V. ADMINISTRATION

A. Billing and Collection

1. Background

60. On July 18, 1997, the Commission released the *NECA Order* establishing the structure of the three corporations that the Commission initially charged with administering the federal universal service support mechanisms.[198] In the *NECA Order*, the Commission directed the National Exchange Carrier Association, Inc. (NECA) to create USAC to administer the high cost and low-income support mechanisms, SLC to administer the schools and libraries support mechanism, and RHCC to administer the rural health care providers support mechanism.[199] The Commission directed that USAC perform billing, collection, and disbursement functions for all of the universal service support mechanisms.[200] It further required USAC to identify the costs that can be directly attributed to the high cost, low-income, schools and libraries, and rural health care programs, and to include those costs in the projected administrative expenses of each of the programs respectively.[201] The Commission further directed USAC to include one-fourth of USAC's joint and common billing and collection costs in the projected administrative expenses of the high cost, low-income, schools and libraries, and rural health care programs respectively.[202]

61. In its *May 8, 1998 Report to Congress*, the Commission proposed merging the SLC and RHCC into USAC as the single entity responsible for administering all of the universal service support mechanisms on a permanent basis.[203] In preparation for reorganizing the structure of the universal service support mechanisms, the Commission directed USAC to

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[198] *Changes to the Board of Directors of the National Exchange Carrier Association, Inc. and Federal-State Joint Board on Universal Service*, Second Report and Order and Second Order on Reconsideration, CC Docket No. 97-21 and 96-45, 12 FCC Rcd 18400 (*NECA Order*).

[199] *NECA Order*, 12 FCC Rcd at 18418, para. 30.

[200] *Id.*

[201] *Id.* at 18426, para. 47.

[202] *Id.*

[203] *Federal-State Joint Board on Universal Service, Report in Response to Senate Bill 1768 and Conference Report on H.R. 3579*, CC Docket No. 96-45, Report to Congress, 13 FCC Rcd. 11810, 11815 at para. 8 (May 8, 1998) (*May 8, 1998 Report to Congress*).

prepare and submit a plan for reorganization.[204] USAC filed its Plan for Reorganization (USAC Plan) on July 1, 1998. Among other things, the USAC Plan recommended that USAC submit a proposed allocation method to the Commission for approval, in order to ensure a fair and accurate allocation of costs to the four support mechanisms.[205] On November 20, 1998, the Commission issued an order revising the organizational structure of the universal service support mechanisms.[206] Based upon the USAC Plan, the Commission directed USAC to submit to the Commission for approval, by December 31, 1998, a proposed method for allocating costs among the four support mechanisms that would be consistent with the Commission's rule.[207]

62. The proposal submitted by USAC in December 1998 did not recommend any changes in the method of allocating USAC's joint and common costs. USAC apparently felt constrained in its ability to change the allocation of joint and common billing and collection costs to the four support mechanisms because of the language in the *NECA Order*.[208] In the USAC Report, USAC recommends that the Commission reallocate billing and collections costs.[209] Specifically, USAC notes that, although the original method of allocation, which is based on development costs for 1998 and early 1999, may have been appropriate for the first year of the programs, in the future it would be better to use an allocator that is based on the actual size of the programs because that information is now available.[210] USAC explains that the continued use of equal allocations will make the rural health care program responsible for too much of the joint and common costs associated with billing and collection.[211] According to USAC, if allocations were based on program size for all four programs, the rural health care support mechanism would only be responsible for 0.1 percent of the total cost of the billing, collection,

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[204] Letter from Kathy Brown, Chief, Common Carrier Bureau, FCC, to the board of directors of the Universal Service Administrative Company, the Schools and Libraries Corporation, and the Rural Health Care Corporation, dated May 15, 1998.

[205] USAC Plan, Appendix A-3 at 25.

[206] *See USAC Reorganization Order,* 13 FCC Rcd at 25059, para. 1. As of January 1, 1999 USAC serves as the single entity responsible for administering all of the universal service support mechanisms. *Id.*

[207] *USAC Reorganization Order,* 13 FCC Rcd at 25090, para. 61.

[208] *See NECA Order,* 12 FCC Rcd at 18426, para. 47.

[209] USAC Report at 3.

[210] *Id.* at 45.

[211] *Id.*

and disbursement functions that USAC performs on behalf of all of the programs.[212] USAC, therefore, urges the Commission to revise the method of allocation of billing and collection costs so that it is based upon the volume of disbursements by each program.[213]

2. Discussion

63. Consistent with the USAC Report, we direct USAC to include its joint and common billing and collection costs in the projected administrative expenses of the high cost, low-income, schools and libraries, and rural health care programs, based upon the volume of disbursements by each program, beginning January 1, 2000. We agree with USAC that, in order to ensure a fair and accurate allocation of billing and collection costs among the four support mechanisms, it is better to use an allocator that takes into account the actual size of the programs. The Commission did not know, in 1997, the actual size of the individual programs, or the extent of the difference in their sizes. Based upon the information in the record, we find that there is no longer any rational basis for requiring the rural health care program to be responsible for twenty-five percent of the joint and common billing and collection costs in question. We further find that continuing to include one-fourth of USAC's joint and common billing and collection costs in the projected administrative expenses of the rural health care program would place a disproportionate burden on the rural health care support mechanism.

B. Consolidation of Support Mechanisms

1. Background

64. As previously noted, in its *May 8, 1998 Report to Congress*, the Commission proposed merging the SLC and RHCC into USAC as the single entity responsible for administering all of the universal service support mechanisms on a permanent basis,[214] and USAC submitted a plan for accomplishing that task. USAC's plan proposed that, where efficiencies can be achieved, functions and operations that are common to the administration of all three universal service support mechanisms would be consolidated.[215] The USAC Plan further

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[212] *Id.*

[213] *Id.* at 3.

[214] *May 8, 1998 Report to Congress,* 13 FCC Rcd at 11815, para. 8.

[215] USAC Plan at 8; *see also USAC Reorganization Order,* 13 FCC Rcd at 25085, para. 50. For example, the USAC Plan proposed consolidating the administration of its finances; audits; budget submission; liaison with the Commission and contributing carriers; regulatory filings; outside counsel; invoice processing system; website; and

proposed maintaining the separate operation of those functions that are unique to a particular support mechanism because, for those functions, greater efficiencies would be achieved through separate operations.[216] The USAC Plan noted, however, that certain operations would be kept separate only for a transitional period to maintain continuity for employees and the public, and to allow for the expiration or assignment of certain existing contracts that were operating effectively.[217]

65. The Commission found that the USAC Plan would result in administrative efficiencies, and that establishing each corporation as a division within USAC would preserve the distinct mission of each support mechanism.[218] Subject to a few modifications and clarifications, the Commission adopted the USAC Plan's proposals for the new USAC.[219] The Commission noted, however, that we will review USAC's performance after one year from the merger to assess whether USAC has succeeded in eliminating duplicative functions, and whether it has succeeded in maintaining the distinct missions of the schools and libraries and rural health care support mechanisms.[220] Moreover, the *USAC Reorganization Order* states that the Commission would continue to evaluate ways of achieving greater efficiency, effectiveness, and accountability in the administration of the universal service support mechanisms.[221]

66. The USAC Report notes that, although USAC has combined some functions as a result of the merger, there are additional program and process consolidations that could reduce administrative expenses.[222] USAC recommends further consolidating vendor support for web

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human resources. USAC Plan at 9-12; *see also USAC Reorganization Order,* 13 FCC Rcd at 25085-89, paras. 50-58.

[216] USAC Plan at 8; *see also USAC Reorganization Order,* 13 FCC Rcd at 25085, para. 50. For example, the USAC Plan proposed maintaining separately the process for ensuring the integrity of and evaluating the progress of each support mechanism. USAC Plan at 12; *see also USAC Reorganization Order,* 13 FCC Rcd at 25087-88, para. 56.

[217] USAC Plan at 8; *see also USAC Reorganization Order,* 13 FCC Rcd at 25085, para. 50. For example, the USAC Plan proposed temporarily maintaining separate websites and client support centers. USAC Plan at 12; *see also USAC Reorganization Order,* 13 FCC Rcd at 25087-88, paras. 56-7.

[218] *USAC Reorganization Order*, 13 FCC Rcd at 25065, para. 12.

[219] *Id.* at 25089, para. 59.

[220] *Id.* at 25090, para. 63.

[221] *Id.*

[222] USAC Report at 45.

site maintenance; provision of help desk services; application handling; and outreach.[223] USAC reports that, if programs and processes are sufficiently consolidated, the Commission should direct that RHCD be merged into one of the other divisions.[224] USAC indicates that there would be two options: merging RHCD with the Schools and Libraries Division (SLD), or with the High Cost/Low Income Division.[225] USAC suggests that the current SLD and RHCD programs and processes have more in common, and therefore, would be the best combination.[226] USAC indicates that, in the event that there are significant changes in the rural health care support mechanism, the best option could be to merge RHCD with the High Cost/Low Income Division.[227]

2. Discussion

67. Consistent with the *USAC Reorganization Order*, we conclude that, where efficiencies can be achieved, USAC should consolidate the functions and operations that are common to the administration of all three universal service support mechanisms.[228] We decline, however, to further direct the consolidation of any additional specific functions and operations at this time. There is very little information in the record upon which to base any decision to further consolidate additional functions of the various universal service support mechanisms. Although both the schools and libraries, and rural health care programs have completed their first funding cycle, there will be enough changes to the rural health care program as a result of this Order, that the rural health care program will, in essence, be repeating its first program year. We believe that, under these circumstances, not only would it be difficult to identify with any certainty the division with which we should merge RHCD, we find that there would be little benefit to merging RHCD with any of the other divisions of USAC while RHCD is undergoing significant change. Moreover, as we indicated in the *USAC Reorganization Order*, we will review USAC's performance after one year from the merger to assess whether USAC has succeeded in eliminating duplicative functions, and whether it has succeeded in preserving the distinct missions of the schools and libraries, and rural health care support mechanisms.[229] Given that it

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223 *Id.*

224 *Id.* at 46.

225 *Id.*

226 *Id.*

227 *Id.*

228 *See USAC Reorganization Order,* 13 FCC Rcd at 25085, para. 50.

has been less than one year since the merger, we conclude that it would be premature to further direct the consolidation of additional functions and operations that are common to the administration of the support mechanisms.

VI. CONCLUSION

68. In this *Fifteenth Order on Reconsideration* we reconsider three categories of issues that limited the effectiveness of the rural health care support mechanism: (1) services eligible for support; (2) entities eligible for support; and (3) the administration of the rural health care support mechanism.

69. We eliminate the per-location funding limit because it is no longer necessary to ensure that demand for support remains below the $400 million per year cap that the Commission established in the *Universal Service Order*, and it is unduly interfering with the ability of the rural health care providers to receive all of the benefits of the rural health care support program. We, therefore, direct USAC to provide support for any commercially available telecommunications services regardless of the bandwidth, and we revise section 54.613 of the Commission's rules to reflect this change. We also determine that most of the base rates for telecommunications service elements charged to rural health care providers are already reasonably comparable to those charged in urban areas, thus, there is generally no need for USAC to compare the tariffed or publicly-available base rates for telecommunications service elements to determine the amount of support that it can provide for the benefit of a rural health care provider. Accordingly, we direct that the Administrator must calculate support based upon all actual distance-based charges.

70. We clarify our intention regarding entities eligible for support by affirming the conclusion that we reached in the *Universal Service Order* that, despite the difficulties of allocating costs and preventing abuses, the benefits of permitting rural health care providers to join consortium with other subscribers of telecommunications service outweigh the danger that such arrangements will lead to significant abuse of the prohibition on resale.[230] Accordingly, we find that new members may be added to a consortium at any time after the rural health care provider applies for universal service support. We also conclude that, a rural health care provider participating in a consortium with ineligible private sector members may receive support, even it the consortium is receiving a tariffed or market rate that includes a volume discount.

71. Finally, we modify the administration of the rural health care support mechanism by adopting USAC's proposal for a more equitable distribution of USAC's joint and common

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[229] *Id.* at 25090, para. 63.

[230] *See Universal Service Order*, 12 FCC Rcd at 9146, para. 719.

billing and collection costs. Specifically, we direct USAC to include its joint and common billing and collection costs in the projected administrative expenses of the high cost, low-income, schools and libraries, and rural health care programs, based upon the volume of disbursements by each program.

VII. SUPPLEMENTAL FINAL REGULATORY FLEXIBILITY ANALYSIS

72. In compliance with the Regulatory Flexibility Act (RFA),[231] this Supplemental Final Regulatory Flexibility Analysis (SFRFA) supplements the Final Regulatory Flexibility Analysis (FRFA) included in the *Universal Service Order*[232] only to the extent that changes to that Order adopted herein on reconsideration require changes in the conclusions reached in the FRFA. As required by section 603 RFA, 5 U.S.C. § 603, the FRFA was preceded by an Initial Regulatory Flexibility Analysis (IRFA) incorporated in the Notice of Proposed Rulemaking and Order Establishing the Joint Board (NPRM), and an IRFA, prepared in connection with the Recommended Decision, which sought written public comment on the proposals in the NPRM and the Recommended Decision.[233]

73. *Need for and Objective of this Order.* The Commission is required by section 254 of the Act to promulgate rules to implement promptly the universal service provisions of section 254. On May 8, 1997, the Commission adopted rules whose principle goal is to reform our system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition. In this Order, we reconsider two aspects of those rules and clarify one aspect of those rules. First, we direct USAC to provide support for any commercially available telecommunications service necessary for health care in rural areas, regardless of the bandwidth.[234] Second, we find that the Administrator need not compare the tariffed or publicly-available base rates for telecommunications service elements to ensure that rural health care providers are receiving rates that are reasonably comparable to those in urban areas, and we direct the Administrator to calculate support based upon all actual distance-based charges.[235] Finally, we clarify that new members may be added to a consortia at any time after the rural health care provider applies for universal service support.[236] We also conclude that, a rural health care provider participating in a consortium with eligible private sector members may receive support, even if the consortium is receiving a tariffed or market rate that includes a

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231 *See* 5 U.S.C. § 604. The Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*, was amended by the "Small Business Regulatory Enforcement Act of 1996" (SBREFA), Subtitle II of the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996).

232 *Universal Service Order*, 12 FCC Rcd at 9219-9260, paras. 870-983.

233 61 Fed. Reg. 63,778, 63,796 (1996).

234 *See* para. 17 *supra.*

235 *See* para. 32 *supra.*

236 *See* para. 53 *supra.*

volume discount.[237] Because of the difficulties of allocating costs and preventing abuses, we find that, in addition to telecommunications carriers, health care providers, and consortia of health care providers must share in the responsibility for calculating and justifying the request for support by maintaining documentation of the amount of support for which each member of a consortium is eligible.[238]

74. *Summary and Analysis of the Significant Issues Raised by Public Comments in Response to the IRFA.* In this Order, the Commission simplifies the process for rural health care providers to receive support from the universal service support mechanism. The Commission reconsiders, on its own motion, the rules that define the services that are eligible for support, and clarifies the definition of the entities eligible to receive the benefits of that support. In addition, the Commission clarifies the rules associated with the administration of the universal service support mechanisms. Specifically, the Order modifies the rules to allow the universal service mechanism for rural health care providers to support any commercially available telecommunications service regardless of the bandwidth, and allow the Administrator to calculate support based solely upon all actual distance-based charges. The Order clarifies the rules to allow a rural health care provider participating in a consortium with ineligible private sector members to be able to receive support even if the consortium is receiving a tariffed or market rate that includes a volume discount. It also clarifies the rules to enable USAC to include its joint and common billing and collection costs in the projected administrative expenses of the high cost, low-income, schools and libraries, and rural health care programs, based upon the volume of disbursements by each program.

75. *Description and Estimates of the Number of Small Entities to Which the Rules Adopted in this Order will Apply.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[239] The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[240] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[241] A small business concern is one which: (1)

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[237] *Id.*

[238] *See* para. 58 *supra.*

[239] 5 U.S.C. § 603(b)(3).

[240] 5 U.S.C. § 601(6).

[241] 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632). Pursuant to the RFA, the statutory definition of a small business applies "unless an agency, after consultation with

is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[242] A small organization is generally "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field."[243]

76. In the FRFA of the *Universal Service Order*, we estimated and described in detail the number of small entities that might be affected by the new universal service rules.[244] The rules adopted in this Order, however, would affect primarily rural health care providers. Specifically, the Commission modifies the rules that define the services that are eligible for support. Health care providers will now receive universal service support for any commercially available telecommunications services, necessary for the provision of health care services in a state, regardless of the bandwidth. The Commission also revises the rules that calculate support based on the urban/rural rate. Rural health care providers' universal service support will now be calculated using actual distance-based charges. Finally, the Commission clarifies the rules that define limitations on supported services for rural health care providers. Rural health care providers are allowed to participate in a consortium with ineligible private sector members and will be able to receive support even if the consortium is receiving a tariffed or market rate that includes a volume discount. The adopted rules will allow rural health care providers to benefit more fully from the rural health care universal service support mechanism, constituting a positive economic impact on these small entities.

77. As noted above, small entities includes "small businesses," "small organizations," and "small governmental jurisdictions." All three types of small entities may also constitute rural health care providers for the purpose of this analysis. "Small governmental jurisdiction" generally means "governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000."[245] As of 1992, there were approximately 85,006 such jurisdictions in the United States.[246] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.[247] The Census

the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register." 5 U.S.C. § 601(3).

[242] Small Business Act, 15 U.S.C. § 632 (1996).

[243] 5 U.S.C. § 601(4).

[244] *See Universal Service Order*, 12 FCC Rcd at 9242, para. 925.

[245] 5 U.S.C. § 601(5).

[246] U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. As for "small organizations," as of 1992, there were approximately 275,801.[248]

78. In addition, the Commission noted in the *Universal Service Order* that 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.[249] We estimated that there is less than 12,296 health care providers potentially affected by the rules in the *Universal Service Order*.[250] We note that these small entities may potentially be affected by the rules adopted in this Order.

79. *Summary Analysis of the Projected Reporting, Record keeping, and Other Compliance Requirements and Significant Alternatives*. In the FRFA to the *Universal Service Order*, we described the projected reporting, record keeping, and other compliance requirements and significant alternatives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order*. Because the rules adopted herein may only affect those requirements in a marginal way, we incorporate by reference paragraphs 956-60, 968-71, and 980 of the *Universal Service Order*, which describe those requirements and provide the following analysis of the new requirements adopted herein.[251]

80. Under the rules adopted herein, we revise the rules governing the eligibility of services that the universal service support mechanism will support. We find that regardless of whether rural health care providers need services with greater or lower bandwidths, the public interest would be better served by allowing rural health care providers to have affordable access to all modern telecommunications service to provide medical services without regard for the bandwidth thereof. We also revise the rules to allow the Administrator to calculate the support based upon all distance-based charges. We've learned that because of the need to refer to the various tariffs, calculating the difference between the urban and rural base rates for telecommunications is extremely labor intensive. We have determined that most of the base

[247] U.S. Dept. of Commerce, Bureau of the Census, "1992 Census of Governments."

[248] 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[249] *See* 47 U.S.C. § 254(h)(5)(B).

[250] *See Universal Service Order*, 12 FCC Rcd at 9242, para. 924.

[251] *Id.* at 9259.

rates for telecommunications service elements charged to rural health care providers are already comparable to those charged in urban areas so there is no need to continue to require the comparison of tariffs to other publicly available rates. Finally, we revise the rules to show that a rural health care provider participating in a consortium with ineligible private sector members may receive support even if the consortium is receiving a tariffed or market rate that includes a volume discount. We find that, an ineligible private entity that enters into an aggregated purchase agreement with a rural health care provider, and receives a tariff or market rate that includes a volume discount, would not be receiving a below-tariff or below-market rate because of the eligibility status of an rural health care provider participating in the consortium. We also find that new members may be added to a consortium even after the rural health care provider submits it application for support. Finally, because of the difficulties of allocating costs and preventing abuses in consortium arrangements, we find that, in addition to telecommunications carriers, health care providers and consortia of health care providers must maintain documentation of the amount of support for which each member of a consortium is eligible. These changes will not have a significant impact on the reporting, record keeping, and other compliance requirements for participation in the rural health care support program.

81. *Steps Taken to Minimize the Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives.* In the FRFA to the *Universal Service Order*, we described the steps taken to minimize the significant economic impact on a substantial number of small entities consistent with stated objectives associated with the Schools and Libraries section, the Rural Health Care Provider section, and the Administration section of the *Universal Service Order*. Because the rules adopted herein may only affect those requirements in a marginal way, we incorporate by reference paragraphs 961-67, 972-76, and 981-82 of the *Universal Service Order*, which describe those requirements and provide the following analysis of the new requirements adopted herein.[252]

82. Our decision to simplify the process for rural health care providers to receive support from the universal service support mechanism, will benefit rural health care providers, as well as their chosen service providers, who may be small entities. We also find that this approach should permit all parties to use fewer resources (i.e. less time and labor) to access the benefits of the universal service support program.

[252] *Id.*

VIII. ORDERING CLAUSES

83. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4, 201-205, 218-220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 218-220, 254, 303(r), 403, and 405, section 1.108 of the Commission's rules, 47 C.F.R. § 1.108, the Fifteenth Order on Reconsideration IS ADOPTED.

84. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1-4, 201-205, 218-220, 254, 303(r), 403, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 218-220, 254, 303(r), 403, and 405, section 1.108 of the Commission's rules, 47 C.F.R. § 1.108, Part 54 of the Commission's rules, 47 C.F.R. Part 54, ARE AMENDED as set forth in Appendix A attached hereto.

85. IT IS FURTHER ORDERED that, unless otherwise noted in this Fifteenth Order on Reconsideration, the rule changes set forth in Appendix A ARE EFFECTIVE beginning with the third funding cycle of the rural health care universal service support program.

86. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this Fifteenth Order on Reconsideration, including the Supplemental 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

APPENDIX A -- RULE CHANGES

Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

Part 54 -- UNIVERSAL SERVICE

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

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

§ 54.601 Eligibility.

2. Amend section 54.601 by revising sections 54.601(b)(3), 54.601(b)(4), and 54.601(c)(1) to read as follows:

(a) * * *

(1) * * *

(2) * * *

(i) * * *

(ii) * * *

(iii) * * *

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(5) * * *

(b) *Consortia.*

(1) * * *

(2) * * *

(3) Telecommunications carriers, health care providers, and consortia of health care providers shall carefully maintain complete records of how they allocate the costs of shared facilities among consortium participants in order to charge eligible health care providers the correct amounts. Such records shall be available for public inspection.

(4) Telecommunications carriers, health care providers, and consortia of health care providers shall calculate and justify with supporting documentation the amount of support for which each member of a consortium is eligible.

(c) *Services.*

(1) Any telecommunications service that is the subject of a properly completed bona fide request by a rural health care provider shall be eligible for universal service support, subject to the limitations described in this subpart. The length of a supported telecommunications service may not exceed the distance between the health care provider and the point farthest from that provider on the jurisdictional boundary of the nearest large city as defined in § 54.605(c).

(2) * * *

* * * *

§ 54.609 Calculating support.

3. Amend section 54.609 by adding sections 54.609(a)(1), 54.609(a)(2), and 54.609(b), and revising 54.609(c) to read as follows:

(a) * * *

(1) With one exception, the Administrator shall consider the base rates for

telecommunications services elements in rural areas to be reasonably comparable to the base rates charged for similar telecommunications service elements in urban areas in that state, and, therefore, the Administrator shall not include these charges in calculating the support. The Administrator shall include, in the support calculation, all other charges specified above, and all actual distance-based charges as follows:

(i) if the requested service distance is less than or equal to the SUD for the state, the distance-based charge for that service can be no higher than the distance-based charged for a similar service over the same distance in the large city nearest to the rural health care provider;

(ii) if the requested service distance is greater than the SUD for the state, but less than the maximum allowable distance, the distance-based charge for that service can be no higher than the distance-based charged for a similar service in the large city nearest to the rural health care provider over the SUD.

(iii) "Distance-based charges" are charges based on a unit of distance, such as mileage-based charges.

(iv) Except with regard to services provided under § 54.621, a telecommunications carrier that provides telecommunications service to a rural health care provider participating in an eligible health care consortium, and the consortium must establish the actual distance-based charges for the health care provider's portion of the shared telecommunications services.

(2) If a telecommunications carrier, health care provider, and/or consortium of health care providers reasonably determines that the base rates for telecommunications services elements in rural areas are not reasonably comparable to the base rates charged for similar telecommunications service elements in urban areas in that state, the telecommunications carrier, health care provider, and/or consortium of health care providers may request that the Administrator perform a more comprehensive support calculation. The requester shall provide to the Administrator the information to establish both the urban and rural rates consistent with sections 54.605 and 54.607, and submit to the Administrator all of the documentation necessary to substantiate the request.

(i) Except with regard to services provided under § 54.621, a telecommunications carrier that provides telecommunications service to a rural health

care provider participating in an eligible health care consortium, and the consortium must establish the applicable rural base rates for telecommunications service elements for the health care provider's portion of the shared telecommunications services, as well as the applicable urban base rates for the telecommunications service elements.

(b) Absent documentation justifying the amount of universal service support requested for health care providers participating in a consortium, the Administrator shall not allow telecommunications carriers to offset, or receive reimbursement for, the amount eligible for universal service support.

(c) The universal service support mechanisms shall provide support for intrastate telecommunications services, as set forth in § 54.101(a), provided to rural health care providers as well as interstate telecommunications services.

§ 54.613 Limitations on supported services for rural health care providers.

4. Amend section 54.613 by revising 54.613(a), and deleting 54.613(b) to read as follows:

(a) Upon submitting a bona fide request to a telecommunications carrier, each eligible rural health care provider is entitled to receive the most cost-effective, commercially-available telecommunications service at a rate no higher than the highest urban rate, as defined in this subpart, at a distance not to exceed the distance between the eligible health care provider's site and the farthest point from that site that is on the jurisdictional boundary of the nearest large city, as defined in § 54.605(c).

(b) This section shall not affect a rural health care provider's ability to obtain supported services under § 54.621.

Appendix B -- PARTIES FILING IN RESPONSE TO THE UNIVERSAL SERVICE ADMINISTRATIVE COMPANY REPORT TO THE FCC: EVALUATION OF THE RURAL HEALTH CARE PROGRAM
(MARCH 17, 1999 *PUBLIC NOTICE*)
CC Docket Nos. 96-45 and 97-21

Party	Document Filed
State of Alaska	Comments of the State of Alaska on USAC's Report "Evaluation of the Rural Health Care Program"
Commonwealth of the Northern Mariana Islands	Comments of the Commonwealth of the Northern Mariana Islands
National Rural Health	Letter to William Kennard, Chairman, Federal Communications Commission dated March 29, 1999 REF: Universal Service Administrative Company Report to FCC, Evaluation of the Rural Health Care Program
Office for the Advancement of Telehealth, Health Resources and Services Administration of the Health and Human Services Department	Letter to William Kennard dated April 1, 1999 in response to the Federal Communications Commission's Public Notice: DA 99-521 regarding the Universal Service Administrative Company Report to the FCC, "Evaluation of the Rural Health Care Program"
Rural Utilities Service	Reply Comments of the Rural Utilities Service
United States Telephone Association	Comments of the United States Telephone Association
United States Telephone Association	*Notice of Ex Parte* Presentation, from Mary Henze, USTA, to Magalie Roman Salas, FCC (April 30, 1999)

Utah Department of Health	Letter regarding Universal Service Administrative Company Report to FCC on the Rural health Care Program

Separate Statement
of
Commissioner Susan Ness

Re: Changes to the Board of Directors of the National Exchange Carrier Association, Inc.; Federal-State Joint Board on Universal Service (CC Docket Nos. 97-21, 96-45)

I support today's decision to adopt modifications to the rural health care support mechanism that will streamline administrative processes and enhance the overall program. I care deeply about the success of the rural health care program and have been concerned that our efforts have thus far not been as fruitful as they could have been. We need to do more to ensure that the universal service provisions of the Telecommunications Act are implemented as Congress envisioned. More specifically, we need to ensure that our rural areas -- in this instance rural health care providers -- have access to telecommunications services "at rates that are reasonably comparable to rates charged for similar services in urban areas."[1]

With respect to the companion order on eligible telecommunications carriers (ETCs), I support the Commission's decision to reconsider the ETC requirement. Based on comments filed in this proceeding, it is clear to me that the ETC requirement we adopted previously created significant barriers for the rural health care providers that were meant to benefit under the program. Although our earlier decision reflected a prudent approach based on our knowledge at that time, I believe that the expanded interpretation of the rural health care provisions is supported by the statutory language and reflects policy determinations that will better effectuate the goals of the 1996 Act.

For these reasons, I vote in favor of both reconsideration orders, and I am optimistic that our actions today will infuse new life into the rural health care program.

[1] 47 U.S.C. § 254(h)(1)(A).