



September 28, 2011

EX PARTE

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Connect America Fund, WC Docket No. 10-90; A National Broadband Plan for Our Future, GN Docket No. 09-51; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135; High-Cost Universal Service Support, WC Docket No. 05-337; Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Lifeline and Link-Up, WC Docket No. 03-109

Dear Ms. Dortch:

On behalf of AT&T, CenturyLink, FairPoint Communications, Frontier, Verizon, and Windstream (collectively, the ABC Plan Coalition or Coalition), USTelecom submits the attached discussion draft of rules to implement the universal service components of the ABC Plan, which the Coalition filed with the Commission on July 29, 2011 in the above-referenced dockets. These proposed rules are intended to affect only price cap and competitive eligible telecommunications carriers, and do not address rate-of-return elements of the Consensus Framework filed with the Commission on July 29, 2011, in the above-referenced dockets. The Coalition continues its work on drafting proposed rules to implement the ABC Plan's transitional access replacement mechanism and the intercarrier compensation components of the ABC Plan.

Sincerely,

A handwritten signature in blue ink that reads "Jonathan Banks".

Jonathan Banks

Attachment

cc: Amy Bender
Carol Matthey

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[Note: The ABC Plan proposes an Advanced Mobility/Satellite Fund (AMF), but does not go into detail on its operation. In turn, these proposed modifications to the Commission's universal service rules do not address the operation of the AMF, but the Commission will need to modify its rules to address operation of that fund. Similarly, the ABC Plan did not propose specific competitive bidding procedures for the Connect America Fund; thus, the Commission will need to adopt new rules to implement its competitive process. Finally, the Commission will need to modify its rules to implement that part of the Consensus Framework that is applicable only to rate-of-return carriers.]

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

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Subpart F – Universal Service Fund

§ 36.601 General

(d) Phase-down in high-cost loop support for price cap local exchange carriers. As of July 1, 2012, the calculation of high-cost loop support in this subpart will no longer apply to price cap local exchange carriers and the Commission shall divide high-cost loop support into separate pools for both rate-of-return incumbent local exchange carriers and price cap local exchange carriers. The Commission shall phase down high-cost loop support for price cap local exchange carriers pursuant to § 54.319.

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§ 36.605 Calculation of safety net additive.

(d) Phase-down in safety net additive support for price cap local exchange carriers. As of July 1, 2012, the calculation of safety net additive support in this section will no longer apply to price cap local exchange carriers. The Commission shall phase down safety net additive support for price cap local exchange carriers pursuant to § 54.319.

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PART 54 – UNIVERSAL SERVICE

Subpart A – General Information

§ 54.5 Terms and definitions.

Terms used in this part have the following meanings:

Act. The term “Act” refers to the Communications Act of 1934, as amended.

Administrator. The term “Administrator” shall refer to the Universal Service Administrative Company that is an independent subsidiary of the National Exchange Carrier Association, Inc., and that has been appointed the permanent Administrator of the federal universal service support mechanisms.

Active service location. The term “active service location” means a service location that is expected to take broadband service as defined in the Connect America Fund model.

Affiliated company group. An “affiliated company group” is a nationwide aggregation of companies of the same type (*i.e.*, price cap incumbent local exchange carrier, rate-of-return local exchange carrier, competitive local exchange carrier, mobile wireless carrier) that are commonly-owned or controlled.

Alternative technology threshold. The “alternative technology threshold” is the amount, as determined by the Commission, at which a high-cost census block with an average per service location cost in excess of this amount will not be included in the calculation of Connect America Fund baseline support.

Average cost per service location. The “average cost per service location” is the modeled cost of providing broadband service to all service locations in a census block divided by the active service locations in that census block.

Broadband provider. A “broadband provider” is an entity that provides broadband service, regardless of technology.

Broadband service. For purposes of Subparts A through D of this Part 54, “broadband service” means an Internet access service that is capable of providing a minimum downstream bandwidth of 4 Megabits per second and a minimum upstream bandwidth of 768 kilobits per second.

Census block. A “census block” is a census block as that term is defined by the U.S. Census Bureau.

Competitive eligible telecommunications carrier. A “competitive eligible telecommunications carrier” is a carrier that meets the definition of an “eligible telecommunications carrier” below

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and does not meet the definition of an “incumbent local exchange carrier” in §51.5 of this chapter.

Connect America Fund. The “Connect America Fund” is the high-cost universal service mechanism that supports the provision of broadband service in high-cost areas.

Connect America Fund support recipient. A “Connect America Fund support recipient” is a broadband provider that receives support from the Connect America Fund in order to offer broadband service in high-cost areas.

Connect America Fund model. The “Connect America Fund model” is the Commission’s forward-looking cost model that is used to (1) identify high-cost areas served by price cap carriers that are eligible for Connect America Fund support and (2) calculate Connect America Fund support amounts on a census-block basis.

Connect America Fund model support-eligible census block. A “Connect America Fund model support-eligible census block” is a census block in a wire center served by a price cap carrier that (1) is not served by an unsupported broadband competitor as of January 1, 2012 and (2) is a high-cost census block in which the average cost per service location does not exceed the alternative technology threshold.

Contributor. The term “contributor” shall refer to an entity required to contribute to the universal service support mechanisms pursuant to §54.706.

Eligible telecommunications carrier. “Eligible telecommunications carrier” means a carrier designated as such by a state commission or the Commission pursuant to §§ 54.201; 54.202.

High-cost census block. A “high-cost census block” located in a wire center of a price cap carrier is a census block in which the average cost per service location of providing broadband service, as determined by the Connect America Fund model, exceeds the Connect America Fund high-cost benchmark.

Incumbent local exchange carrier. “Incumbent local exchange carrier” or “ILEC” has the same meaning as that term is defined in §51.5 of this chapter.

Information service. “Information service” is the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

Interconnected VoIP Provider. An “interconnected VoIP provider” is an entity that provides interconnected VoIP service, as that term is defined in section 9.3 of these rules.

Internet access. “Internet access” includes the following elements:

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- (1) The transmission of information as common carriage;
- (2) The transmission of information as part of a gateway to an information service, when that transmission does not involve the generation or alteration of the content of information, but may include data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access information services, and that do not affect the presentation of such information to users; and
- (3) Electronic mail services (e-mail).

Interstate telecommunication. “Interstate telecommunication” is a communication or transmission:

- (1) From any State, Territory, or possession of the United States (other than the Canal zone), or the District of Columbia, to any other State, Territory, or possession of the United States (other than the Canal Zone), or the District of Columbia,
- (2) From or to the United States to or from the Canal Zone, insofar as such communication or transmission takes place within the United States, or
- (3) Between points within the United States but through a foreign country.

Interstate transmission. “Interstate transmission” is the same as interstate telecommunication.

Intrastate telecommunication. “Intrastate telecommunication” is a communication or transmission from within any State, Territory, or possession of the United States, or the District of Columbia to a location within that same State, Territory, or possession of the United States, or the District of Columbia.

Intrastate transmission. “Intrastate transmission” is the same as intrastate telecommunication.

LAN. “LAN” is a local area network, which is a set of high-speed links connecting devices, generally computers, on a single shared medium, usually on the user's premises.

Legacy high-cost support. “**Legacy high-cost support**” means support from the following federal high-cost universal service mechanisms: high-cost loop support, high-cost model support, interstate access support, safety valve support, safety net additive support, interstate common line support, and local switching support.

Price cap carrier. “**Price cap carrier**” shall have the same meaning as “**price cap local exchange carrier**” as defined in § 61.3(aa).

Rate-of-return carrier. “Rate-of-return carrier” shall refer to any incumbent local exchange carrier not subject to price cap regulation as that term is defined in §61.3(x) of this chapter.

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Rural area. For purposes of the schools and libraries universal support mechanism, a “rural area” is a nonmetropolitan county or county equivalent, as defined in the Office of Management and Budget's (OMB) Revised Standards for Defining Metropolitan Areas in the 1990s and identifiable from the most recent Metropolitan Statistical Area (MSA) list released by OMB, or any contiguous non-urban Census Tract or Block Numbered Area within an MSA-listed metropolitan county identified in the most recent Goldsmith Modification published by the Office of Rural Health Policy of the U.S. Department of Health and Human Services. For purposes of the rural health care universal service support mechanism, a “rural area” is an area that is entirely outside of a Core Based Statistical Area; is within a Core Based Statistical Area that does not have any Urban Area with a population of 25,000 or greater; or is in a Core Based Statistical Area that contains an Urban Area with a population of 25,000 or greater, but is within a specific census tract that itself does not contain any part of a Place or Urban Area with a population of greater than 25,000. “Core Based Statistical Area” and “Urban Area” are as defined by the Census Bureau and “Place” is as identified by the Census Bureau.

Rural incumbent local exchange carrier. “Rural incumbent local exchange carrier” is a carrier that meets the definitions of “rural telephone company” and “incumbent local exchange carrier,” as those terms are defined in §51.5 of this chapter.

Rural telephone company. “Rural telephone company” has the same meaning as that term is defined in § 51.5 of this chapter.

Service location. A “service location” means a housing unit or a small business premises.

State commission. The term “state commission” means the commission, board or official (by whatever name designated) that, under the laws of any state, has regulatory jurisdiction with respect to intrastate operations of carriers.

Technically feasible. “Technically feasible” means capable of accomplishment as evidenced by prior success under similar circumstances. For example, preexisting access at a particular point evidences the technical feasibility of access at substantially similar points. A determination of technical feasibility does not consider economic, accounting, billing, space or site except that space and site may be considered if there is no possibility of expanding available space.

Telecommunications. “Telecommunications” is the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received.

Telecommunications carrier. A “telecommunications carrier” is any provider of telecommunications services, except that such term does not include aggregators of telecommunications services as defined in section 226 of the Act. A telecommunications carrier shall be treated as a common carrier under the Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage. This definition includes cellular mobile radio service (CMRS) providers, interexchange carriers (IXCs) and, to the extent they are acting as telecommunications carriers, companies that provide

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both telecommunications and information services. Private mobile radio service (PMRS) providers are telecommunications carriers to the extent they provide domestic or international telecommunications for a fee directly to the public.

Telecommunications channel. “Telecommunications channel” means a telephone line, or, in the case of wireless communications, a transmittal line or cell site.

Telecommunications service. “Telecommunications service” is the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Unsupported broadband competitor. An “**unsupported broadband competitor**” for a census block is a facilities-based broadband provider that (1) is not the incumbent local exchange carrier in that census block and (2) provides broadband service in that census block without receiving federal or state legacy high-cost universal service support for the area encompassing the census block.

Voice service. “Voice service” is defined as any service that enables a consumer to make and receive voice communications.

Website. The term “website” shall refer to any websites operated by the Administrator in connection with the schools and libraries support mechanism, the rural health care support mechanism, the high cost mechanism, and the low income mechanism.

Wire center. A wire center is the location of a local switching facility containing one or more central offices, as defined in the Appendix to part 36 of this chapter. The wire center boundaries define the area in which all customers served by a given wire center are located.

§ 54.7 Intended use of federal universal service support.

A carrier **or broadband provider** that receives federal universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services **in order to meet the service obligations** for which the support is intended.

Subpart B—Services Designated for Support

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

(a) *Services designated for **legacy high-cost** support.* The following services or functionalities shall be supported by **the legacy high-cost** federal universal service support mechanisms:

(1) *Voice grade access to the public switched network.* “Voice grade access” is defined as a functionality that enables a user of telecommunications services to transmit voice communications, including signalling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming

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call. For the purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to 3,000 Hertz;

(2) *Local usage*. “Local usage” means an amount of minutes of use of exchange service, prescribed by the Commission, provided free of charge to end users;

(3) *Dual tone multi-frequency signaling or its functional equivalent*. “Dual tone multi-frequency” (DTMF) is a method of signaling that facilitates the transportation of signaling through the network, shortening call set-up time;

(4) *Single-party service or its functional equivalent*. “Single-party service” is telecommunications service that permits users to have exclusive use of a wireline subscriber loop or access line for each call placed, or, in the case of wireless telecommunications carriers, which use spectrum shared among users to provide service, a dedicated message path for the length of a user's particular transmission;

(5) *Access to emergency services*. “Access to emergency services” includes access to services, such as 911 and enhanced 911, provided by local governments or other public safety organizations. 911 is defined as a service that permits a telecommunications user, by dialing the three-digit code “911,” to call emergency services through a Public Service Access Point (PSAP) operated by the local government. “Enhanced 911” is defined as 911 service that includes the ability to provide automatic numbering information (ANI), which enables the PSAP to call back if the call is disconnected, and automatic location information (ALI), which permits emergency service providers to identify the geographic location of the calling party. “Access to emergency services” includes access to 911 and enhanced 911 services to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems;

(6) *Access to operator services*. “Access to operator services” is defined as access to any automatic or live assistance to a consumer to arrange for billing or completion, or both, of a telephone call;

(7) *Access to interexchange service*. “Access to interexchange service” is defined as the use of the loop, as well as that portion of the switch that is paid for by the end user, or the functional equivalent of these network elements in the case of a wireless carrier, necessary to access an interexchange carrier's network;

(8) *Access to directory assistance*. “Access to directory assistance” is defined as access to a service that includes, but is not limited to, making available to customers, upon request, information contained in directory listings; and

(9) *Toll limitation for qualifying low-income consumers*. Toll limitation for qualifying low-income consumers is described in subpart E of this part.

(b) *Requirement to offer all designated services*.

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(1) Regardless of the geographic scope of its designated eligible telecommunications carrier service area, a price cap An-eligible telecommunications carrier or a competitive eligible telecommunication carrier is required to offer must offer each of the services set forth in paragraph (a) of this section only in those wire centers for which the carrier is receiving legacy high-cost support. If a price cap eligible telecommunications carrier or a competitive eligible telecommunications carrier does not receive (or no longer receives) legacy high-cost support in a given wire center, it has no obligations under section 214(e)(1) of the Act and no obligation to offer the services in paragraph (a) of this section in that wire center. in order to receive federal universal service support. No later than July 1, 2016, the provisions of paragraph (a) of this section shall cease to apply to all price cap eligible telecommunications carriers and competitive eligible telecommunications carriers. Once a price cap eligible telecommunications carrier or a competitive eligible telecommunications carrier no longer receives any legacy high-cost support in an area, the carrier no longer is an eligible telecommunications carrier in that area regardless of any other provision of law including, but not limited to, § 54.205.

(2) A rate-of-return eligible telecommunications carrier must offer each of the services set forth in paragraph (a) of this section in order to receive federal universal service support. [To be modified, if necessary, by Consensus Framework rate-of-return coalition members or the Commission.]

(c) *Additional time to complete network upgrades.* A state commission may grant the petition of a telecommunications carrier that is otherwise eligible to receive universal service support under §54.201 requesting additional time to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation. If such petition is granted, the otherwise eligible telecommunications carrier **for legacy high-cost support** will be permitted to receive universal service support for the duration of the period designated by the state commission. State commissions should grant such a request only upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier **for legacy high-cost support** from providing single-party service, access to enhanced 911 service, or toll limitation. The period should extend only as long as the relevant state commission finds that exceptional circumstances exist and should not extend beyond the time that the state commission deems necessary for that eligible telecommunications carrier **for legacy high-cost support** to complete network upgrades. An otherwise eligible telecommunications carrier **for legacy high-cost support** that is incapable of offering one or more of these three specific universal services must demonstrate to the state commission that exceptional circumstances exist with respect to each service for which the carrier desires a grant of additional time to complete network upgrades.

(d) Services designated for Connect America Fund support. The Connect America Fund universal service support mechanism shall support the provision of broadband service that enables access to voice service.

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Subpart C—Carriers and Broadband Providers Eligible for High-Cost Universal Service Support

§ 54.201 Definition of eligible telecommunications carriers for legacy high-cost support, generally.

(a) *Carriers eligible to receive legacy high-cost support.* (1) Beginning January 1, 1998, only eligible telecommunications carriers designated under paragraphs (b) through (d) of this section shall receive legacy high-cost universal service support distributed pursuant to part 36 and part 69 of this chapter, and subparts D and E of this part.

(2) [Reserved]

(3) This paragraph does not apply to offset or reimbursement support distributed pursuant to subpart G of this part.

(4) This paragraph does not apply to support distributed pursuant to subpart F of this part.

(b) A state commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (d) of this section as an eligible telecommunications carrier for legacy high-cost support for a service area designated by the state commission.

(c) Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for legacy high-cost support for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for legacy high-cost support for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

(d) A common carrier designated as an eligible telecommunications carrier for legacy high-cost support under this section shall, in those wire centers for which it receives legacy high-cost support:

(1) Offer the services that are supported by federal legacy high-cost universal service support mechanisms under §54.101(a) through (c) ~~subpart B~~ of this part and section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier for legacy high-cost support); and

(2) Advertise the availability of such services and the charges therefore using media of general distribution.

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(e) For the purposes of this section, the term *facilities* means any physical components of the telecommunications network that are used in the transmission or routing of the services that are designated for support pursuant to subpart B of this part.

(f) For the purposes of this section, the term “own facilities” includes, but is not limited to, facilities obtained as unbundled network elements pursuant to part 51 of this chapter, provided that such facilities meet the definition of the term “facilities” under this subpart.

(g) A state commission shall not require a common carrier, in order to satisfy the requirements of paragraph (d)(1) of this section, to use facilities that are located within the relevant service area, as long as the carrier uses facilities to provide the services designated for support pursuant to subpart B of this part within the service area.

(h) A state commission shall designate a common carrier that meets the requirements of this section as an eligible telecommunications carrier **for legacy high-cost support** irrespective of the technology used by such carrier.

(i) A state commission shall not designate as an eligible telecommunications carrier **for legacy high-cost support** a telecommunications carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services.

§ 54.202 Additional requirements for Commission designation of eligible telecommunications carriers **for legacy high-cost support**.

(a) In order to be designated an eligible telecommunications carrier **for legacy high-cost support** under section 214(e)(6), any common carrier in its application must:

(1) (i) Commit to provide **the services supported by the legacy high-cost support mechanisms** throughout its proposed designated service area to all customers making a reasonable request for service **in those wire centers for which the carrier will receive legacy high-cost support**. Each applicant shall certify that it will:

(A) Provide service on a timely basis to requesting customers ~~within the applicant's service area~~ **within the wire centers for which the applicant receives legacy high-cost support and** where the applicant's network already passes the potential customer's premises; and

(B) Provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area **and within the wire center for which the applicant will receive legacy high-cost support** but outside **the applicant's** ~~its~~ existing network coverage, if service can be provided at reasonable cost by:

(1) Modifying or replacing the requesting customer's equipment;

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- (2) Deploying a roof-mounted antenna or other equipment;
- (3) Adjusting the nearest cell tower;
- (4) Adjusting network or customer facilities;
- (5) Reselling services from another carrier's facilities to provide service; or
- (6) Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.

(ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of **legacy** high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by **legacy** high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of **legacy high-cost** supported services in that area.

(2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

(3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.

(5) Certify that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier **for legacy high-cost support** is providing equal access within the service area.

(b) Any common carrier that has been designated under section 214(e)(6) as an eligible telecommunications carrier **for legacy high-cost support** or that has submitted its application for designation under section 214(e)(6) before the effective date of these rules must submit the information required by paragraph (a) of this section no later than October 1, 2006, as part of its annual reporting requirements under §54.209.

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(c) *Public Interest Standard.* Prior to designating an eligible telecommunications carrier **for legacy high-cost support** pursuant to section 214(e)(6), the Commission determines that such designation is in the public interest. In doing so, the Commission shall consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering. In instances where an eligible telecommunications carrier applicant seeks designation below the study area level of a rural telephone company, the Commission shall also conduct a creamskimming analysis that compares the population density of each wire center in which the eligible telecommunications carrier applicant seeks designation against that of the wire centers in the study area in which the eligible telecommunications carrier applicant does not seek designation. In its creamskimming analysis, the Commission shall consider other factors, such as disaggregation of support pursuant to §54.315 by the incumbent local exchange carrier.

(d) A common carrier seeking designation as an eligible telecommunications carrier **for legacy high-cost support** under section 214(e)(6) for any part of tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the Federal Communications Commission. In addition, the Commission shall send the relevant public notice seeking comment on any petition for designation as an eligible telecommunications carrier on tribal lands, at the time it is released, to the affected tribal government and tribal regulatory authority, as applicable, by overnight express mail.

(e) All eligible telecommunications carriers **for legacy high-cost support** shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. These records should include the following: data supporting line count filings; historical customer records; fixed asset property accounting records; general ledgers; invoice copies for the purchase and maintenance of equipment; maintenance contracts for the upgrade or equipment; and any other relevant documentation. This documentation must be maintained for at least five years from the receipt of funding.

§ 54.203 Designation of eligible telecommunications carriers for unserved areas.

(a) If no common carrier will provide the services that are supported by **the federal legacy high-cost** universal service support mechanisms under section 254(c) of the Act and subpart B of this part to an unserved community or any portion thereof that requests such service, the Commission, with respect to interstate services, or a state commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such **legacy high-cost-supported** service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof.

(b) Any carrier or carriers ordered to provide such **legacy high-cost-supported** service under this section shall meet the requirements of section 54.201(d) and shall be designated as an **legacy high-cost** eligible telecommunications carrier for that community or portion thereof

§ 54.205 Relinquishment of universal service.

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(a) A state commission **or the Commission** shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give advance notice to the state commission **or the Commission** of such relinquishment.

(b) Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the state commission **or the Commission** shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The state commission **or the Commission** shall establish a time, not to exceed one year after the state commission **or the Commission** approves such relinquishment under this section, within which such purchase or construction shall be completed.

§ 54.207 Service areas.

(a) ~~The term *service area* means a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms.~~ **The term *service area* generally means a geographic area for which an eligible telecommunications carrier or Connect America Fund support recipient** ~~A service area defines the overall area for which the carrier shall receive support from federal~~ **high-cost universal service support mechanisms in exchange for satisfying the specific high-cost support mechanism's service obligations in that geographic area. There shall be only one Connect America Fund support recipient per service area.**

(b) **For purposes of legacy high-cost support, in the case of a service area served by a rate-of-return rural telephone company, *service area* means such company's "study area" unless and until the Commission and the states, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of the Act, establish a different definition of service area for such company. For purposes of legacy high-cost support, in the case of a service area served by a price cap carrier or a competitive eligible telecommunications carrier, service area means such company's wire centers where the company receives legacy high-cost support.**

(c) If a state commission proposes to define a service area served by a **rate-of-return** rural telephone company **for purposes of legacy high-cost support** to be other than such company's study area, the Commission will consider that proposed definition in accordance with the procedures set forth in this paragraph.

(1) A state commission or other party seeking the Commission's agreement in redefining a service area served by a rate-of-return rural telephone company shall submit a petition to the Commission. The petition shall contain:

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- (i) The definition proposed by the state commission; and
 - (ii) The state commission's ruling or other official statement presenting the state commission's reasons for adopting its proposed definition, including an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rate-of-return rural telephone company.
- (2) The Commission shall issue a Public Notice of any such petition within fourteen (14) days of its receipt.
- (3) The Commission may initiate a proceeding to consider the petition within ninety (90) days of the release date of the Public Notice.
 - (i) If the Commission initiates a proceeding to consider the petition, the proposed definition shall not take effect until both the state commission and the Commission agree upon the definition of a rural service area, in accordance with paragraph (b) of this section and section 214(e)(5) of the Act.
 - (ii) If the Commission does not act on the petition within ninety (90) days of the release date of the Public Notice, the definition proposed by the state commission will be deemed approved by the Commission and shall take effect in accordance with state procedures.
- (d) The Commission may, on its own motion, initiate a proceeding to consider a definition of a service area served by a **rate-of-return** rural telephone company **for purposes of legacy high-cost support** that is different from that company's study area. If it proposes such different definition, the Commission shall seek the agreement of the state commission according to this paragraph.
 - (1) The Commission shall submit a petition to the state commission according to that state commission's procedures. The petition submitted to the relevant state commission shall contain:
 - (i) The definition proposed by the Commission; and
 - (ii) The Commission's decision presenting its reasons for adopting the proposed definition, including an analysis that takes into account the recommendations of any Federal-State Joint Board convened to provide recommendations with respect to the definition of a service area served by a rate-of-return rural telephone company.
 - (2) The Commission's proposed definition shall not take effect until both the state commission and the Commission agree upon the definition of a rural service area, in accordance with paragraph (b) of this section and section 214(e)(5) of the Act.
- (e) The Commission delegates its authority under paragraphs (c) and (d) of this section to the Chief, Wireline Competition Bureau.

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(f) Connect America Fund Service Area.

(1) For purposes of an area served by a price cap carrier, the Connect America Fund service area means the geographic area consisting of all census blocks in a price cap carrier's wire center that

(i) are not served by an unsupported broadband competitor, as of January 1, 2012, and

(ii) are high-cost. For purposes of this section, a "high-cost census block" has the same meaning as that term is defined in § 54.5. The Commission will establish the high-cost benchmark prior to commencing distribution of support under § 54.317(c).

(2) For purposes of an area served by a rate-of-return carrier, the Connect America Fund service area means [To be proposed by Consensus Framework rate-of-return coalition members or determined by the Commission].

(g) State Role. A state commission may assist the Commission in identifying those high-cost census blocks with unsupported broadband competitors that should be excluded from Connect America Fund service areas that are served by price cap carriers. If a state commission elects to participate in this process, it shall comply with all relevant Commission guidelines and it shall not apply criteria that are inconsistent with those Commission guidelines. A state commission that elects to provide the Commission with verified broadband service deployment information about unsupported broadband providers shall notify the Commission of its decision by January 3, 2012. The Commission shall assume this broadband service deployment verification responsibility for a state if the state commission fails to notify the Commission of its election by this date. The Commission or state commission shall complete this review by February 10, 2012.

§ 54.209 Annual reporting requirements for designated eligible telecommunications carriers, and Connect America Fund support recipients.

(a) A common carrier designated under section 214(e)(6) as an eligible telecommunications carrier for legacy high-cost support shall provide:

(1) A progress report on its five-year service quality improvement plan, including maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level;

(2) Detailed information on any outage, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect

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- (i) At least ten percent of the end users served in a designated service area; or
- (ii) A 911 special facility, as defined in 47 CFR 4.5(e).
- (iii) Specifically, the eligible telecommunications carrier's annual report must include information detailing:

- (A) The date and time of onset of the outage;
- (B) A brief description of the outage and its resolution;
- (C) The particular services affected;
- (D) The geographic areas affected by the outage;
- (E) Steps taken to prevent a similar situation in the future; and
- (F) The number of customers affected.

(3) The number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers, as set forth in §54.202(a)(1)(i);

(4) The number of complaints per 1,000 handsets or lines;

(5) Certification that it is complying with applicable service quality standards and consumer protection rules;

(6) Certification that the carrier is able to function in emergency situations as set forth in §54.201(a)(2);

(7) Certification that the carrier is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas; and

(8) Certification that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier **for legacy high-cost support** is providing equal access within the service area.

(b) *Filing deadlines.* In order for a common carrier designated under section 214(e)(6) to continue to receive support for the following calendar year, or retain its eligible telecommunications carrier designation **for legacy high-cost support**, it must submit the annual reporting information in paragraph (a) no later than October 1, 2006, and thereafter annually by October 1 of each year. Eligible telecommunications carriers **for legacy high-cost support** that file their reports after the October 1 deadline shall receive support pursuant to the following schedule:

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(1) Eligible telecommunication carriers that file no later than January 1 of the subsequent year shall receive support for the second, third and fourth quarters of the subsequent year.

(2) Eligible telecommunication carriers that file no later than April 1 of the subsequent year shall receive support for the third and fourth quarters of the subsequent year.

(3) Eligible telecommunication carriers that file no later than July 1 of the subsequent year shall receive support for the fourth quarter of the subsequent year.

(c) Connect America Fund support recipients shall provide: [To be inserted]

Subpart D—Universal Service Support for High Cost Areas.

§ 54.301 Local switching support.

(g) Phase-down in local switching support for price cap carriers. As of July 1, 2012, the calculations of local switching support in this section will no longer apply to price cap carriers. The Commission shall phase down local switching support for price cap carriers pursuant to § 54.319.

§ 54.305 Sale or transfer of exchanges.

(g) Phase-down in safety valve support for price cap carriers. As of July 1, 2012, the calculations of safety valve support in this section will no longer apply to price cap carriers. The Commission shall phase down safety valve support for price cap carriers pursuant to § 54.319.

§ 54.307 Legacy high-cost Support to a competitive eligible telecommunications carrier.

(a) *Calculation of support.* A competitive eligible telecommunications carrier shall receive **legacy high-cost** universal service support to the extent that the competitive eligible telecommunications carrier captures the subscriber lines of an incumbent local exchange carrier (LEC) or serves new subscriber lines in the incumbent LEC's service area.

(1) A competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5 of this chapter, shall receive **legacy high-cost** support for each line it serves in a particular service area based on the support the incumbent LEC would receive for each such line, disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart. A competitive eligible telecommunications carrier serving loops in the service area of a non-rural incumbent local exchange carrier shall receive **legacy high-cost** support for each line it serves in a particular wire center based on the support the incumbent LEC would receive for each such line. A competitive eligible telecommunications carrier serving loops in the service area of a rate-of-return carrier shall be eligible to receive Interstate

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Common Line Support for each line it serves in the service area in accordance with the formula in § 54.901.

(2) A competitive eligible telecommunications carrier that uses switching purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported **legacy high-cost** services shall receive the lesser of the unbundled network element price for switching or the per-line DEM support of the incumbent LEC, if any. A competitive eligible telecommunications carrier that uses loops purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported **legacy high-cost** services shall receive the lesser of the unbundled network element price for the loop or the incumbent LEC's per-line payment from the high-cost loop support, LTS, and Interstate Common Line Support mechanisms, if any. The incumbent LEC providing nondiscriminatory access to unbundled network elements to such competitive eligible telecommunications carrier shall receive the difference between the level of **legacy high-cost** universal service support provided to the competitive eligible telecommunications carrier and the per-customer level of support that the incumbent LEC would have received.

(3) A competitive eligible telecommunications carrier that provides the **legacy high-cost** supported services using neither unbundled network elements purchased pursuant to § 51.307 of this chapter nor wholesale service purchased pursuant to section 251(c)(4) of the Act will receive the full amount of **legacy high-cost** universal service support that the incumbent LEC would have received for that customer.

(b) In order to receive **legacy high-cost** support pursuant to this subpart, a competitive eligible telecommunications carrier must report to the Administrator the number of working loops it serves in a service area pursuant to the schedule set forth in paragraph (c) of this section. For a competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5, the carrier must report, by customer class, the number of working loops it serves in the service area, disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315. For a competitive eligible telecommunications carrier serving loops in the service area of a non-rural telephone company, the carrier must report the number of working loops it serves in the service area, by customer class if the non-rural telephone company receives Interstate Common Line Support pursuant to § 54.901 and by disaggregation zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart, and the number of working loops it serves in each wire center in the service area. For **legacy high-cost** universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. Competitive eligible telecommunications carriers providing mobile wireless service in an incumbent LEC's service area shall use the customer's billing address for purposes of identifying the service location of a mobile wireless customer in a service area.

(c) A competitive eligible telecommunications carrier **seeking legacy high-cost support** must submit the data required pursuant to paragraph (b) of this section according to the schedule.

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(1) No later than July 31st of each year, submit data as of December 31st of the previous calendar year;

(2) No later than September 30th of each year, submit data as of March 31st of the existing calendar year;

(3) No later than December 30th of each year, submit data as of June 30th of the existing calendar year;

(4) No later than March 30th of each year, submit data as of September 30th of the previous calendar year.

(d) Newly designated eligible telecommunications carriers **for legacy high-cost support**. Notwithstanding the deadlines in paragraph (c) of this section, a carrier shall be eligible to receive **legacy high-cost** support as of the effective date of its designation as an eligible telecommunications carrier under section 214(e)(2) or (e)(6), provided that it submits the data required pursuant to paragraph (b) of this section within 60 days of that effective date. Thereafter, the eligible telecommunications carrier must submit the data required in paragraph (b) of this section pursuant to the schedule in paragraph (c) of this section.

(e) Phase-down in legacy high-cost support. The provisions in this section shall cease to apply beginning July 1, 2012. The Commission shall phase down legacy high-cost support for competitive eligible telecommunications carriers pursuant to § 54.319.

§ 54.309 Calculation and distribution of forward-looking legacy high-cost support for non-rural carriers.

(a) *Calculation of total support available per state.* Beginning January 1, 2000, non-rural incumbent local exchange carriers, and eligible telecommunications carriers serving lines in the service areas of non-rural incumbent local exchange carriers, shall receive ~~universal service support~~ **legacy high-cost support** for the forward-looking economic costs of providing supported **legacy** services in high-cost areas, provided that the State in which the lines served by the carrier are located has complied with the certification requirements in § 54.313. The total amount of forward-looking **legacy high-cost** support available in each State shall be determined according to the following methodology:

(1) For each State, the Commission's cost model shall determine the statewide average forward-looking economic cost (FLEC) per line of providing the supported services. The statewide average FLEC per line shall equal the total FLEC for non-rural carriers to provide the supported services in the State, divided by the number of switched lines used in the Commission's cost model. The total FLEC shall equal average FLEC multiplied by the number of switched lines used in the Commission's cost model.

(2) The Commission's cost model shall determine the national average FLEC per line of

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providing the supported services. The national average FLEC per line shall equal the total FLEC for non-rural carriers to provide the supported services in all States, divided by the total number of switched lines in all States used in the Commission's cost model.

(3) The national cost benchmark shall equal two weighted standard deviations above the national average FLEC per line.

(4) Support calculated pursuant to this section shall be provided to non-rural carriers in each State where the statewide average FLEC per line exceeds the national cost benchmark. The total amount of support provided to non-rural carriers in each State where the statewide average FLEC per line exceeds the national cost benchmark shall equal 76 percent of the amount of the statewide average FLEC per line that exceeds the national cost benchmark, multiplied by the number of lines reported pursuant to § 36.611, § 36.612, and § 54.307 of this chapter.

(5) In the event that a State's statewide average FLEC per line does not exceed the national cost benchmark, non-rural carriers in such State shall be eligible for support pursuant to § 54.311. In the event that a State's statewide average FLEC per line exceeds the national cost benchmark, but the amount of support otherwise provided to a non-rural carrier in that State pursuant to this section is less than the amount that would be provided pursuant to § 54.311, the carrier shall be eligible for support pursuant to § 54.311.

(b) *Distribution of total **legacy high-cost** support available per state.* The total amount of **legacy high-cost** support available per State calculated pursuant to paragraph (a) of this section shall be distributed to non-rural incumbent local exchange carriers, and eligible telecommunications carriers serving lines in the service areas of non-rural incumbent local exchange carriers, in the following manner:

(1) The Commission's cost model shall determine the percentage of the total amount of support available in the State for each wire center by calculating the ratio of the wire center's FLEC above the national cost benchmark to the total FLEC above the national cost benchmark of all wire centers within the State. A wire center's FLEC above the national cost benchmark shall be equal to the wire center's average FLEC per line above the national cost benchmark, multiplied by the number of switched lines in the wire center used in the Commission's cost model;

(2) The total amount of support distributed to each wire center shall be equal to the percentage calculated for the wire center pursuant to paragraph (b)(1) of this section multiplied by the total amount of support available in the state;

(3) The total amount of support for each wire center pursuant to paragraph (b)(2) of this section shall be divided by the number of lines in the wire center reported pursuant to § 36.611, § 36.612, and § 54.307 of this chapter to determine the per-line amount of forward-looking support for that wire center;

(4) The per-line amount of support for each wire center pursuant to paragraph (b)(3) of this

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section shall be multiplied by the number of lines served by a non-rural incumbent local exchange carrier in that wire center, or by an eligible telecommunications carrier in that wire center, as reported pursuant to § 36.611, § 36.612, and § 54.307 of this chapter, to determine the amount of forward-looking support to be provided to that carrier.

(5) The total amount of support calculated for each wire center pursuant to paragraph (b)(4) of this section shall be divided by the number of lines in the wire center to determine the per-line amount of forward-looking support for that wire center;

(6) The per-line amount of support for a wire center calculated pursuant to paragraph (b)(5) of the section shall be multiplied by the number of lines served by a non-rural incumbent local exchange carrier in that wire center, or by an eligible telecommunications carrier in that wire center, to determine the amount of forward-looking support to be provided to that carrier.

(c) *Petition for waiver.* Pursuant to section 1.3 of this chapter, any State may file a petition for waiver of paragraph (b) of this section, asking the Commission to distribute **legacy high-cost** support calculated pursuant to paragraph (a) of this section to a geographic area different than the wire center. Such petition must contain a description of the particular geographic level to which the State desires support to be distributed, and an explanation of how waiver of paragraph (b) of this section will further the preservation and advancement of universal service within the State.

(d) Phase-down in high-cost model support. As of July 1, 2012, the calculations of high-cost model support in this section will no longer apply to price cap carriers. The Commission shall phase down high-cost model support for price cap carriers pursuant to § 54.319.

§ 54.317 Connect America Fund support in areas served by price cap carriers.

(a) Service obligations. (1)(i) A Connect America Fund support recipient shall offer broadband service to a minimum number of service locations in a Connect America Fund service area for which it receives support no later than five years from the date the recipient begins receiving Connect America Fund support for that service area. The recipient shall continue to offer such broadband service for a total of ten years from the date it begins receiving Connect America Fund support for that service area. The Connect America Fund service obligations in a service area begin when the Connect America Fund support recipient receives the first prorated monthly payment of the full committed support amount for that service area. At the conclusion of the recipient's ten-year service term, its Connect America Fund support and service obligations automatically terminate.

(ii) The minimum number of service locations to which a Connect America Fund support recipient is obligated to offer service in its Connect America Fund service area is the total number of service locations in that service area minus the number of service locations that are located in census blocks where the average cost per service location exceeds the alternative technology threshold.

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(iii) If the Connect America Fund support recipient's service area includes census blocks where the average cost per service location exceeds the alternative technology threshold, and the Connect America Fund support recipient elects not to serve certain service locations within that service area, the service locations that it elects not to serve need not be located in census blocks where the average cost per service location exceeds the alternative technology threshold. Rather, the recipient may elect not to serve locations in other census blocks within that service area, or service locations in different service areas, so long as it serves the minimum number of service locations as calculated in paragraph (a)(1)(ii) of this section.

Note to § 54.317(a)(1):

For example, if there are 100 service locations in the service area for which a broadband provider is designated the Connect America Fund support recipient, and 90 of those service locations are in Connect America Fund model support-eligible census blocks and the remaining 10 of those service locations are in a census block where the average cost per service location exceeds the alternative technology threshold, then the recipient is obligated to make broadband service available to a minimum of 90 service locations in its service area. The 10 locations that the recipient may elect not to serve can be anywhere in that service area, i.e., those 10 locations need not be only in the census block where the average cost per service location exceeds the alternative technology threshold, and some or all of those 10 locations may be in different service areas. If a location credit is applied to another service area, the minimum number of locations to be served in that service area is reduced accordingly.

(2) After the Commission selects a Connect America Fund support recipient for a Connect America Fund service area, the Commission shall not modify that support recipient's service obligations or its support amounts during its ten-year service term. Any changes to Connect America Fund service obligations shall be prospective, applying only to new Connect America Fund support recipients that have agreed to the new service obligations in exchange for new Connect America Fund support amounts.

(b) Calculation of Support. The Commission shall use its Connect America Fund model to determine the amount of support available to Connect America Fund support recipients in their Connect America Fund service areas. For purposes of calculating support, the Commission shall run its Connect America Fund model once, at the inception of the Connect America Fund.

(1) Support amount per Connect America Fund model support-eligible census block. The support amount for each of the Connect America Fund model support-eligible census blocks is the modeled cost of providing broadband service for all of the service locations in the census block minus the benchmark cost of the census block as determined by the model.

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(2) Census blocks included. Within each wire center served by a price cap carrier, the Commission will identify which high-cost census blocks are Connect America Fund model support-eligible census blocks (with potential assistance from state commissions in identifying census blocks with unsupported broadband competitors as described in §54.207(g)).

(3) Baseline support for Connect America Fund service areas. The baseline support amount for a given wire center is the sum of the support amounts for the Connect America Fund model support-eligible census blocks within that wire center.

(c) Distribution of Support.

(1) Identification of wire centers with substantial existing broadband investment by price cap carriers. A wire center with “substantial existing broadband investment” means a wire center in which a price cap carrier has made available high-speed Internet access service to more than 35 percent of the service locations. For purposes of this paragraph, “high-speed Internet access service” means data transmission technology that provides two-way data transmission to and from the Internet with advertised speeds of at least 768 kilobits per second downstream and at least 200 kilobits per second upstream to end users.

(i) A price cap carrier may identify its wire centers that contain Connect America Fund-eligible census blocks and have substantial existing broadband investment; and

(ii) If a price cap carrier seeks to be the Connect America Fund support recipient in any of the wire centers it identified in paragraph (c)(1)(i) of this section, it shall provide the Commission with data supporting its findings by March 15, 2012.

(iii) If a price cap carrier provides the Commission with documentation pursuant to paragraph (c)(1)(ii) of this section, the Commission shall review and accept or reject the price cap carrier’s findings by April 16, 2012. If the Commission rejects a carrier’s findings, the carrier shall have five (5) business days to remedy any Commission-identified deficiency and resubmit its supporting data. The Commission shall review and accept or reject any resubmitted data within five (5) business days.

(2) Wire centers with substantial existing broadband investment. For each wire center where the Commission has concluded, pursuant to paragraph (c)(1)(iii) of this section, that a price cap carrier has made a substantial existing broadband investment, the Commission shall offer the price cap carrier the baseline support amount for the wire center by May 1, 2012. If the price cap carrier accepts the Commission’s offer of the baseline support amount, then the price cap carrier assumes the Connect America Fund service obligations, as defined in paragraph (a) of this section, once that carrier begins receiving Connect America Fund support.

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(3) Wire centers not subject to the process set forth in paragraph (2). For wire centers in which the price cap carrier has elected not to participate in the processes described in paragraph (c)(1) of this section or where the Commission has rejected that price cap carrier's data pursuant to paragraph (c)(1)(iii) of this section, any qualified wireless or wireline broadband provider that can meet the Connect America Fund service obligations may apply for the baseline support. If multiple providers apply for the baseline support, the Commission will use a competitive bidding process to select the Connect America Fund support recipient. Support awarded cannot exceed the baseline support amount for the service area and will be provided to the lowest bidder that will meet the Connect America Fund service obligations. If only one qualified provider applies for the baseline support, the Commission shall select that provider as the Connect America Fund support recipient for that service area. The selected bidder assumes the Connect America Fund service obligations, as defined in paragraph (a) of this section.

(4) Wire centers where no provider seeks support. For wire centers where no broadband provider applies for the Connect America Fund baseline support amount, to the extent consistent with the budget for the Connect America Fund, the Commission may reduce the Connect America Fund service obligations or increase the amount of support available to induce any qualified provider to apply to serve the Connect America Fund model support-eligible census blocks of the wire center.

(d) Unused Support. The Commission may use any unawarded or otherwise unused Connect America Fund support available through the processes set forth in this section to further expand broadband in the areas served by price cap carriers or to reduce the size of the Connect America Fund, or the Commission may carry forward such unused support into subsequent funding years to be distributed through the processes set forth in this section.

§ 54.318. Connect America Fund support in areas served by rate-of-return carriers.

[To be proposed by consensus Framework rate-of-return coalition members or determined by the Commission.]

§ 54.319. Phase-down in legacy high-cost support for price cap eligible telecommunications carriers and competitive eligible telecommunications carriers.

(a) On July 1, 2012, the Commission shall reduce by twenty percent the amount of legacy high-cost support that each price cap eligible telecommunications carrier and competitive eligible telecommunications carrier would be eligible to receive, based on its most recent data submissions on file with the Administrator at the end of December 2011, under each legacy high-cost support mechanism as determined on the basis of an affiliated company group. The Commission shall continue to reduce the amount of legacy high-cost support

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that each price cap eligible telecommunications carrier and competitive eligible telecommunications carrier may receive in twenty percent increments every July 1 thereafter, until all legacy high-cost support for price cap eligible telecommunications carriers and competitive eligible telecommunications carriers is eliminated on July 1, 2016.

(b) The Commission will accomplish this reduction in legacy high-cost support each year using the following calculation:

(1) The Commission will use the line counts and other appropriate legacy high-cost support information for each of the high-cost programs submitted by providers at the end of December 2011 to calculate the support each price cap eligible telecommunications carrier and competitive eligible telecommunications carrier would be eligible to receive at an affiliated company group basis for Funding Year 1, which commences on July 1, 2012, and continues through June 30 of the following year.

(2) The Commission will freeze this support amount for each affiliated company group and divide this amount by twelve. Subsequent prior period adjustments shall not affect this amount. Instead, any prior period adjustment shall be executed outside of the frozen amount.

(3) On July 1, 2012, the Commission shall reduce by 20 percent the frozen monthly support amounts that each price cap eligible telecommunications carrier and competitive eligible telecommunications carrier shall receive at an affiliated company group basis.

(4) In each subsequent year of the transition to the Connect America Fund the legacy high-cost support available to each price cap eligible telecommunications carrier and competitive eligible telecommunications carrier will be reduced by another 20 percent of the frozen amount.

(c) Legacy high-cost support available to price cap eligible telecommunications carriers and competitive eligible telecommunications carriers will be phased down on the following schedule:

July 1, 2012 – providers begin to receive 80 percent of frozen monthly amount

July 1, 2013 – providers begin to receive 60 percent of frozen monthly amount

July 1, 2014 – providers begin to receive 40 percent of frozen monthly amount

July 1, 2015 – providers begin to receive 20 percent of frozen monthly amount

July 1, 2016 – legacy high-cost support for price cap eligible telecommunications carriers and competitive eligible telecommunications carriers ends.

§ 54.320. Transition to Connect America Fund support for price cap carriers and competitive eligible telecommunications carriers.

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(a) Price cap eligible telecommunications carriers and competitive eligible telecommunications carriers for legacy high-cost support that do not participate in the Connect America Fund may continue to receive legacy high-cost support, reduced each year in accord with the phase-down in legacy high-cost support in § 54.319, until support from the legacy high-cost programs is fully eliminated on July 1, 2016.

(b) A provider that receives legacy high-cost support as a price cap eligible telecommunications carrier or a competitive eligible telecommunications carrier and elects to participate in the Connect America Fund is required to select whether to receive high-cost support amounts at an affiliated company basis that are either (1) the amount of legacy high-cost support calculated pursuant to § 54.319; or (2) the amount of support available from the Connect America Fund. This election shall first be made on May 15, 2012 and on an annual basis thereafter until the provider elects to receive Connect America Fund support amounts, at which time the provider's remaining legacy high-cost support and legacy high-cost support service and reporting obligations are immediately eliminated.

(c) To ensure an orderly phase down in legacy high-cost support and so that a price cap eligible telecommunications carrier or a competitive eligible telecommunications carrier is not subject to federal and state legacy high-cost support service obligations associated with federal legacy high-cost support in wire centers where that provider no longer receives the amount of legacy high-cost support it received prior to the implementation of § 54.319,

(1) The Commission shall rank the wire centers of every price cap eligible telecommunications carrier and competitive eligible telecommunications carrier at an affiliated company group basis. The Commission shall rank each affiliated company group's wire centers beginning with those wire centers with the highest average monthly per line composite legacy high-cost support and ending with those wire centers with the lowest average monthly per line composite legacy high-cost support. To derive the average monthly per line composite legacy high-cost support for a wire center, the Commission shall combine support from all legacy high-cost support mechanisms for that wire center based on the carrier's most recent data submissions filed with the Administrator at the end of December 2011 and divide that amount by the number of lines in that wire center, as reported by the carrier in December 2011.

(2) As a price cap eligible telecommunications carrier or a competitive eligible telecommunications carrier begins to lose legacy high-cost support pursuant to § 54.319, the Commission shall remove that carrier's legacy high-cost support and associated service obligations on a wire center by wire center basis. This support and service obligation removal process will begin with its wire centers where it had received the lowest average monthly per line composite legacy high-cost support and shall continue in reverse order, from lowest to highest average monthly per line composite legacy high-cost support. The Commission shall perform this process each year, as necessary. The Commission shall inform each carrier and, if applicable, the relevant state commission of the results of this process no later than April 1 of each year until this process is no longer necessary for that carrier.

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(3) The Commission shall apply the process described in this paragraph to carriers at an affiliated company group basis that elect not to participate in the Connect America Fund, as described in paragraph (a) of this section, or that make an annual election to continue receiving the legacy high-cost support amount in lieu of the Connect America Fund support amount for that upcoming funding year, as described in paragraph (b)(2) of this section. For those providers that have elected to receive the legacy high-cost support amount under paragraph (b)(1) because that amount is higher than the Connect America Fund support amount, the carrier shall apply the difference between the two support amounts to the wire center or wire centers that have the highest average monthly per line composite legacy high-cost support. This process shall continue in a cascading fashion until the amount of the difference has been fully applied to those highest-cost wire centers. The carrier shall continue to have legacy high-cost service obligations in those supported wire centers until the carrier elects to receive the Connect America Fund support amount, at which time the carrier's legacy high-cost support and service obligations shall immediately terminate.

(d) If the Commission determines that it is necessary to phase in over three years or less Connect America Fund support to recipients that will provide broadband service in areas served by price cap carriers, it shall implement such a phase in using the following process. This process shall apply to all Connect America Fund service areas, without regard to whether the Commission selected the recipient through the process set forth in § 54.317(c)(2), (3) or (4).

(1) The Commission shall inform each provider it has selected to be a Connect America Fund support recipient by May 5, 2012 how much Connect America Fund support is available both in total and in the first funding year to that provider. Consistent with the amount of Connect America Fund support that is available to a provider in Funding Year 1, a selected provider shall have until June 1, 2012 to provide the Commission with a list of its Connect America Fund service areas where it wants the start date of its ten-year service obligations to commence in July 2012. This process may be repeated, as necessary, for subsequent funding years and providers shall have the opportunity to amend these lists.

(2) Regardless of when the Commission selects its Connect America Fund support recipients, a Connect America Fund support recipient's service obligations do not commence in a particular service area until it begins to receive Connect America Fund support in that service area, as described in § 54.317(a)(1)(i), which may not begin until July 1, 2013 or later.

§ 54.321. Transition to Connect America Fund support for rate-of-return carriers.

[To be proposed by Consensus Framework rate-of-return coalition members or by the Commission.]

Subpart E—Universal Service Support for Low Income Consumers

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[Note: The Commission shall adopt rules in this subpart to delink participation in its low-income program with an entity's status as an eligible telecommunications carrier. Lifeline Providers do not need to be eligible telecommunications carriers. Rather, a Lifeline Provider is any entity that is providing the Lifeline-supported service (i.e., discounted or free voice service) to an eligible low-income consumer. Lifeline obligations for ETCs shall cease along with other ETC obligations consistent with § 54.101(b) if a price cap ETC or a competitive ETC does not receive (or no longer receives) legacy high-cost support in a given wire center. The Commission has developed a record on establishing Lifeline Providers in its pending *Lifeline and Link Up Reform and Modernization Notice of Proposed Rulemaking*, WC Docket No. 11-42, and the ABC Plan Coalition members urge the Commission to adopt final rules to implement a "Lifeline Provider" category of universal service providers and define these providers' service obligations in its forthcoming November 2011 Lifeline/Link-Up order.]

Subpart J – Interstate Access Universal Service Support Mechanism

§ 54.807 Legacy interstate access universal service support.

(a) Each Eligible Telecommunications Carrier (ETC) **for legacy high-cost support** that provides supported service within the study area of a price cap local exchange carrier shall receive Interstate Access Universal Service Support for each line that it serves within that study area.

(b) In any study area within which the price cap local exchange carrier has not established state approved geographically deaveraged rates for UNE loops, the Administrator shall calculate the Interstate Access Universal Service Support Per Line by dividing Study Area Access Universal Service Support by twelve times all eligible telecommunications carriers' base period lines in that study area adjusted for growth during the relevant support period based on the average nationwide annual growth in eligible lines during the three previous years. For the purpose of calculating growth, the Administrator shall use a simple average of annual growth rates for total switched access lines for the three most recent years as reported in the Common Carrier Bureau Report, Statistics of Communications Common Carriers, Table 6.10--Selected Operating Statistics. Interested parties may obtain this report from the U.S. Government Printing Office or by downloading it from the Federal Communication Commission's website <http://www.fcc.gov/ccb/stats>.

(c) In any study area within which the price cap local exchange carrier has established state approved geographically deaveraged rates for UNE loops, the Administrator shall calculate the Interstate Access Universal Service Support Per Line for each customer class and zone using all eligible telecommunications carriers' base period lines by customer class and zone adjusted for growth during the relevant support period based on the average nationwide annual growth in eligible lines during the three previous years. For the purpose of calculating growth, the Administrator shall use a simple average of annual growth rates for total switched access lines for the three most recent years as reported in the Wireline Competition Bureau Report, Statistics of Communications Common Carriers, Table 6.10--Selected Operating Statistics. Support shall

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be allocated to lines in the highest cost UNE zone first, and will “cascade” to lines in lower cost UNE zones to the extent that sufficient funding is available. Beginning with the zone with the highest Zone Average Revenue Per Line, support will be applied in the following order of priority:

(1) To all lines in the highest zone, to eliminate the amount per line by which Zone Average Revenue Per Line exceeds the higher of \$9.20 or the Average Revenue Per Line in the next highest zone;

(2) If the Zone Average Revenue Per Line in the next highest zone is greater than \$9.20, then to all lines in both zones to eliminate the amount per line by which Zone Average Revenue per Line exceeds \$9.20 or the Zone Average Revenue Per Line in the third highest zone. This application of support will continue to additional zones in the same fashion until the amount per line by which Zone Average Revenue Per Line exceeds \$9.20 has been eliminated in all zones, or until the available support has been exhausted;

(3) To all residential and single-line business lines in the highest zone, to eliminate the remaining amount per line that Zone Average Revenue Per Line for these lines exceeds the higher of \$7.00 or Zone Average Revenue Per Line in the next highest zone;

(4) If the Zone Average Revenue per Line in the next highest zone is greater than \$7.00, then to all residential and single-line business lines in both zones to eliminate the remaining amount per line by which Zone Average Revenue Per Line exceeds \$7.00. This application of support will continue to additional zones in the same fashion until the difference between Zone Average Revenue Per Line and \$7.00 has been eliminated in all zones, or until the available support has been exhausted.

(d) Notwithstanding the provisions of § 54.307(a)(2), the per-line support amount determined within each zone by applicable customer class under paragraph (b) or (c) of this section is portable among all eligible telecommunications carriers **for legacy high-cost support** providing service within that zone.

(e) Phase-down in interstate access support. As of July 1, 2012, the calculation of interstate access support in this section will no longer apply to price cap carriers. The Commission shall phase down interstate access support for price cap carriers pursuant to § 54.319.

Subpart K – Interstate Common Line Support Mechanism for Rate-of Return Carriers

§ 54.901 Calculation of Interstate Common Line Support

(c) Phase-down in frozen interstate common line support for rate-of-return carriers that have converted to price cap regulation. As of July 1, 2012, the calculation of frozen interstate common line support for rate-of-return carriers that have converted to price cap regulation in this section will no longer apply to price cap carriers. The Commission shall phase down interstate access support for price cap carriers pursuant to § 54.319.

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Subpart L — Transitional Access Replacement Mechanism

[To be inserted]