* and section 54.303 failed to account for the portion of the common line revenue requirement that is recovered through end user common line charges, or SLCs. We therefore amend section 54.303 to include "end user common line charges."

61. We also clarify the procedure by which LTS support will be calculated after January 1, 1998. Prior to the modifications adopted in the *Order*, NECA calculated LTS using revenue requirement projections calculated pursuant to section 69.105(b)(2) of our rules. After January 1, 1998 we will no longer use these annual projections. Instead, we will index 1997 levels of support to reflect annual changes in loop costs. Specifically, in 1998 and 1999 LTS support will be calculated by adjusting previous support levels by the annual percentage change in the actual nationwide average cost per loop, and beginning January 1, 2000, LTS

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[163] GVNW petition at 14-16. GVNW proposes the following possibilities: (1) Adopt the NECA total common line pool method under which the percentage of the NECA pool LTS to the total common line pool would be applied to each participant's total common line requirement to determine that participant's LTS for the year; (2) Develop the ratio of LTS support to the CCL requirement using the CCL requirement rather than the total common line requirement, thus excluding the end user common line portion of the CCL requirement; (3) Calculate each participant's LTS support for 1997 by starting with its total common line revenue requirement for 1997, subtracting out the amount of revenue received for 1997 from SLCs and from CCL charges. *Id.*

[164] NECA petition at 7.

[165] NECA petition at 7.

[166] The NECA CCL charge calculation set forth in the *Access Charge Reform Second Reconsideration Order* reflects that the CCL charge, rather than LTS, will be a residual amount as of January 1, 1998. *Access Charge Reform Second Reconsideration Order* at para. 89. This proposal is similar to GVNW's third proposal. *See* GVNW petition at 15-16.

will be adjusted to reflect the annual percentage change in the Department of Commerce's GDP-CPI.[167] Thus, under the modified LTS program adopted in the *Order*, the Administrator will make an initial, one-time calculation of projected 1997 LTS revenue requirements of eligible carriers in service areas served by incumbent LECs that currently participate in the NECA common line pool. These projected 1997 LTS revenue requirements will be adjusted according to a rate of change that will reflect annual changes in loop costs as prescribed by section 54.303.

62. Because LTS levels for 1998 and beyond will be based on 1997 projections, we conclude that the methodology for calculating the NECA CCL charge contained in section 69.105(b)(2) should be used only for the 1997 projections. Therefore, section 54.303 now directs the Administrator to calculate only the base-level of LTS using the projected revenue recovered by the CCL charge in 1997 as calculated pursuant to section 69.105(b)(2) of our rules. Consistent with these clarifications, we amend section 54.303 to specify that the Administrator will calculate the unadjusted base-level of LTS for 1998 by calculating the difference between the projected Common Line revenue requirement of NECA Common Line tariff participants projected to be recovered in 1997 and the sum of end user common line charges and the 1997 projected revenue recovered by the CCL charge as calculated pursuant to section 69.105(b)(2) of our rules.[168] As reflected in Appendix A hereto, section 54.303 is amended to read in relevant part:

> *To calculate the unadjusted base-level of* Long Term Support *for 1998* the Administrator shall calculate the difference between the projected Common Line revenue requirement of association Common Line tariff participants *projected to be recovered in 1997* and the sum of *end user common line charges and* the *1997* projected revenue recovered by the association Carrier Common Line charge as calculated pursuant to § 69.105(b)(2) of this chapter.[169]

63. In the *Order*, the Commission stated that an eligible carrier's LTS will be based on the LTS received for the preceding calendar year, adjusted in 1998 and 1999 to

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[167] 47 C.F.R. § 54.303.

[168] We note, however, that beginning January 1, 1998, the Administrator will no longer rely upon section 69.105(b)(2) to calculate the NECA CCL charges. Subsequently, as indicated in the *Order*, LTS support will be adjusted to reflect the annual percentage change in the actual nationwide average cost per loop in 1998 and 1999 and adjusted, thereafter, by an inflation factor. *Order*, 12 FCC Rcd at 8942. Beginning January 1, 2000, LTS will be adjusted to reflect the annual percentage change in the Department of Commerce's GDP-CPI. 47 C.F.R. § 54.303.

[169] 47 C.F.R. § 54.303 (emphasis added).

reflect the percentage increase in the nationwide "average loop cost."[170] We are persuaded by NECA's comments that the phrase "average loop cost" in section 54.303 could be misinterpreted and that it would be preferable to use the terminology used elsewhere in our rules, i.e., "average unseparated loop cost per working loop." Accordingly, we also amend section 54.303 by striking the phrase "average loop cost" and replacing it with "average unseparated loop cost per working loop." As reflected in Appendix A hereto, section 54.303 is amended to instruct the Administrator to adjust the levels of LTS for 1998 and 1999 to "reflect the annual percentage change in the actual nationwide *average unseparated loop cost per working loop*."[171]

64. On our own motion, we also amend section 54.303 to clarify that an incumbent LEC that participates in the NECA common line pool also must satisfy the requirements of an eligible telecommunications carrier in order to receive LTS. Accordingly, section 54.303 is amended to read in relevant part:

> Beginning January 1, 1998, an *eligible telecommunications carrier* that participates in the association Common Line pool *shall* receive Long Term Support.[172]

3. Calculation of LTS Levels Based on Projections of Costs

a. Pleadings

65. Alaska Telephone and Western Alliance contend that the Commission's decision to remove the LTS program from the access charge system and transfer it to the new system of universal service support, beginning January 1, 1998, will create a two-year lag in the receipt of LTS.[173] Petitioners observe that the current LTS program provides for the recovery of supported costs through interstate access charges, calculated on the basis of current cost data. Because LTS will be recovered under the new universal service support system, beginning January 1, 1998, petitioners assume that the Commission intended LTS to

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170 *Order*, 12 FCC Rcd at 8942. As discussed in detail below, a competitive eligible telecommunications carrier is eligible to receive universal service support to the extent that the competitive eligible telecommunications carrier captures an incumbent LEC's subscriber lines or serves new subscribers in the incumbent LEC's service area. *See* 47 C.F.R. § 54.307(a).

171 47 C.F.R. § 54.303 (emphasis added).

172 47 C.F.R. § 54.303 (emphasis added). To make our rules easier to read, we also amend part 54.303 by adding subsections that make no substantive changes other than those explicitly adopted here, as reflected in Appendix A.

173 Alaska Telephone petition at 4; Western Alliance petition at 11.

be calculated on the basis of historical costs, which is the method used to calculate support under the existing high cost loop fund.[174] Petitioners contend that the Commission's determination to calculate LTS based on historical costs will impact adversely the cash flow of small carriers by creating a two-year lag in the recovery of LTS supported costs. No party commented on Alaska Telephone's and Western Alliance's petitions with respect to this issue.

b. Discussion

66. The Commission's determination to remove the LTS program from the access charge system and transfer it to the new support system will not create a two-year lag in the recovery of LTS supported costs, as argued by petitioners. In 1998, support payments provided to eligible carriers under the modified LTS program will be based not on historical cost data, which is the method of calculating support under the existing high cost loop fund, but, instead, will be based on 1997 projections. Section 54.303, as modified above, now explicitly states that LTS support in the first year will be calculated based on the difference between the 1997 *projected* common line revenue requirement of NECA pool participants and the projected revenue recovered by the 1997 NECA CCL charge and SLCs.[175] Beginning January 1, 1998, LTS payments will be adjusted for all recipients based on average rates of change as provided in section 54.303.[176] Because support will be based on projections using a rate of change, historical data will no longer be used and there will be no basis for delaying LTS payments.

4. True-up Mechanism to Adjust Base-Level of LTS

a. Pleadings

67. Noting that the new universal service rules require the Administrator to rely on cost projections to determine the LTS levels for 1998, NECA asks the Commission to provide a mechanism for correcting errors resulting from the use of these cost projections.[177] NECA

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[174] Alaska Telephone petition at 4; Western Alliance petition at 11.

[175] 47 C.F.R. § 54.303.

[176] Specifically, in 1998 and 1999 LTS will be adjusted by the annual percentage change in the actual nationwide average cost per loop. Beginning January 1, 2000, LTS will be adjusted to reflect the annual percentage change in the Department of Commerce's Gross Domestic Product-Chained Price Index (GDP-CPI). *See* 47 C.F.R. § 54.303.

[177] NECA petition at 5. As clarified above, section 54.303 of the Commission's rules provides that initial levels of LTS will be calculated based on the difference between the 1997 *projected* common line revenue requirement of NECA common line pool participants and projected revenues recovered by the 1997 NECA CCL charge and SLCs.

points out that, although our rules provide that LTS be calculated using 1997 LTS levels, beginning January 1, 1998, final data for calculating 1997 LTS amounts will not be available until cost studies for 1997 are completed during calendar year 1998.[178] NECA's current pooling procedures permit carriers to recover "trued-up" interstate costs from the common line pool for a period of up to 24 months after the month the projected costs are submitted to NECA.[179] NECA urges the Commission to adopt a true-up mechanism in order "to maintain the accuracy and integrity" of LTS payments under the modified LTS program.[180] NECA proposes that the 1998 LTS projections be reconciled with historical LTS requirements within 15 months from the end of the 1997 study period.[181] No party commented on NECA's petition with respect to this issue.

b. Discussion

68. Pursuant to section 54.303, the unadjusted base-level of LTS initially will be calculated using 1997 projections. To ensure that the modified LTS program is funded at appropriate levels, however, we direct the Administrator to adjust the base-level of LTS to reflect historical 1997 costs once those data become available to the Administrator. As proposed by NECA, we conclude that this adjustment should be made within fifteen months of the conclusion of the 1997 calendar year.[182] We emphasize that, unlike the current high cost loop data submissions, all carriers must submit historical cost data for 1997. We direct the Administrator to increase or decrease a carrier's LTS payment to reflect 1997 costs that in fact incurred no later than 15 months after the end of the 1997 calendar year.[183] We note that, unlike the DEM weighting assistance program, which will require ongoing adjustments, the adjustment that we direct the Administrator to make to the LTS program will be needed only to adjust the base-level of LTS.

5. Membership in NECA Common Line Pool a Requirement for LTS

178 NECA petition at 5 n.14.

179 NECA petition at 5 n.14

180 Letter from Robert Haga, NECA, to William F. Caton, FCC, dated October 30, 1997.

181 *Id.*

182 Thus, for example, the true-up period will extend for 15 months beyond the end of 1997, or April 1, 1999.

183 Like the true-up mechanism we adopt for local switching support, the LTS true-up mechanism does not raise the same concerns as the current high cost loop adjustment that has been designated for investigation by the Commission. *See* 1997 Annual Access Tariff Filings, National Exchange Carrier Association Universal Service Fund and Lifeline Assistance Rates Transmittal No. 759, CC Docket No. 97-149, *Memorandum Opinion and Order*, DA 97-1350 at para. 73 (Comm. Carr. Bur. rel. June 27, 1997). *See supra* section IV.B.3.c.

a. Pleadings

69. Several petitioners request that the Commission eliminate the requirement that rural carriers participate in the NECA common line pool in order to receive LTS or clarify that the Commission did not intend to require participation in the pool as a condition for receiving LTS.[184] USTA argues that there is no compelling reason to require continued membership in the pool once the Administrator establishes a carrier's LTS amount, which is based on pool membership as of January 1, 1998.[185] USTA argues further that revising the rule to permit telephone companies to exit the pool without losing LTS would be consistent with the Commission's determination that LTS is designed to protect customers from abrupt increases in the NECA CCL rate.[186] ALLTEL contends that, with the "de-linkage" of LTS from interstate access charges, membership in the NECA common line pool is an arbitrary requirement.[187] ALLTEL argues that, if the Commission determines to provide LTS to rural incumbent LECs that are outside the pool, the Commission will enable rural incumbent LECs that achieve efficiencies, relative to other pool members, to leave the pool and reflect those efficiencies in the interstate rates charged to their access customers.[188]

70. GVNW argues that, in order to preserve competitive neutrality between an incumbent LEC and a competitive eligible telecommunications carrier that serves customers in the incumbent LEC's service area, the incumbent LEC should continue to receive LTS after it exits the pool.[189] GVNW asserts that denying LTS to the exiting incumbent LEC in this situation would not be competitively neutral because, according to GVNW, the competitive carrier would continue to receive LTS based on the incumbent LEC's prior level of support, even though the incumbent LEC could no longer receive LTS.[190]

71. If the Commission determines that non-pooling rural incumbent LECs are not eligible for LTS, GVNW argues, it would be reasonable for the Commission to permit non-pooling rural incumbent LECs to receive support based on forward-looking economic cost given that non-rural LECs will be eligible to receive universal service support based on

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184 *See, e.g.*, ALLTEL petition at 2-4; GVNW petition at 16; USTA petition at 12-13.

185 USTA petition at 12.

186 *Id.*

187 ALLTEL petition at 3.

188 *Id.*

189 GVNW petition at 16.

190 *Id.*

forward-looking economic cost beginning January 1, 1999.[191] ALLTEL argues that rural incumbent LECs that have left the NECA pool should be permitted to receive LTS beginning January 1, 1998, on a per-line basis equal to the pooling companies' per-line LTS and, after January 1, 1999, such companies should have the option of using proxy models on a study area by study area basis to determine their universal service support.[192]

72. AT&T opposes petitioners' request that the Commission make LTS payments available to all rural LECs irrespective of NECA common line pool participation.[193] AT&T argues that an incumbent LEC's decision to leave the pool is likely due to the fact that the incumbent LEC has achieved efficiencies that render the incumbent LEC a contributor to the pooled revenue requirement rather than a receiver.[194] Therefore, the purpose of LTS payments, namely, to permit carriers with higher-than-average loop costs that are NECA common line pool members to charge nationwide average interstate rates, no longer applies to incumbent LECs that have elected to exit the pool.[195] AT&T argues further that, to ensure competitive neutrality, if an incumbent LEC leaves the pool and loses its LTS, support should be withdrawn from any competitive eligible telecommunications carrier receiving support in the incumbent LEC's territory.

73. In reply, USTA reiterates its view that there is no reason why incumbent LECs should be required to remain in the NECA common line pool to receive support, but concurs with AT&T that, if an incumbent LEC loses LTS, so should any eligible telecommunications carrier receiving LTS in the incumbent's territory.[196]

b. Discussion

74. We reiterate that an incumbent LEC's continued membership in the NECA common line pool is required for the incumbent LEC or any competitive eligible telecommunications carrier serving that incumbent LEC's former customers to receive

[191] GVNW petition at 16.

[192] ALLTEL petition at 4-6.

[193] AT&T opposition at 11.

[194] AT&T opposition at 11.

[195] AT&T opposition at 11 n.12.

[196] USTA reply at 7.

payment of support comparable to LTS in a given service area.[197] As we stated in the *Order*, we ultimately intend to determine universal service support for all carriers using a forward-looking economic cost model because such a model will require carriers to operate efficiently and will facilitate the move to competition in all telecommunications markets.[198] We decided, however, that we would "retain many features of the current support mechanisms" in order to provide rural LECs, generally the recipients of LTS, sufficient time to adjust to any changes in universal service support, particularly a move to a forward-looking economic cost model for determining universal service support.[199] Although we made some adjustments to the calculation and distribution scheme of LTS in the *Order*, we specifically continued this support mechanism, finding that such payments would serve the public interest "by reducing the amount of loop cost that high cost LECs must recover from IXCs through CCL charges and thereby facilitating interexchange service in high cost areas consistent with the express goals of section 254."[200] Thus, we wish to maintain the current support structure, as modified, for recipients of LTS until we are able to devise a forward-looking economic cost model to determine universal service support appropriate for such carriers. We find that broadening the scope of the LTS mechanism at this time beyond the boundaries established in the *Order* would hinder the achievement of our goal to move toward competition in all telecommunications markets.

75. In addition, we note that a number of companies that have chosen to leave the NECA common line pool in the past generally have done so because their costs have decreased such that they can charge a lower CCL interstate access rate than the NECA CCL rate and recover their costs without LTS support.[201] Thus, it is not clear how providing those carriers with modified LTS would further the goal of universal service. Although we recognize that other considerations may influence a carrier's decision to exit the pool, we can only presume that any carrier that has left did so after balancing all factors and determining that it could forego the receipt of LTS. Accordingly, we decline to reinstate LTS to such carriers and we deny ALLTEL's petition to the extent that it asks that rural incumbent LECs

[197] We note that new local exchange carriers, such as those serving formerly unserved areas, may become members of NECA by petitioning the Commission. *See, e.g.*, Guam Telephone Authority Petition for Declaratory Ruling to Participate in the National Exchange Carrier Association, CCB/CPD File No. 96-29, *Order*, DA 97-1007 (Comm. Carr. Bur. rel. May 12, 1997) (granting Guam Telephone Authority's request to become a member of NECA).

[198] *Order*, 12 FCC Rcd at 8934-35.

[199] *Order*, 12 FCC Rcd at 8938-39.

[200] *Order*, 12 FCC Rcd at 9165.

[201] Once incumbent LECs withdraw from the pool, they may not choose to participate in the pool at a later date. *Part 67 Reconsideration Order*, 3 FCC Rcd 4543 at 4557, n.17 (1988).

that have left the NECA pool be eligible to receive LTS under the new LTS program.[202]

76. Moreover, as to the requests of current LTS recipients that they be allowed to continue to receive LTS upon exiting the NECA pool, we reiterate that we wish to maintain the current LTS program as modified until we move to the use of a forward-looking economic cost model for determining universal service support for such carriers. Further, providing such support to carriers that leave the NECA pool could undermine the pool's usefulness in permitting participants to share the risk of substantial cost increases related to the CCL charge by pooling their costs and, thereby, charging an averaged CCL rate close to that charged by other carriers. This operation of the pool, like LTS payments, serves section 254's goal of facilitating interexchange service in high cost areas. Accordingly, we decline to permit a carrier leaving the pool to continue to receive LTS in the future.

77. We reject GVNW's argument that, in order to preserve competitive neutrality, an incumbent LEC exiting the pool must continue to receive LTS. Rather, we agree with AT&T and USTA that competitive neutrality can be achieved by withdrawing LTS from any competitive eligible telecommunications carrier receiving support in the exiting incumbent LEC's service area. Pursuant to section 54.307 of the Commission's rules, a competitive eligible telecommunications carrier is eligible to receive universal service support to the extent that it captures an incumbent LEC's subscriber lines or serves new subscribers in the incumbent LEC's service area.[203] Having determined that an incumbent LEC exiting the NECA common line pool will lose LTS, we also determine that a competitive eligible telecommunications carrier that receives LTS for serving subscribers in an incumbent LEC's service area similarly will lose LTS when the incumbent LEC exits the NECA common line pool.

78. GVNW also requests that, if the Commission determines that a non-pooling

[202] We note that under the existing LTS program, our rules require incumbent LECs that withdraw from the pool to contribute to the support of the remaining pool members. *See Order*, 12 FCC Rcd at 8893 n.534. As determined in the *Order*, such non-pooling incumbent LECs will no longer be required to pay into the pool after January 1, 1998. *Order*, 12 FCC Rcd at 9169. Therefore. although incumbent LECs that do not participate in the pool will not be eligible to *receive* LTS under the new support system, they will benefit from a significant reduction in the support they will be required to pay.

[203] 47 C.F.R. § 54.307(a). In the *Order*, the Commission concluded that, starting January 1, 1998, universal service support for high cost, rural and insular areas would be portable such that a competitive eligible telecommunications carrier that wins a customer from an incumbent LEC will receive the same level of universal service support for that customer as the incumbent LEC would have been eligible to receive for serving that customer. *Order*, 12 FCC Rcd at 8932-34, 8944-46. The Commission reasoned that providing support directly to a competitive carrier would foster opportunities for competition in rural and non-rural areas. *Id.* at 8932-33. 8944. In the event that competitive eligible telecommunications carriers capture a substantial number of customers in any support area, the Commission may re-evaluate its decision to permit such carriers that are not members of the common line pool to receive LTS.

rural incumbent LEC is not eligible to receive LTS, such carrier should be permitted to receive universal service support using forward-looking economic cost.[204] In the *Order*, the Commission determined that rural carriers will begin receiving universal service support based on forward-looking economic cost principles when we have found, based on a fully developed record, that a forward-looking economic cost mechanism for rural carriers will produce results that are sufficient and predictable.[205] Because rural carriers generally serve fewer subscribers than large incumbent LECs, serve more sparsely populated areas, and generally do not benefit as much from economies of scale and scope, the Commission determined that rural carriers will receive support based on embedded cost for at least three years and gradually shift to a forward-looking economic cost mechanism.[206] Moreover, because the cost models in the record of this proceeding produced a higher margin of error for rural carriers, the Commission concluded that rural carriers should not begin their transition to the use of a forward-looking economic cost mechanism when the non-rural incumbent LECs transition to their new mechanism in 1999.[207] Because we have not yet developed a forward-looking economic cost mechanism that accurately predicts forward-looking economic costs for rural carriers, we cannot ensure that rural carriers would receive appropriate levels of support if we allowed them to receive support calculated using the forward-looking economic cost mechanism for non-rural carriers. Accordingly, we deny petitioners' request to permit rural carriers to receive universal service support, beginning January 1, 1999, based on the forward-looking economic cost mechanism that we adopt for non-rural carriers.

D. Support for Competitive Eligible Telecommunications Carriers

1. Background

79. In the *Order*, the Commission concluded that, starting January 1, 1998,

[204] *See* GVNW petition at 16.

[205] *Order*, 12 FCC Rcd at 8917.

[206] *Order*, 12 FCC Rcd at 8936.

[207] *Order*, 12 FCC Rcd at 8943. To ensure that the concerns of rural carriers will be thoroughly addressed, in the *Order* the Commission encouraged the Joint Board to establish a task force to study the development and impact of a support mechanism incorporating forward-looking economic cost principles for rural carriers. *Order*, 12 FCC Rcd at 8917. The creation of the Rural Task Force was announced on September 17, 1997. *See* Federal-State Joint Board on Universal Service Announces the Creation of a Rural Task Force, Solicits Nominations for Membership on Rural Task Force, CC Docket 96-45, *Public Notice*, FCC 97J-1 (rel. Sept. 17, 1997) (*Rural Task Force Public Notice*). In the *Order*, the Commission determined that we would commence a proceeding by October 1998 to establish a system of universal service support for rural carriers based on forward-looking economic cost, at which time we expect to have received the Joint Board's report evaluating the recommendations of the Rural Task Force. *See Order*, 12 FCC Rcd at 8917; *Rural Task Force Public Notice* at 2.

universal service support for high cost, rural, and insular areas would be portable such that a competitive eligible telecommunications carrier that wins a customer from an incumbent LEC will receive the same level of universal service support for that customer as the incumbent LEC would have been eligible to receive for serving that customer.[208] The Commission reasoned that paying the per-line support directly to the competitive eligible telecommunications carrier for the lines it captures or for new customer lines that it serves would foster opportunities for competition in rural and non-rural study areas.[209] Section 54.307 of the Commission's rules specifies the method for calculating DEM weighting assistance, LTS, and high cost loop support for an incumbent LEC as well as for a competitive eligible telecommunications carrier that captures lines from the incumbent LEC or serves new subscriber lines within the incumbent LEC's service area.[210] Section 54.307(a)(3) provides that a competitive eligible telecommunications carrier that provides the services supported by the new universal service support system through the use of switching functionalities or loops that are purchased as unbundled network elements will receive support based on the lesser of the unbundled network element price or the incumbent LEC's per-line support.[211]

2. Pleadings

80. Air Touch requests clarification regarding the portability of support under the modified high cost loop fund and modified DEM weighting assistance program. Airtouch asserts that neither section 36.601, which sets forth the method for calculating high cost loop support, nor section 54.301, which sets forth the method for calculating DEM weighting assistance, provides that a competitive eligible telecommunications carrier that serves a customer in an incumbent LEC's service area will receive high cost loop support or local switching support for serving that customer. By contrast, AirTouch notes that section 54.303, which sets forth the method for calculating LTS, explicitly states that a competitive eligible telecommunications carrier will receive LTS.[212]

[208] *Order*, 12 FCC Rcd at 8932-34, 8944-46. We note that, to receive universal service support formerly received by an incumbent LEC, a competitive carrier must be designated, by a state commission, as an eligible telecommunications carrier pursuant to section 214(e). 47 U.S.C. § 214(e). Before designating an additional eligible telecommunications carrier in a service area served by a rural carrier, however, a state commission must "find that the designation is in the public interest." 47 U.S.C. § 214(e)(2).

[209] *Order*, 12 FCC Rcd at 8932-33, 8944.

[210] 47 C.F.R. § 54.307.

[211] 47 C.F.R. § 54.307(a)(3).

[212] Air Touch petition at 9 (citing 47 C.F.R. § 54.303).

3. Discussion

81. We clarify the Commission's finding that, beginning January 1, 1998, high cost loop support, DEM weighting assistance, and LTS will be portable to any competitive local exchange carrier that has been designated as an eligible telecommunications carrier. Section 54.307(a)(1) of our rules, which encompasses all three types of support currently received by incumbent LECs, provides that "[a] competitive eligible telecommunications carrier shall receive support for each line it serves based on the support the incumbent LEC receives for each line."[213] Section 54.307(a)(2) sets forth the method for calculating per-line support that will be paid to a competitive eligible telecommunications carrier for each line that it serves in an incumbent LEC's service area. Section 54.307(a)(3) provides the method for calculating the level of support that a competitive eligible telecommunications carrier that uses switching functionalities or loops that are purchased as unbundled network elements will receive.[214] AirTouch correctly notes that section 54.303, which establishes the method for calculating LTS, explicitly states that a competitive eligible telecommunications carrier will receive LTS.[215] In order to eliminate the apparent ambiguity in our rules governing portability, we amend the first sentence of section 54.303 to eliminate any reference in that section to competitive carriers' eligibility to receive LTS. We adopt this amendment based on our conclusion that section 54.307, which sets forth the method for calculating the amount of high cost loop support, DEM weighting assistance, and LTS that a competitive carrier may receive, specifies the support that competitive eligible telecommunications carriers are entitled to receive and, therefore, the reference to competitive carriers in section 54.303 is not needed.

E. Impact on Incumbent LEC of Losing Access Lines to Competitive Eligible Telecommunications Carriers

1. Background

82. In the *Order*, the Commission concluded that a competitive eligible telecommunications carrier "shall receive universal service support to the extent that it captures subscribers' lines formerly served by an incumbent LEC receiving support or new customer lines in that incumbent LEC's study area" and that the incumbent LEC "will continue to receive support for the customer lines it continues to serve."[216] Section 54.307 of the Commission's rules provides that the level of per-line support paid to a competitive

[213] 47 C.F.R. § 54.307(a)(1).

[214] 47 C.F.R. § 54.307(a)(3).

[215] 47 C.F.R. § 54.303.

[216] *Order*, 12 FCC Rcd at 8932-33.

eligible telecommunications carrier will be calculated by dividing the amount of the incumbent LEC's universal service support by the total number of lines the incumbent LEC serves in the study area.[217]

2. Pleadings

83. GCI seeks clarification that an incumbent LEC that loses customers to a competitive eligible telecommunications carrier will lose the support that the incumbent LEC formerly received for serving that customer.[218] GCI contends that section 54.307(a)(2)'s directive that the incumbent LEC's per-line support be based on the incumbent LEC's most recent annual loop count, without providing for a corresponding reduction in the amount of support received by the incumbent LEC if it loses a customer due to competition, gives the incumbent LEC a competitive advantage over the incumbent LEC's competitors.[219] No party commented on GCI's petition with respect to this issue.

3. Discussion

84. We clarify here that, if an incumbent LEC loses a customer to a competitive eligible telecommunications carrier, the incumbent LEC will lose some or all of the per-line level of support that is associated with serving that customer.[220] If the competitive eligible telecommunications carrier uses network elements purchased pursuant to section 51.307 to provide the supported services, the reduction in the amount of support received by the incumbent LEC is specified in section 54.307(a)(3) of the Commission's rules. That section provides that "[t]he [incumbent] LEC . . . shall receive the difference between the level of universal service support provided to the competitive eligible telecommunications carrier and the per-customer level of support previously provided to the [incumbent] LEC."[221] Section 54.307(a)(4) of our rules provides that a competitive eligible telecommunications carrier that provides the supported services using *neither* unbundled network elements nor wholesale

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[217] 47 C.F.R. § 54.307(a)(2).

[218] GCI petition at 4-5.

[219] GCI petition at 4-5.

[220] We note that to receive per-line support, the competitive eligible telecommunications carrier must provide the supported services using its own facilities, which includes using network elements purchased pursuant to 47 C.F.R. § 51.307. If the competitive eligible telecommunications carrier provides the supported services using wholesale service purchased pursuant to section 251(c)(4) of the Act, the incumbent LEC whose service is being resold would receive the per-line support for customers served by the competitive carrier pursuant to section 251(c)(4).

[221] 47 C.F.R. § 54.307(a)(3).