reform our system of universal service support so that universal service is preserved and advanced as markets move toward competition. In this order, we clarify and reconsider those rules.

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

317. Summary of the Initial Regulatory Flexibility Analysis. The Commission performed an IRFA in the *NPRM*[917] and an IRFA in connection with the *Recommended Decision*.[918] In the IRFAs, the Commission sought comment on possible exemptions from the proposed rules for small telecommunications companies and measures to avoid significant economic impact on small entities, as defined by the RFA.[919] The Commission also sought comment on the type and number of small entities, such as schools, libraries, and health care providers, potentially affected by the recommendations set forth in the *Recommended Decision*.[920]

318. No comments in response to the IRFAs, other than those described in the *Order*,[921] were filed. In response to the FRFA, RTC argues that the Commission did not satisfy the requirements of the RFA by considering alternatives to the cap on recovery of corporate operations expenses.[922] We note that the majority of commenters in the *Order* generally supported limiting the amount of corporate operations expense that can be recovered through the universal service support mechanisms.[923] Some commenters suggested that universal service support should not be allowed at all for corporate operating expenses; however, the Commission found that the amount of corporate operating expense per line that is supported through the universal service support mechanisms should fall within a range of reasonableness.[924] The Commission weighed all alternatives relating to corporate operating

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[917] *NPRM*, 11 FCC Rcd at 18,152-18,153.

[918] 61 Fed. Reg. at 63,796.

[919] *NPRM*, 11 FCC Rcd at 18,153.

[920] 61 Fed. Reg. at 63,799.

[921] *Order*, 12 FCC Rcd at 9220-9224.

[922] RTC petition to *July 10 Order* at 8, n.11 *citing* 5 U.S.C. § 603.

[923] *Order*, 12 FCC Rcd at 8930-8931.

[924] *Order*, 12 FCC Rcd at 8931.

expenses in the *Order* and the previous FRFA in reaching its conclusion.[925]

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

319. In the FRFA to the *Order*, we described and estimated the number of small entities that would be affected by the new universal service rules. The rules adopted here will apply to the same telecommunications carriers and entities affected by the universal service rules. We therefore incorporate by reference paragraphs 890-925 of the *Order*, which describe and estimate the number of affected telecommunications carriers and other entities affected by the universal service rules.[926] We summarize that analysis as follows:

#### 1. Telephone Companies (SIC 4813)

320. Total Number of Telephone Companies Affected. Many of the decisions and rules adopted herein may have a significant effect on a substantial number of the small telephone companies identified by the SBA. The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[927]

321. Wireless (Radiotelephone) Carriers. SBA has developed a definition of small entities for radiotelephone (wireless) communications companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.[928] According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons.[929] The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated.

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[925] *Order*, 12 FCC Rcd at 8930-8932, 9249.

[926] *Order*, 12 FCC Rcd at 9227-9241.

[927] United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (indicating only the number of such firms engaged in providing telephone service and not the size of such firms) (1995) (*1992 Census*).

[928] United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1-123 (1995) (*1992 Census*).

[929] 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4812.

### 2. Cable System Operators (SIC 4841)

322. The SBA has developed a definition of small entities for cable and other pay television services that includes all such companies generating less than $11 million in revenue annually.[930] This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. According to the Census Bureau, there were 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue.[931] We note that cable system operators are included in our analysis due to their ability to provide telephony.

### 3. Municipalities

323. The term "small government jurisdiction" is defined as "government of . . . districts with populations of less than 50,000."[932] The most recent figures indicate that there are 85,006 governmental entities in the United States.[933] This number includes such entities as states, counties, cities, utility districts, and school districts. Of the 85,006 governmental entities, 38,978 are counties, cities, and towns. The remainder are primarily utility districts, school districts, and states. Of the 38,978 counties, cities, and towns, 37,566 or 96%, have populations of fewer than 50,000. Consequently, we estimate that there are 37,566 "small government jurisdictions" that will be affected by our rules.

### 4. Rural Health Care Providers

324. Neither the Commission nor the SBA has developed a definition of small, rural health care providers. Section 254(h)(5)(B) defines the term "health care provider" and sets forth the seven categories of health care providers eligible to receive universal service support.[934] We estimate that there are: (1) 625 "post-secondary educational institutions offering health care instruction, teaching hospitals, and medical schools," including 403 rural

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[930] 13 C.F.R. § 121.201, SIC 4841.

[931] U.S. Department of Commerce, Bureau of Census, *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, SIC 4841 (Bureau of the Census data under contract to the Office of Advocacy of the SBA).

[932] 5 U.S.C. § 601(5).

[933] *1992 Census of Governments*.

[934] *See* 47 U.S.C. § 254(h)(5)(B).

community colleges,[935] 124 medical schools with rural programs,[936] and 98 rural teaching hospitals;[937] (2) 1,200 "community health centers or health centers providing health care to migrant;"[938] (3) 3,093 "local health departments or agencies" including 1,271 local health departments[939] and 1,822 local boards of health;[940] (4) 2,000 "community mental health centers;"[941] (5) 2,049 "not-for-profit hospitals;"[942] and (6) 3,329 "rural health clinics."[943] We do not have sufficient information to make an estimate of the number of consortia of health care providers at this time. The total of these categorical numbers is 12,296. Consequently, we estimate that there are fewer than 12,296 health care providers potentially affected by the rules in this order.

### 5. Schools (SIC 8211) and Libraries (SIC 8231)

325. The SBA has established a definition of small elementary and secondary schools and small libraries as those with under $5 million in annual revenues.[944] The most reliable source of information regarding the total number of kindergarten through 12th grade (K-12) schools and libraries nationwide of which we are aware appears to be data collected by

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[935] Letter from Kent A. Phillippe, American Association of Community Colleges, to John Clark, FCC, dated March 31, 1997 (AACC March 31 *ex parte* at 2).

[936] Letter from Donna J. Williams, Ass'n of American Medical Colleges, to John Clark, FCC, dated September 9, 1996 (AAMC September 9 *ex parte*).

[937] Letter from Kevin G. Serrin, Ass'n of American Medical Colleges, to John Clark, FCC, dated September 5, 1996 (AAMC September 5 *ex parte*).

[938] Letter from Richard C. Bohrer, Division of Community and Migrant Health, HHS, to John Clark, FCC, dated March 31, 1997 (HHS March 31 *ex parte* at 2)

[939] Telephone contact by John Clark, FCC, with Carol Brown, National Association of County Health Officials, May 2, 1997.

[940] Letter from Ned Baker, Nat'l Ass'n of Local Boards of Health, to John Clark, FCC, dated April 2, 1997 (Nat'l Ass'n of Local Boards of Health April 2 *ex parte*).

[941] Telephone contact by John Clark, FCC, with Mike Weakin, Center for Mental Health Services, HHS, on May 2, 1997.

[942] American Hospital Association Center for Health Care Leadership, *A Profile of Nonmetropolitan Hospitals 1991-95* at 5 (1997).

[943] Letter from Patricia Taylor, ORHP/HHS, to John Clark, FCC, dated May 2, 1997 (ORHP/HHS May 2 *ex parte*).

[944] 13 C.F.R. § 121.201, SIC 8211 and 8231.

the United States Department of Education and the National Center for Educational Statistics. Based on that information, it appears that there are approximately 86,221 public and 26,093 private K-12 schools in the United States (SIC 8211).[945] It further appears that there are approximately 15,904 libraries, including branches, in the United States (SIC 8231).[946] Consequently, we estimate that there are fewer than 86,221 public and 26,093 private schools and fewer than 15,904 libraries that may be affected by the decisions and rules adopted in this order.

### D. Summary Analysis of the Projected Reporting, Recordkeeping, and Other Compliance Requirements and Significant Alternatives and Steps Taken to Minimize the Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.

326. Structure of the Analysis. In this section of the FRFA, we analyze the projected reporting, recordkeeping, and other compliance requirements that may apply to small entities and small incumbent LECs as a result of this order.[947] As a part of this discussion, we mention some of the types of skills that will be needed to meet the new requirements. We also describe the steps taken to minimize the economic impact of our decisions on small entities and small incumbent LECs, including the significant alternatives considered and rejected.[948] Section numbers correspond to the sections of the order.

**Summary Analysis: Section II**
**DEFINITION OF UNIVERSAL SERVICE**

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

327. We conclude that Mobile Satellite Service (MSS) providers in localities that have implemented E911 service, like other wireless providers, may petition their state commission for permission to receive universal service support for the designated period during which they are completing the network upgrades required to offer access to E911. We also affirm that MSS providers in localities that have implemented E911 service must demonstrate that "exceptional circumstances" prevent them from offering access to E911. We note that we are not imposing any new reporting requirements beyond those established in the

[945] Letter from Emilio Gonzalez, to Mark Nadel, FCC, dated November 4, 1996 (U.S. Department of Education November 4 *ex parte*).

[946] National Center for Education Statistics, *Public Library Structure and Organization in the United States*, Tbl. 1 (March 1996).

[947] *See* 5 U.S.C. § 604(a)(4).

[948] *See* 5 U.S.C. § 604(a)(5).

May 8, 1997 *Order*.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.

328. We recognize that exceptional circumstances may prevent some carriers, such as MSS providers, from offering access to E911. To promote competitive and technological neutrality, however, we permit MSS providers that are incapable of providing access to E911 service, but that wish to receive universal service support, to demonstrate to their state commissions that "exceptional circumstances" prevent them from offering such access.

**Summary Analysis: Section III**
**CARRIERS ELIGIBLE FOR UNIVERSAL SERVICE SUPPORT**

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

329. As of January 1, 1998, the temporary Administrator may not disburse support to carriers that have not been designated as eligible under section 214(e). Thus, if a carrier has not been designated as eligible by its state commission by January 1, 1998, it may not receive support until such time as it is designated an eligible telecommunications carrier. Additionally, we encourage Sandwich Isles and the relevant Hawaiian state agencies to resolve their dispute over which entity should designate eligible telecommunications carriers to serve the Hawaiian Home Lands. If they are unable to do so, we encourage them to bring this fact to our attention so that we may complete action on the pending petitions on this matter. Neither of these determinations impose any new reporting, recordkeeping, or other compliance requirements on small entities.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.

330. In the *Order* and subsequent public notices, we have emphasized to state commissions that they must designate eligible telecommunications carriers by January 1, 1998, so that carriers that are eligible for universal service support may receive such support beginning January 1, 1998. State commissions that are unable to designate any eligible telecommunications carrier in a service area by January 1, 1998 may, upon completion of the designation, file with the Commission a petition for a waiver requesting that the designated carrier receive universal service support retroactive to January 1, 1998.

**Summary Analysis: Section IV**
**HIGH COST, RURAL, AND INSULAR SUPPORT**

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

331. Section 54.303 of the Commission's rules provides the method by which the Administrator will calculate and distribute DEM weighting assistance (or local switching support). Although that section sets forth the method for calculating the local switching support factor, it does not specify the method for calculating the annual unseparated local switching revenue requirement. Accordingly, we amend the Commission's Part 54 rules to provide the method by which the Administrator will calculate the unseparated local switching revenue requirement. Specifically, we direct the Administrator to use Part 32 account data as suggested by NECA 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. We anticipate that of the approximately 1,288 carriers that will be required to file Part 32 account data with the Administrator in order to receive DEM weighting assistance, all but approximately 192 already provide this information to NECA.

332. We adopt no additional reporting, recordkeeping, or other compliance requirements with respect to the remaining high cost, DEM weighting and LTS issues addressed in this order.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.

333. We considered an alternative method of calculating the unseparated local switching revenue requirement that would not have imposed an additional reporting requirement on those carriers that currently do not file Part 32 account data with NECA. We concluded, however, 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 an accurate measure of the unseparated local switching revenue requirement. 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 result in 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 adopted in this order, to the extent that 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.

334. Although we adopt no additional reporting, recordkeeping, or other compliance requirements with respect to the cap on recovery of corporate operations expenses, we note that several petitioners challenged the Commission's decision to limit recovery of corporate operations expenses. These petitioners argue that the Commission's decision in the *Order* to limit such expenses ignores Congress's intent to limit or reduce burdens on small, rural, and insular carriers and, in fact, disproportionately burdens smaller incumbent LECs.[949] ITC argues that federal regulatory expenses should not be included within the limitation to ensure that small companies will be able to participate in the federal regulatory process.[950]

335. In general, the Commission's decision to limit recovery of corporate operations expenses carefully considers the needs of smaller carriers. The Commission concludes that all carriers currently have little incentive to minimize these expenses because the current mechanism allows carriers to recover a large percentage of their corporate operations expenses. Smaller carriers possess even fewer incentives to minimize corporate operations expenses because the Commission has a limited ability to ensure, through audits, that smaller companies properly assign corporate operations expenses to appropriate accounts and that carriers do not spend at excessive levels. The Commission, and frequently state commissions, cannot justify auditing smaller carriers because the cost of a full-scale audit is likely to exceed any expenses found to be improper by that audit. We therefore conclude that imposing a cap that is relatively generous to small carriers but still imposes a limitation is a prudent way to encourage correct allocation of expenditures and to discourage excessive expenditures. Under this approach, we are providing carriers with an incentive to control their corporate operations expenses without requiring all carriers, including small carriers, to incur the costs associated with a full Commission audit. As the Commission indicated in its *Order* and as explained above, carriers that contend that the limitation provides insufficient support may request a waiver from the Commission. Therefore, only carriers whose expenses are significantly above the average and who contend that the capped amount is insufficient will be required to provide additional justification for their expenditures. We therefore conclude that this limitation deters improper recovery of universal service funds while minimizing the administrative burden on the Commission and on all carriers, including smaller carriers. Moreover, individual companies that are required to incur unusually high corporate operations expenses, such as small companies, Alaskan companies, or insular companies, are able to apply for a waiver with the Commission to demonstrate that these expenses are necessary to the provision of the supported services.

336. In adopting the limitation on corporate operations expenses, the Commission

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[949] *See, e.g.*, GVNW petition at 9-12; Western Alliance petition at 8-11; Virgin Islands Tel. Co. reply to *July 10 Order* at 8-9 (citing 47 U.S.C. § 254(b)(3)'s reference to insular areas)

[950] ITC petition at 7-9.

considered whether to exclude recovery of all corporate operations expenses, as it had originally proposed in 1995.[951] The Commission concluded, however, that it should limit recovery of such expenses, in part to protect smaller recipients of high cost universal service support. When developing the formula that will calculate the limit on recovery of corporate operations expense, the Commission took into account the lesser economies of scale of smaller carriers and adopted a limit that is more generous to smaller carriers. Additionally, the Commission adopted an industry proposal to add a minimum annual cap of $300,000 that is favored, among others, by petitioners representing smaller, rural carriers.[952] This minimum cap will assist the smallest carriers -- those with fewer than approximately 600 lines. Further, when developing the formula to limit recovery of corporate operations expenses, the Commission chose not to limit recovery to the average corporate operations expenses, but instead added a 15 percent "buffer" to protect all carriers, including smaller carriers, with expenses that are slightly higher than average. We reject ITC's request to exclude all federal regulatory expenses from the limitation because, while some expenditures may be necessary to participate in the federal regulatory process, the need for such expenditures are not without limit and many carriers, including smaller carriers, fulfill legal and regulatory requirements and participate in the federal regulatory process while incurring costs below the Commission's limit.

**Summary Analysis: Section V**
**SUPPORT FOR LOW-INCOME CONSUMERS**

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

337. There are no new reporting, recordkeeping, or compliance requirements required by this section.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.

338. We reconsider the Commission's decision that eligible telecommunications carriers must provide both toll blocking and toll control to qualifying low-income consumers. We find that eligible telecommunications carriers that cannot provide both toll blocking and toll control may provide either toll blocking or toll control to qualifying low-income consumers. Small carriers that are not capable of providing both toll blocking and toll control

[951] *See* Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80-286, *Notice of Inquiry*, 9 FCC Rcd 7404 at 7416-17 (1994) (*1994 NOI*); Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, CC Docket 80-286, *Notice of Proposed Rulemaking and Notice of Inquiry*, 10 FCC Rcd 12,309, 12,324 (*1995 NPRM*).

[952] *See, e.g.*, GVNW petition at 9-10.

will benefit from this decision by remaining eligible for universal service when providing one but not both of these services to qualifying low-income consumers.

**Summary Analysis: Section VI**
**SCHOOLS AND LIBRARIES AND RURAL HEALTH CARE PROVIDERS**

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

339. In the order, we affirm the Commission's previous decision to require service providers to "look back" three years to determine the lowest corresponding price charged for similarly situated non-residential customers. We also affirm the Commission's previous decision to require schools and libraries to conduct an internal assessment of the components necessary to use effectively the discounted services they order, submit a complete description of the services they seek, and certify to certain criteria under penalty of perjury. We also affirm the Commission's previous decision to require schools and libraries to obtain independent approval of their technology plans. We note that we are not imposing any new reporting requirements beyond those established in the May 8, 1997 *Order*.

340. We do not require that the Schools and Libraries Corporation and the Rural Health Care Corporation post RFPs submitted by schools, libraries, and rural health care providers on the websites. Instead, schools and libraries will submit FCC Form 470 and rural health care providers will submit FCC Form 465, containing a description of services requested, and the Schools and Libraries Corporation and Rural Health Care Corporation will post only the information contained in these forms on the websites. We affirm the Commission's prior decision that the Schools and Libraries Corporation may review technology plans when a state agency is unable or unwilling to do so within a reasonable time. In an effort to ensure that eligible schools and libraries are not penalized by this requirement, we will allow such entities to indicate on FCC Form 470 that their technology plan has either been approved, will be approved by a state or other authorized body, or will be submitted to the Schools and Libraries Corporation for approval. Applicants will be required to certify on FCC Form 471 that they will strive to ensure that the most disadvantaged schools and libraries will receive the full benefit of the discounts to which they are entitled. These reporting requirements were set forth in either the *Order* or the *July 10 Order*. These tasks may require some administrative, accounting, clerical, and legal skills.

341. We conclude that state telecommunications networks that procure telecommunications from service providers and make such services available to consortia of schools and libraries will be permitted to secure discounts on eligible telecommunications from service providers on behalf of eligible schools and libraries. In addition, we conclude that state telecommunications networks that provide access to the Internet and internal connections may either secure discounts on such telecommunications and pass on such discounts to eligible schools and libraries, or receive direct reimbursement from universal

service support mechanisms for providing Internet access and internal connections. In order to receive universal service discounts that will be passed through to eligible schools and libraries, state telecommunications networks will request that service providers apply appropriate discount amounts on eligible telecommunications. The service providers will submit to the state telecommunications network a bill that includes the appropriate discounts on the portion of eligible telecommunications rendered to eligible entities. The state telecommunications network then will direct the eligible consortia members to pay the discounted price. Eligible consortia members may pay the discounted price to their state telecommunications network, which will then pay the discounted amount to the service providers. State telecommunications networks should retain records listing eligible schools and libraries and showing the basis on which the eligibility determinations were made. Such networks also must keep careful records demonstrating the discount amount to which each eligible entity is entitled and the basis for such a determination. We note that this is not a new reporting requirement. In addition, we require consortia to certify that each individual institution listed as a member of the consortia and included in determining the discount rate will receive an appropriate share of the shared services within five years of the filing of the consortium application. We further conclude that, to the extent schools and libraries build and purchase wide area networks to provide telecommunications, the cost of purchasing such networks will not be eligible for universal service discounts.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.

342. We affirm the Commission's decision to require service providers to "look back" three years to determine the lowest corresponding price charged for similarly situated non-residential customers. In doing so, we do not adopt the proposal of GTE to reduce this requirement to one year. We note that we do not consider this provision to be unduly burdensome on providers, some of whom may qualify as small entities, as the records to be reviewed are limited to those relating to similarly situated non-residential customers for similar services. Moreover, we expect that providers would voluntarily perform such a review in most cases to determine the rate to charge in a competitive environment.

343. We affirm the Commission's decision to require schools and libraries to comply with certain reporting requirements including conducting an internal assessment of the components necessary to use effectively the discounted services they order, submit a complete description of the services they seek, and certify to certain criteria under penalty of perjury. We do not find these requirements to be unduly burdensome on schools and libraries and believe that they will assist schools and libraries in obtaining and utilizing supported services in an efficient and effective manner. We also affirm the Commission's decision to require schools and libraries to submit and receive approval of technology plans. We do not adopt the suggestion of a few petitioners that we postpone or eliminate this requirement in an effort to equalize the ability of non-public schools and libraries to obtain independent approval. We

do, however, adopt measures to assist non-public entities, many of whom may qualify as small entities, from being disadvantaged by this requirement. For example, we authorize the Schools and Libraries Corporation to review technology plans when the state is unwilling or unable to do so in a reasonable time. Eligible entities that are not required by state or local law to obtain state approval for technology plans and telecommunications expenditures may apply directly to the Schools and Libraries Corporation for review of their technology plan. In addition, FCC Form 470 will allow applicants to indicate that their technology plans either have been approved, will be approved by a state or other entity, or will be submitted to the Schools and Libraries Corporation for approval. This will allow non-public schools and libraries to proceed with the application process in a timely manner while obtaining approval of their technology plans. Support will not, however, be provided prior to approval of the technology plan.

344. We reconsider the definition of existing contracts established in the *July 10 Order* that are exempt from the competitive bid requirement. We conclude that any contract signed on or before July 10, 1997 will be considered an existing contract. Contracts signed after July 10, 1997 but before the websites are fully operational will be considered existing contracts for those services provided through December 31, 1998. We extend the existing contract exemption that we establish in this Order to rural health care providers, many of whom identify themselves as small entities. We believe that this determination will assist many small entities by allowing them to negotiate lower rates through long-term contracts and avoid penalties associated with breaking contracts that they entered into prior to the date that the website is fully operational. We do not adopt the suggestion that we eliminate all restrictions on contracts signed prior to the date that the schools and libraries websites become fully operational. Although schools and libraries have a strong incentive to negotiate contracts at the lowest possible pre-discount prices in an effort to reduce their costs, we affirm our initial finding that competitive bidding is the most efficient means of ensuring that eligible schools and libraries are informed about the choices available to them and receive the lowest prices.

345. Requiring state telecommunications networks to retain records listing eligible schools and libraries should be minimally burdensome because we require such networks to gather and retain basic information, such as the names of consortia members, addresses, and telephone numbers. Requiring state networks to keep records demonstrating the discount amount to which each eligible entity is entitled and the basis on which such a determination was made should be minimally burdensome, because such information should be readily available from the eligible entities. Additionally, consistent with the *Order*, service providers must keep and retain careful records showing how they have allocated the costs of facilities shared by eligible and ineligible entities in order to charge such entities the correct amounts. As we determined in the *Order*, this should be minimally burdensome, because state networks will be required to inform the service provider of what portion of shared facilities purchased by the consortia should be charged to eligible schools and libraries (and discounted by the

appropriate amounts). We find that these recordkeeping and reporting requirements described above are necessary to provide the level of accountability that is in the public interest.

**Summary Analysis: Section VII**
**ADMINISTRATION**

Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements.

346. Section 254(d) states "that all telecommunications carriers that provide interstate telecommunications services shall make equitable and nondiscriminatory contributions" toward the preservation and advancement of universal service. We shall continue to require all telecommunications carriers that provide interstate telecommunications services and some providers of interstate telecommunications to contribute to the universal service support mechanisms. Contributions for support for programs for high cost areas and low-income consumers will be assessed on the basis of interstate and international end-user telecommunications revenues. Contributions for support for programs for schools, libraries, and rural health care providers will be assessed on the basis of interstate, intrastate, and international end-user telecommunications revenues. As provided in the *Order*, contributors will be required to submit information regarding their end-user telecommunications revenues. Approximately 4,500 telecommunications carriers and providers will be required to submit contributions. We note that we do not impose any new reporting requirements beyond those established in the *Order*. These tasks may require some administrative, accounting, and legal skills.

Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.

347. In accordance with section 254(d), we affirm the Commission's decision that all telecommunications carriers that provide interstate telecommunications services shall make equitable and nondiscriminatory contributions toward universal service. We reject the contention of various telecommunications carriers that they should not be required to contribute or should be allowed to contribute at a reduced rate. For example, we reject the suggestion of some petitioners that CMRS providers, many of whom may qualify as small businesses, should not be required to contribute, or should be allowed to contribute at a reduced rate, due to their contention that they may not be eligible to receive universal service support. We note that section 254(d) provides no such exemption for CMRS providers or other carriers regardless of whether they receive universal service support.[953] We affirm the Commission's decision, however, that entities that provide only international telecommunications services are not required to contribute to universal service support

[953] 47 U.S.C. § 254(d).

because they are not telecommunications carriers that provide interstate telecommunications services. We also clarify that the lease of space segment capacity by satellite providers does not constitute the provision of telecommunications and therefore does not trigger universal service contribution requirements.

348. We exempt from the contribution requirement systems integrators that obtain a *de minimis* amount of their revenues from the resale of telecommunications. We exempt from the contribution requirement schools, libraries, and rural health care providers that are eligible to receive universal service support. We also agree with petitioners' suggestions that the *de minimis* exemption take into account the Administrator's collection costs and contributor's reporting compliance costs. We find that if a contributor's contribution to universal service in any given year is less than $10,000, that contributor will not be required to submit a contribution for that year. We believe that small entities will benefit under the *de minimis* exemption as interpreted in the Order. We also believe that small payphone aggregators, such as grocery store owners, will be exempt from contribution requirements pursuant to our *de minimis* exemption.

### E. Report to Congress

349. The Commission shall send a copy of this FRFA, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A). A copy or summary of the Report and Order and this FRFA will also be published in the Federal Register, *see* 5 U.S.C. § 604(b), and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

## IX. ORDERING CLAUSES

350. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4, 201-205, 218-220, 214, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 218-220, 214, 254, 303(r), 403, and 410, the FOURTH ORDER ON RECONSIDERATION IS ADOPTED, effective 30 days after publication of the text in the Federal Register. The collections of information contained within are contingent upon approval by the Office of Management and Budget.

351. IT IS FURTHER ORDERED that Parts 36, 54, and 69 of the Commission's rules, 47 C.F.R. §§ 36, 54, and 69, are amended as set forth in Appendix A hereto, effective 30 days after publication of the text thereof in the Federal Register.[954]

[954] We also take this opportunity to codify corrections made to the Commission's rules, as announced in an errata released 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.,

352. IT IS FURTHER ORDERED that, pursuant to section 5(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c)(1), authority is delegated to the Chief, Common Carrier Bureau, to review, modify, and approve the formula submitted by the Administrator pursuant to section 54.303(f) of the Commission's rules, 47 C.F.R. § 54.303(f).

353. IT IS FURTHER ORDERED that United States Telephone Association's Petition for Clarification is DISMISSED AS MOOT.

354. IT IS FURTHER ORDERED that Florida Public Service Commission's Petition for Declaratory Statement is GRANTED. IT IS FURTHER DETERMINED that the Florida Commission's state Lifeline program qualifies as a program that provides intrastate matching funds and, therefore, the Florida Commission may set its own consumer qualification standards. IT IS FURTHER ORDERED that Florida Public Service Commission's Petitions for Waiver are DISMISSED AS MOOT, and that its Request for Expedited Ruling and Petition for Clarification are GRANTED.

355. IT IS FURTHER ORDERED that if any portion of this Order or any regulation implementing this Order is held invalid, either generally or as applied to particular persons or circumstances, the remainder of the Order or regulations, or their application to other persons or circumstances, shall not be affected.

356. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas

Magalie Roman Salas
Secretary

Acct. & Audits Div. rel. Dec. 3, 1997).

# APPENDIX A

## PART 36 -- JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES.

1. Section 36.621 is amended by revising paragraphs (a)(4)(ii)(A) through (a)(4)(ii)(C) to read as follows:

**§ 36.621 Study area total unseparated loop cost.**

(a)(4)(ii) * * *

(A) For study areas with 6,000 or fewer working loops the amount per working loop shall be $31.188 - (.0023 x the number of working loops), or, $25,000 ÷ the number of working loops, whichever is greater;

(B) for study areas with more than 6,000 but fewer than 18,006 working loops, the amount per working loop shall be $3.588 + (82,827.60 ÷ the number of working loops); and

(C) for study areas with 18,006 or more working loops, the amount per working loop shall be $8.188.

## PART 54 -- UNIVERSAL SERVICE

**Subpart B - Services Designated for Support**

2. Section 54.101 is amended by revising the last sentence of paragraph (a)(1) to read as follows:

**§ 54.101 Supported services for rural, insular, and high cost areas.**

(a) * * *

(1) * * * For the purposes of this Part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz.

* * * * *

**Subpart C - Carriers Eligible for Universal Service Support**

3. Section 54.201 is amended by redesignating paragraphs (a)(2) and (a)(3) as paragraphs (a)(3) and (a)(4) and adding new paragraph (a)(2) to read as follows:

**§ 54.201 Definition of eligible telecommunications carriers, generally.**

(a) * * *

(1) * * *

(2) A state commission that is unable to designate as an eligible telecommunications carrier, by January 1, 1998, a carrier that sought such designation before January 1, 1998, may, once it has designated such carrier, file with the Commission a petition for waiver of paragraph (a)(1) of this section requesting that the carrier receive universal service support retroactive to January 1, 1998. The state commission must explain why it did not designate such carrier as eligible by January 1, 1998, and provide a justification for why providing support retroactive to January 1, 1998, serves the public interest.

* * * * *

**Subpart D - Universal Service Support for High Cost Areas**

4. Section 54.301 is revised to read as follows:

**§ 54.301 Local switching support.**

(a) Calculation of local switching support.

(1) Beginning January 1, 1998, an incumbent local exchange carrier that has been designated an eligible telecommunications carrier and that serves a study area with 50,000 or fewer access lines shall receive support for local switching costs using the following formula: the carrier's projected annual unseparated local switching revenue requirement, calculated pursuant to paragraph (d) of this section, shall be multiplied by the local switching support factor. For purposes of this section, local switching costs shall be defined as Category 3 local switching costs under part 36 of this chapter.

(2) Local switching support factor.

(i) The local switching support factor shall be defined as the difference between the 1996 weighted interstate DEM factor, calculated pursuant to § 36.125(f) of this chapter, and the 1996 unweighted interstate DEM factor.

(ii) If the number of a study area's access lines increases such that, under

§ 36.125(f) of this chapter, the weighted interstate DEM factor for 1997 or any successive year would be reduced, that lower weighted interstate DEM factor shall be applied to the carrier's 1996 unweighted interstate DEM factor to derive a new local switching support factor.

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

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

| | |
|---|---|
| Telecommunications Plant in Service (TPIS) | Account 2001 |
| Telecommunications Plant - Other | Accounts 2002, 2003, 2005 |
| General Support Assets | Account 2110 |
| Central Office Assets | Accounts 2210, 2220, 2230 |
| Central Office - switching, Category 3 (local switching) | Account 2210 Category 3 |
| Information Origination/Termination Assets | Account 2310 |
| Cable and Wire Facilities Assets | Account 2410 |
| Amortizable Tangible Assets | Account 2680 |
| Intangibles | Account 2690 |
| | |
| Rural Telephone Bank (RTB) Stock | included in Account 1402 |
| Materials and Supplies | Account 1220.1 |
| Cash Working Capital | defined in 47 C.F.R § 65.820(d) |
| | |
| Accumulated Depreciation | Account 3100 |
| Accumulated Amortization | Accounts 3400, 3500, 3600 |
| Net Deferred Operating Income Taxes | Accounts 4100, 4340 |
| Network Support Expenses | Account 6110 |
| General Support Expenses | Account 6120 |
| Central Office Switching, Operator Systems, and Central Office Transmission Expenses | Accounts 6210, 6220, 6230 |
| Information Origination/Termination Expenses | Account 6310 |
| Cable and Wire Facilities Expenses | Account 6410 |

| | |
|---|---|
| Other Property, Plant and Equipment Expenses | Account 6510 |
| Network Operations Expenses | Account 6530 |
| Access Expense | Account 6540 |
| Depreciation and Amortization Expense | Account 6560 |
| Marketing Expense | Account 6610 |
| Services Expense | Account 6620 |
| Corporate Operations Expense | Accounts 6710, 6720 |
| Operating Taxes | Accounts 7230, 7240 |
| | |
| Federal Investment Tax Credits | Accounts 7210 |
| Provision for Deferred Operating Income Taxes - Net | Account 7250 |
| Allowance for Funds Used During Construction | Account 7340 |
| Charitable Contributions | included in Account 7370 |
| Interest and Related Items | Account 7500 |
| | |
| Other Non-Current Assets | Account 1410 |
| Deferred Maintenance and Retirements | Account 1438 |
| Deferred Charges | Account 1439 |
| Other Jurisdictional Assets and Liabilities | Accounts 1500, 4370 |
| Customer Deposits | Account 4040 |
| Other Long-Term Liabilities | Account 4310 |

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

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

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

(2) Telecommunications Plant - Other (Accounts 2002, 2003, 2005); Rural Telephone Bank (RTB) Stock (included in Account 1402); Materials and Supplies (Account 1220.1); Cash Working Capital (§ 65.820(d) of this chapter); Accumulated Amortization (Accounts 3400, 3500, 3600); Net Deferred Operating Income Taxes (Accounts 4100, 4340); Network Support Expenses (Account 6110); Other Property, Plant and Equipment Expenses (Account 6510); Network Operations Expenses (Account 6530); Marketing Expense (Account 6610); Services Expense (Account 6620); Operating Taxes (Accounts 7230, 7240); Federal Investment Tax Credits (Accounts 7210); Provision for Deferred Operating Income Taxes - Net (Account 7250); Interest and Related Items (Account 7500); Allowance for Funds Used During Construction (Account 7340); Charitable Contributions (included in Account 7370);

Other Non-current Assets (Account 1410); Other Jurisdictional Assets and Liabilities (Accounts 1500, 4370); Customer Deposits (Account 4040); Other Long-term Liabilities (Account 4310); and Deferred Maintenance and Retirements (Account 1438) shall be allocated according to the following factor:

Account 2210 Category 3 ÷ Account 2001.

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

Account 2210 Category 3 ÷ Account 2210.

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

Account 2210 Category 3 ÷ Account 2001.

(5) Corporate Operations Expenses (Accounts 6710, 6720) shall be allocated according to the following factor:

{[Account 2210 Category 3 ÷ (Account 2210 + Account 2220 + Account 2230)] x (Account 6210 + Account 6220 + 6230)} ÷ (Account 6210 + Account 6220 + Account 6230 + Account 6310 + Account 6410 + Account 6530 + Account 6610 + Account 6620).

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

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

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

(1) The return component for COE Category 3 shall be obtained by multiplying the projected unseparated local switching average net investment by the authorized interstate rate of return. Unseparated local switching net investment shall be calculated as of each December 31 by deducting the accumulated reserves, deferrals and customer deposits attributable to the COE Category 3 investment from the gross investment attributable to COE

Category 3. The projected unseparated local switching average net investment shall be calculated by summing the projected unseparated local switching net investment as of December 31 of the calendar year following the filing and the projected unseparated local switching net investment as of December 31 of the filing year and dividing by 2.

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

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

(4) Federal income tax shall be calculated using the following formula:

[Return on Investment - Account 7340 - Account 7500 - Account 7210)] x [Federal Income Tax Rate ÷ (1 - Federal Income Tax Rate)].

(e) True-up adjustment.

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

(2) Calculation of true-up adjustment.

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

(ii) The Administrator shall calculate each carrier's local switching support payment, calculated pursuant to 54.301(a), using its historical annual unseparated local switching revenue requirement.

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

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

(f) Calculation of the local switching revenue requirement for average schedule companies.

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

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

5. Section 54.303 is revised to read as follows:

**§ 54.303 Long term support.**

(a) Beginning January 1, 1998, an eligible telecommunications carrier that participates in the association Common Line pool shall receive Long Term Support.

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

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

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

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

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

6. Section 54.307 is amended by revising paragraph (a)(4) by adding a second sentence to read as follows:

**§ 54.307 Support to a competitive eligible telecommunications carrier.**

(a) * * *

(4) * * * The amount of universal service support provided to such incumbent local exchange carrier shall be reduced by an amount equal to the amount provided to such competitive eligible telecommunications carrier.

**Subpart E - Universal Service Support for Low-Income Consumers**

7. Section 54.400 is amended by revising paragraph (d) to read as follows:

**§ 54.400 Terms and definitions.**

* * * * *

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

8. Section 54.403 is amended by adding a new paragraph (d) to read as follows:

**§ 54.403 Lifeline support amount.**

* * * * *

(d) In addition to the $7.00 per qualifying low-income consumer described in paragraph (a) of this section, eligible incumbent local exchange carriers that serve qualifying low-income consumers who have toll blocking shall receive federal Lifeline support in amounts equal to the presubscribed interexchange carrier charge that incumbent local exchange carriers would be permitted to recover from such low-income consumers pursuant to § 69.153(b) of this chapter. Eligible incumbent local exchange carriers that serve qualifying low-income consumers who have toll blocking shall apply this support to waive qualifying low-income consumers' presubscribed interexchange carrier charges. A competitive eligible

telecommunications carrier that serves qualifying low-income consumers who have toll blocking shall receive federal Lifeline support in an amount equal to the presubscribed interexchange carrier charge that the incumbent local exchange carrier in that area would be permitted to recover, if it served those consumers.

**Subpart F - Universal Service Support for Schools and Libraries**

9. Section 54.500 is revised to read as follows:

**§ 54.500 Terms and definitions.**

(a) Billed entity. A "billed entity" is the entity that remits payment to service providers for services rendered to eligible schools and libraries.

(b) Elementary school. An "elementary school" is a non-profit institutional day or residential school that provides elementary education, as determined under state law.

(c) Library. A "library" includes:

(1) A public library;

(2) A public elementary school or secondary school library;

(3) An academic library;

(4) A research library, which for the purpose of this section means a library that:

(i) Makes publicly available library services and materials suitable for scholarly research and not otherwise available to the public; and

(ii) Is not an integral part of an institution of higher education; and

(5) A private library, but only if the state in which such private library is located determines that the library should be considered a library for the purposes of this definition.

(d) Library consortium. A "library consortium" is any local, statewide, regional, or interstate cooperative association of libraries that provides for the systematic and effective coordination of the resources of schools, public, academic, and special libraries and information centers, for improving services to the clientele of such libraries. For the purposes of these rules, references to library will also refer to library consortium.

(e) Lowest corresponding price. "Lowest corresponding price" is the lowest price that a service provider charges to non-residential customers who are similarly situated to a particular school, library, or library consortium for similar services.

(f) Master contract. A "master contract" is a contract negotiated with a service provider by a third party, the terms and conditions of which are then made available to an eligible school, library, rural health care provider, or consortium that purchases directly from the service provider.

(g) Minor contract modification. A "minor contract modification" is a change to a universal service contract that is within the scope of the original contract and has no effect or merely a negligible effect on price, quantity, quality, or delivery under the original contract.

(h) National school lunch program. The "national school lunch program" is a program administered by the U.S. Department of Agriculture and state agencies that provides free or reduced price lunches to economically disadvantaged children. A child whose family income is between 130 percent and 185 percent of applicable family size income levels contained in the nonfarm poverty guidelines prescribed by the Office of Management and Budget is eligible for a reduced price lunch. A child whose family income is 130 percent or less of applicable family size income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget is eligible for a free lunch.

(i) Pre-discount price. The "pre-discount price" means, in this subpart, the price the service provider agrees to accept as total payment for its telecommunications or information services. This amount is the sum of the amount the service provider expects to receive from the eligible school or library and the amount it expects to receive as reimbursement from the universal service support mechanisms for the discounts provided under this subpart.

(j) Secondary school. A "secondary school" is a non-profit institutional day or residential school that provides secondary education, as determined under state law. A secondary school does not offer education beyond grade 12.

(k) State telecommunications network. A "state telecommunications network" is a state government entity that procures, among other things, telecommunications offerings from multiple service providers and bundles such offerings into packages available to schools, libraries, or rural health care providers that are eligible for universal service support, or a state government entity that provides, using its own facilities, such telecommunications offerings to such schools, libraries, and rural health care providers.

(l) Wide area network. For purposes of this subpart, a "wide area network" is a voice or data network that provides connections from one or more computers within an eligible school or library to one or more computers or networks that are external to such eligible