

Alaska Tribal Connect America Fund Proposed Rules

Insert following § 54.317-54.321, if that is used for the price cap Connect America Fund, per USTA's ex parte of September 28, 2011. This assumes adoption of USTA's proposed definitions to 47 C.F.R. § 54.5, but could be adopted on a standalone basis by adding in the definition of "legacy high cost support" and "voice service." Note that, like USTA's draft rules, this does not contain any provisions with respect to the access replacement mechanisms.

§ 54.3XX – Alaska Tribal Connect America Fund

(a) **Applicability** – The provisions of this section shall become applicable as of July 1, 2012, and shall govern the distribution of Alaska Tribal Connect America Fund support on and after that date. The Alaska Tribal Connect America Fund shall apply to all Tribal Lands within the state of Alaska. All distribution of legacy high-cost support to ETCs serving Tribal Lands in Alaska shall cease as of June 30, 2012, except for any true-ups or other adjustments applicable to periods prior to July 1, 2012. Sections 54.[317 – Price Cap LEC] through 54.[321 - RoR Transition to CAF] shall not be applicable to any areas to which these provisions are applicable.

(b) **Definitions** – For the purposes of this section only,

(1) "Base Year Per Line Support" means the average amount of legacy high cost support per line that the Administrator used to calculate legacy high cost support during Calendar Year 2010, without prior period adjustments and on a disaggregated basis. For any CETC that elected tribal lands status, Base Year Per Line Support is determined without applying the CETC support cap to Calendar Year 2010 per line support amounts.

(2) "Broadband service" means a packetized data service including access to the Internet of minimum speeds, measured between the network interface unit ("NIU") located at the end-user's premises and the service provider Internet gateway that is the shortest administrative distance from that NIU, as specified in subsection (d)(2) of this section.

(3) "Tribal Lands" means any federally recognized Indian tribe's reservation, pueblo or colony, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

(c) **Size of the Alaska Tribal Connect America Fund** -- For the period July 1, 2012 through June 30, 2022, Alaska Tribal Connect America Fund support shall not exceed the total amount of actual disbursements for legacy high cost support during Calendar Year 2010 to Eligible Telecommunications Carrier service areas serving Tribal Lands in Alaska.

(d) **Service Obligations for all Eligible Telecommunications Carriers receiving Alaska Tribal Connect America Fund support** –

(1) **Voice service** – All eligible telecommunications carriers receiving support pursuant to this section shall provide the services specified in Section 54.101(a) of this section consistent

with its commitments made pursuant to Section 54.202 of this part, and any conditions of its designation as an eligible telecommunications carrier by the FCC or any conditions of such designation by the state commission that are not inconsistent with 47 U.S.C. §§ 214 and 254 and FCC regulations.

(2) Broadband service – After July 1, 2017, all eligible telecommunications carriers receiving support pursuant to this section, either individually or through partnership with another provider, shall offer broadband service, including reasonable performance metrics and usage allowances, as follows in each incumbent LEC service area in which it receives support:

(A) With speeds of at least 4 Mbps download and 768 kbps upload to at least 75% of those residential locations within an incumbent LEC service area that are served solely by fiber optic middle-mile transmission facilities between the eligible telecommunications carrier's end office (or functional equivalent local distribution facility) and an Internet gateway. If satellite or microwave facilities must be used for any portion of the middle-mile transmission between the eligible telecommunications carrier's end office, or functional equivalent, and the Internet gateway, this paragraph shall not apply.

(B) With speeds of at least 1.5 Mbps download and 512 kbps upload to at least 75% of those residential locations within an incumbent LEC service area that are served by microwave middle-mile transmission facilities, such that the eligible telecommunications carrier's end office (or functional equivalent local distribution facility) could be interconnected with an Internet gateway without use of satellite transmission facilities. If satellite facilities must be used for any portion of the middle-mile transmission between the eligible telecommunications carrier's end office, or functional equivalent, and the Internet gateway, this paragraph shall not apply.

(C) With speeds of at least 1 Mbps download and 256 kbps upload to at least 75% of those residential locations within an incumbent LEC service area that are served by satellite middle-mile transmission facilities for any portion of the middle-mile transmission, such that the eligible telecommunications carrier's end office (or functionally equivalent local distribution facility) can be interconnected with an Internet gateway only by utilizing satellite transmission for some portion.

(D) For the purposes of this paragraph, the following may be aggregated for the purpose of meeting broadband service commitments:

- (i) broadband services offered by an Eligible Telecommunications Carrier in more than one study area;
- (ii) broadband services offered within a particular incumbent LEC study area by Eligible Telecommunications Carriers under common ownership; or
- (iii) broadband services offered in partnership by Eligible Telecommunications Carriers in the same study area, where each

Eligible Telecommunications Carrier provisions last-mile and/or middle-mile facilities in the study area.

(E) For any incumbent LEC study area that becomes subject to subparagraph (A) or (B) of this paragraph after July 1, 2012, the eligible telecommunications carrier shall have five years from the date the area becomes subject to subparagraph (A) or (B) to meet the requirements of such subparagraph.

(F) An eligible telecommunications carrier may petition for waiver of the requirements of this paragraph for good cause.

(e) Determination of Alaska Tribal Connect America Fund Support –

(1) For incumbent LECs, the amount of Alaska Tribal Connect America Fund support shall be the annual amount of legacy high cost fund disbursements in a study area that the ILEC received during calendar year 2010 (“ILEC Support”), except as reduced pursuant to paragraph (3). This support shall be disbursed in equal monthly support amounts, determined by dividing the projected annual Alaska Tribal Connect America Fund support by twelve, subject to true-up.

(2) For competitive eligible telecommunications carriers, the amount of Alaska Tribal Connect America Fund support shall be determined annually by multiplying the Base Year Per Line Support in a study area times the number of lines served by the CETC in such study area (“CETC Support”), and then applying any reductions required by paragraph (3).

(3) In the event that, without the adjustment specified in this paragraph, the total amount of Alaska Tribal Connect America Fund support specified by paragraphs (1) and (2) of this subsection would exceed the limit contained in subsection (c), support disbursed pursuant to paragraphs (1) and (2) shall be reduced as follows:

(A) Reduce by 15% the Base Year Per Line Support disbursed for each individual line that exceeds the average monthly high-cost support in all smaller study areas (fewer than 500 lines) in Alaska.

(B) If necessary after completing the reductions specified in subparagraph (A), reduce both the ILEC Support and CETC Support any study area not served by a Rural Telephone Company according to the following schedule:

(i) By up to 20% for the year from July 1, 2012 to June 30, 2013;

(ii) By up to 40% for the year from July 1, 2013 to June 30, 2014;

(iii) By up to 60% for the year from July 1, 2014 to June 30, 2015;

(iv) By up to 80% for the year from July 1, 2015 to June 30, 2016;

(v) By up to 100% for the year from July 1, 2016 to June 30, 2017, and all subsequent years.

(C) If necessary after completing the reductions specified in subparagraphs (A) and (B), reduce by up to 10% the ILEC Support and CETC Support in price cap study

areas that, [on the day prior to the Alaska Tribal Connect America Fund taking effect] received no legacy high cost support from the High Cost Loop Support mechanism.

(D) If necessary after completing the reductions specified in subparagraphs (A), (B) and (C), reduce the ILEC Support and CETC Support in the other, remaining ILEC study areas to the extent needed to comply with subsection (c), up to a maximum of 10 percent. If subsection (c) is still not met, reduce all ILEC Support and CETC Support in all serving areas by an additional statewide uniform percentage necessary to comply with subsection (c).