



NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The Voice of Rural Telecommunications

www.ntca.org

October 17, 2011

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

Ex Parte Notice

In the Matter of 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 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 Thursday, October 13, 2011, the undersigned, on behalf of the National Telecommunications Cooperative Association, together with Stuart Polikoff of the Organization for the Promotion and Advancement of Small Telecommunications Companies, Derrick Owens and Gerry Duffy on behalf of the Western Telecommunications Alliance, Jim Frame and Jeff Dupree from the National Exchange Carrier Association, Larry Thompson from Vantage Point Solutions, Douglas Meredith from John Staurulakis, Inc., Jeff Smith from GVNW, Paul Cooper from Fred Williamson Associates, Mark Gailey from Totah Communications, and Robert DeBroux from TDS Telecommunications Corporation (collectively, the “Rural Representatives”) met in two separate meetings with the following representatives of the Wireline Competition Bureau: (1) Sharon Gillett, Carol Matthey, Gary Siegel, Patrick Halley, Katie King, and Amy Bender; and (2) Rebekah Goodheart, Al Lewis, Doug Slotten, Randy Clarke, Victoria Goldberg, and Travis Littman. Michael Steffen from the Office of General Counsel also attended both meetings. Messrs. Meredith, Smith, Gailey, and Frame participated via telephone.

In the two meetings, the Rural Representatives discussed potential avenues and proposals for reform of existing universal service fund (“USF”) and intercarrier compensation (“ICC”) mechanisms through adoption of an order in the above-referenced proceedings. In each meeting, the Rural Representatives provided staff with a further working draft of proposed rules for implementation of USF and ICC reforms consistent with the plan filed on April 18, 2011, as updated by the “Consensus Framework” joint letter submitted on July 29, 2011 (the “RLEC Plan”). See Comments of NTCA, *et al.* (filed April 18, 2011), at 7-36, 61-74, and Appendices A and C; *Ex Parte* Letter from US Telecom (filed July 29, 2011). A copy of this further working draft of the proposed rules is provided herewith.

NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

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First Meeting – USF Issues

The discussion in the first meeting with staff centered upon a number of potential reforms to the existing USF cost recovery mechanisms.

Long-Term Vision for USF Reform. The Rural Representatives expressed substantial concern with the possible adoption of only near-term reforms – largely in the form of new constraints to legacy USF mechanisms – without the complementary adoption of a longer-term vision for promoting broadband-capable investment through a new Connect America Fund (“CAF”) for rate-of-return-regulated incumbent local exchange carriers (“RLECs”). The RLEC Plan is designed to offer incentives for responsible and effective deployment and maintenance of broadband-capable networks in the near-term, while also defining the ultimate transition from legacy mechanisms to a new CAF over time. Without such comprehensive reform, the Rural Representatives expressed concern that there would be no clear vision or roadmap for how the Federal Communications Commission (the “Commission”) intends to support broadband in RLEC areas. The Rural Representatives also highlighted that such ambiguity, together with the imposition of new near-term constraints *and* the overhang of additional constraints or reductions in support to be considered in a further notice of proposed rulemaking, would only chill investment by RLECs and deter lenders and outside investors by perpetuating regulatory uncertainty. Indeed, such uncertainty might only ironically undermine the objective of seeking even greater cooperation and opportunities for partnership among RLECs. Not only might such uncertainty adversely affect the many partnerships already in place, but it may also cause any given RLEC to question whether new arrangements with a potential RLEC partner has financially sustainable and stable operations.

Premature Adoption of Caps. The Rural Representatives objected to the adoption of any rule that seeks to impose new caps on reimbursable capital expenditures or operating expenses at this time. Although certain caps could – if properly developed and prospectively applied – achieve useful public policy objectives and aid in the sustainability of the USF program, the record at this time does not support the adoption of any rule imposing such caps on recoverable expenses.

The Rural Representatives expressed concern in particular regarding the use of an untested regression analysis to determine support. It was explained by staff that the regression analysis was based upon number of loops, customer density, percentage of water, number of housing units, and six other publically available variables. In addition, the staff stated that the regression analysis would be used to determine settlement recovery for both past and future investments. The Rural Representatives pointed out that a key factor that drives broadband investment is the soil condition. The staff stated that soil conditions were not one of the regression variables. The Rural Representatives also objected to the use of any change to the methodology to recover past investments, since these investments were made in good faith under the current set of rules.

It is unclear what form such caps might take and how they might apply to any given carrier, precisely because they have yet to be developed. Rather than adopting a rule first and then “backing into” the content of it, the Rural Representatives urged the Commission to seek comment and data first on what the caps, if any, should look like, and *to then* adopt a rule if the record supported such a finding. Indeed, given the substantial and severe impact that such a rule could have on USF/CAF support

distribution going forward, this is a politically charged decision that the full Commission *itself* should address, rather than leaving such an essential component of USF reform solely to Commission staff for development and implementation. Put another way, if the Commission *itself* (rather than staff) is going to ultimately approve whatever model will govern the distribution of support in areas served by price-cap regulated carriers, the Commission itself should likewise make the ultimate decision on the final terms and conditions that will govern the distribution of support in RLEC areas.

Discriminatory Disqualification of USF Support. The Rural Representatives expressed concern also with the adoption of any rule at this time that would disqualify an area for support based upon the presence of an unsubsidized competitor. The unrebutted record in this proceeding reveals far too many unanswered questions relating to the implementation of such a rule in RLEC areas. Specifically, the Rural Representatives have made numerous filings listing the many issues that need to be resolved before such an approach could be implemented, and to the Rural Representatives' knowledge, not a single commenter has provided *any* response with respect to any of those issues. *See, e.g.*, Comments of NTCA, *et al.* (filed April 18, 2011), at 51-65; Comments of NTCA, *et al.* (filed August 24, 2011), at 24-28; Reply Comments of NTCA, *et al.* (filed Sept. 6, 2011), at 32-38. Furthermore, the Rural Representatives noted that there is certainly no record basis to consider a *mobile* broadband and voice provider as an "unsubsidized competitor" for purposes of disqualifying support to a carrier providing *fixed* service – or vice versa. Indeed, to the extent any newly created "Mobility Fund" support goes to an area in which an unsubsidized wireline or other fixed service provider operates, the adoption of such a rule would be patently discriminatory – USF/CAF support would be "technology agnostic" for one support stream, but not for another. The Rural Representatives emphasized that fixed and mobile services should be considered "complementary," rather than as "substitutable" for the many reasons already set forth in the record. *See, e.g.*, Comments of the Nebraska Rural Independent Companies, (filed July 12, 2010), at Appendix A, pp. 17-18; Comments of NTCA, *et al.*, (filed July 12, 2010), at 12.

Other USF Reform Issues. The Rural Representatives also urged the Commission: (1) to ensure that any and all "savings" from new constraints on RLEC high-cost USF support accrue to the benefit of other RLECs who require USF support, particularly in light of the fact that the High-Cost Loop support program is capped and thus already denies RLECs full cost recovery; (2) to avoid the adoption of strict per-line caps on support without first giving the companies affected a fair and reasonable opportunity to demonstrate why such support should not be limited or eliminated; (3) to provide for a reasonable phase-out of Safety Net Additive support in lieu of flash-cut elimination; and (4) to ensure that any updates to the existing Corporate Operations Expense cap formula reflect *all* necessary updates, including the effect of inflationary adjustment factors since the formula was first developed.

Second Meeting – ICC Issues

The discussion in the second meeting with staff centered upon a number of potential reforms to the existing ICC cost recovery system.

Local Voice Service Benchmark. The Rural Representatives expressed concern with the adoption of any local voice service benchmark for purposes of ICC reform/restructuring higher than the \$25 benchmark set forth in the RLEC Plan. This benchmark represents a reasonable compromise between “early adopter” states and those that have yet to undertake or complete intrastate ICC reform. In some cases, even states that have completed intrastate ICC reform may need to raise consumer rates to reach at \$30 benchmark. The Rural Representatives explained that a different benchmark for RLECs as compared to other incumbent carriers is justifiable as a matter of law, given that “reasonable comparability” under Section 254 of the Communications Act of 1934, as amended (the “Act”), should reflect that RLEC consumers typically can reach far fewer other consumers through a local call (even with mandatory Extended Area Service).

Imposition of Access Recovery Charges on Multiline Business Customers. The Rural Representatives discussed the potential imposition of different subscriber line-like charges for access recovery on multiline business customers. Unlike some larger carriers, most RLECs already assess the full extent of existing subscriber line charges (“SLCs”), and the Commission should be concerned about adding several more dollars to a customer’s bill over time without reference to any maximum rate benchmark or otherwise taking into account what they already pay in SLCs. The Rural Representatives therefore urged the Commission to subject multiline business customers to the same SLC-like access recovery charge as other customers, in lieu of adopting a different rate for such customers.

Restructure Mechanism. The Rural Representatives noted the essential nature of a restructure mechanism (“RM”) as part of a rate-of-return cost recovery mechanism. Shortfalls in the recovery of interstate or intrastate switched access costs will lead to: (1) higher rates for consumers (where such rates can be raised) in violation of the “reasonable comparability” standard under Section 254 of the Act; (2) carriers retrenching on service in their highest-cost areas; and/or (3) carriers refusing to invest in newer, more efficient switching technologies (such as softswitches) for fear that such costs will be unrecoverable. The Rural Representatives urged the Commission to adopt a fully compensatory RM, such as that set forth in the RLEC Plan and Consensus Framework.

Phantom Traffic. Consistent with prior advocacy, the Rural Representatives asked the Commission to ensure the mid- to long-term efficacy of any phantom traffic rules it might adopt by not only requiring the accurate identification of the jurisdictional nature of any call, but also mandating the identification of the carrier or service provider responsible for that call. Comments of NTCA, *et al.* (filed April 1, 2011), at 16-30.

Rural Transport. Consistent with prior advocacy, the Rural Representatives urged the Commission to adopt a “rural transport” rule consistent with that proposed in the attached working draft of rules. Comments of NTCA, *et al.* (filed August 24, 2011), at 41-42. Such a rule has been under consideration in this proceeding since at least 2006, *see Ex Parte* Letter from NARUC Task Force on

Ms. Marlene H. Dortch
October 17, 2011
Page 5

Intercarrier Compensation (filed July 24, 2006), at Sections I.A and I.C.1 , and remains necessary to ensure that the obligations of RLECs to carry originating non-access traffic do not extend beyond their service area boundaries. Absent such a rule, RLECs could be forced to incur unrecoverable transport costs at a time when ICC reforms may already have a negative impact on network cost recovery.

* * *

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office. If you have any questions, please do not hesitate to contact me at (703) 351-2016 or mromano@ntca.org.

Sincerely,

/s/ Michael R. Romano
Michael R. Romano
Senior Vice President - Policy

Enclosure

cc: Sharon Gillett
Carol Matthey
Gary Siegel
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Doug Slotten
Randy Clarke
Victoria Goldberg
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Michael Steffen

Rule Changes
for
RLEC USF & ICC Reform

Discussion Draft – 10/13/11

TABLE OF CONTENTS

Part 32 – Uniform System of Accounts for Telecommunications Companies 1

Part 36 - Jurisdictional Separations..... 2

Part 51 - Interconnection..... 15

Part 54 - Universal Service..... 18

Part 61 - Tariffs..... 31

Part 64 – Miscellaneous Rules Relating to Common Carriers 34

Part 69 – Access Charges 39

Part 32 – Uniform System of Accounts for Telecommunications Companies

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Subpart E – Instructions for Expense Accounts

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§ 32.6540 Access expense.

(a) This account shall include amounts paid by interexchange carriers or other exchange carriers to another exchange carrier or network provider for the provision of carrier's carrier access. This account shall also include expenses related to facilities and bandwidth capacity associated with connecting the Broadband Access Service Connection Point to the Internet backbone (Middle Mile expense).

(b) Subsidiary record categories shall be maintained in order that the entity may separately report interstate and intrastate carrier's carrier expense. Such subsidiary record categories shall be reported as required by Part 43 of this Commission's Rules and Regulations.

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Part 36 - Jurisdictional Separations

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Subpart B – Telecommunications Property

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CENTRAL OFFICE EQUIPMENT

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§ 36.126 Circuit equipment – Category 4.

(a) For the purpose of this section, the term "Circuit Equipment" encompasses the Radio Systems and Circuit Equipment contained in Accounts 2230 through 2232 respectively. It includes central office equipment, other than switching equipment and automatic message recording equipment, which is used to derive communications transmission channels or which is used for the amplification, modulation, regeneration, testing, balancing or control of signals transmitted over communications transmission channels. Examples of circuit equipment in general use include:

- (1) Carrier telephone and telegraph system terminals.
- (2) Telephone and telegraph repeaters, termination sets, impedance compensators, pulse link repeaters, echo suppressors and other intermediate transmission amplification and balancing equipment except that included in switchboards.
- (3) Radio transmitters, receivers, repeaters and other radio central office equipment except message switching equipment associated with radio systems.
- (4) Composite ringers, line signaling and switching pad circuits.
- (5) Concentration equipment.
- (6) Composite sets and repeating coils.
- (7) Program transmission amplifiers, monitoring devices and volume indicators.
- (8) Testboards, test desks, repair desks and patch bays, including those provided for test and control, and for telegraph and transmission testing.

(b) For apportionment among the operations, the cost of circuit equipment is assigned to the following subsidiary categories:

- (1) *Exchange Circuit Equipment - Category 4.1.*
 - (i) Wideband Exchange Line Circuit Equipment - Category 4.11.
 - (ii) Exchange Trunk Circuit Equipment (Wideband and Non-Wideband) - Category 4.12.
 - (iii) Exchange Line Circuit Equipment Excluding Wideband - Category 4.13.

Part 36
Discussion Draft - 10/13/11

(2) *Interexchange Circuit Equipment - Category 4.2.*

(i) Interexchange Circuit Equipment Furnished to Another Company for Interstate Use - Category 4.21.

(ii) Interexchange Circuit Equipment Used for Wideband Services including Satellite and Earth Station Equipment used for Wideband Service - Category 4.22.

(iii) All Other Interexchange Circuit Equipment - Category 4.23.

(3) *Host/Remote Message Circuit Equipment - Category 4.3*

(4) Middle Mile Circuit Equipment – Category 4.4

~~(4)~~ (5) In addition, for the purpose of identifying and separating property associated with special services, circuit equipment included in Categories 4.12 (other than wideband equipment) 4.13 and 4.23 is identified as either basic circuit equipment, *i.e.*, equipment that performs functions necessary to provide and operate channels suitable for voice transmission (telephone grade channels), or special circuit equipment, *i.e.*, equipment that is peculiar to special service circuits. Carrier telephone terminals and carrier telephone repeaters are examples of basic circuit equipment in general use, while audio program transmission amplifiers, bridges, monitoring devices and volume indicators, telegraph carrier terminals and telegraph repeaters are examples of special circuit equipment in general use. Cost of exchange circuit equipment included in Categories 4.12 and 4.13 and the interexchange circuit equipment in Categories 4.21, 4.22 and 4.23 are segregated between basic circuit equipment and special circuit equipment only at those locations where amounts of interexchange and exchange special circuit equipment are significant. Where such segregation is not made, the total costs in these categories are classified as basic circuit equipment.

~~(5)~~ (6) Effective July 1, 2001, through June 30, 2011, study areas subject to price cap regulation, pursuant to § 61.41, shall assign the average balances of Accounts 2230 through 2232 to the categories/subcategories as specified in §§ 36.126(b)(1) through (b)(4) based on the relative percentage assignment of the average balances of Accounts 2230 through 2232 costs to these categories/subcategories during the twelve month period ending December 31, 2000.

* * *

(g) Apportionment of Middle Mile Circuit Equipment Among the Operations.

(1) Middle Mile Circuit Equipment – Category 4.4. This category includes circuit equipment associated with connecting the Broadband Access Service Connection Point to the Internet backbone.

(i) Middle Mile Circuit Equipment shall be directly assigned to the Interstate Jurisdiction and allocated to private line services.

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Part 36
Discussion Draft - 10/13/11

CABLE AND WIRE FACILITIES

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§ 36.154 Exchange Line Cable and Wire Facilities (C&WF) – Category 1 – apportionment procedures.

(a) *Exchange Line C&WF-Category 1.* The first step in apportioning the cost of exchange line cable and wire facilities among the operations is the determination of an average cost per working loop. This average cost per working loop is determined by dividing the total cost of exchange line cable and wire Category 1 in the study area by the sum of the working loops described in subcategories listed below. The subcategories are:

Subcategory 1.1 - State Private Lines and State WATS Lines. This subcategory shall include all private lines and WATS lines carrying exclusively state traffic as well as private lines and WATS lines carrying both state and interstate traffic if the interstate traffic on the line involved constitutes ten percent or less of the total traffic on the line.

Subcategory 1.2 - Interstate private lines and interstate WATS lines. This subcategory shall include all private lines and WATS lines that carry exclusively interstate traffic as well as private lines and WATS lines carrying both state and interstate traffic if the interstate traffic on the line involved constitutes more than ten percent of the total traffic on the line.

Subcategory 1.3 - Subscriber or common lines that are jointly used for local exchange service and exchange access for state and interstate interexchange services.

(b) The costs assigned to subcategories 1.1 and 1.2 shall be directly assigned to the appropriate jurisdiction.

(c) Effective January 1, 1986, 25 percent of the costs assigned to subcategory 1.3 shall be allocated to the interstate jurisdiction.

(d)-(f) [Reserved]

(g) Effective July 1, 2001, through June 30, 2011, all study areas shall apportion Subcategory 1.3 Exchange Line C&WF among the jurisdictions as specified in § 36.154(c). Direct assignment of subcategory Categories 1.1 and 1.2 Exchange Line C&WF to the jurisdictions shall be updated annually as specified in § 36.154(b).

(h) *Additional Interstate Assignment.* Effective July 1, 2012 and in each calendar year thereafter, rate of return study areas shall increase the apportionment of Subcategory 1.3 Exchange Line C&WF investment to the interstate jurisdiction based on the Broadband Take Rate. The Broadband Take Rate is the ratio of study area Broadband Lines in service to total Broadband Lines and voice-only common lines in service. The Additional Interstate Assignment attributable to the Broadband Take Rate is equal to the excess of the Broadband Take Rate over 25 percent; provided, however, that where the Broadband Take Rate exceeds 50 percent, the portion of the Broadband Take Rate over 50 percent shall be reduced by one-half, such that the Broadband Take Rate for purposes of calculating the Additional Interstate Assignment shall not exceed 75 percent.

Part 36
Discussion Draft - 10/13/11

(i) The Additional Interstate Assignment produced by subsection (h) shall be phased-in as follows:

- (1) 0.0415 for the period July 1, 2012 through December 31, 2012;
- (2) 0.166 in 2013;
- (3) 0.25 in 2014;
- (4) 0.333 in 2015;
- (5) 0.416 in 2016;
- (6) 0.50 in 2017;
- (7) 0.583 in 2018;
- (8) 0.667 in 2019;
- (9) 0.75 in 2020;
- (10) 0.833 in 2021;
- (11) 0.916 in 2022;
- (12) 1.000 in 2023 and subsequent years.

* * *

§ 36.158 Middle Mile Cable and Wire Facilities (C&WF) – Category 5 – apportionment procedures.

(a) Middle Mile C&WF – Category 5. The cost of Middle Mile facilities and services used for connecting the Broadband Access Service connection Point to the Internet backbone.

(1) The cost of C&WF applicable to this category shall be directly assigned to the Interstate jurisdiction and allocated to private line services

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Subpart D – Operating Expenses and Taxes

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§36.354 Access expense--Account 6540.

(a) This account includes access charges paid to exchange carriers for exchange access service. These are directly assigned to the appropriate jurisdiction based on subsidiary record categories or on analysis and study.

Part 36
Discussion Draft - 10/13/11

- (1) Beginning July 1, 2012, Middle Mile access expense shall be directly assigned to the Interstate jurisdiction and allocated to private line services.

* * *

§36.392 General and administrative--Account 6720.

- (a) These expenses are divided into two categories:

- (1) Extended Area Services (EAS).

(2) All other.

- (i) Beginning July 1, 2012, for purposes of computing interstate cost assignments, General and Administrative Expenses shall be limited to the lesser of:

(A) The actual average monthly General and Administrative Expenses for the study period; or

(B) A monthly per-loop amount computed according to paragraphs (a)(2)(i)(B)(1), (a)(2)(i)(B)(2), (a)(2)(i)(B)(3) and (a)(2)(i)(B)(4) of this section, using study period average loops.

(1) For study areas with 6,000 or fewer working loops the amount per working loop shall be $\$33.30853 - (.00246 \times \text{the number of working loops})$, or, $\$50,000 \div \text{the number of working loops}$, whichever is greater;

(2) For study areas with more than 6,000 but fewer than 18,006 working loops, the monthly amount per working loop shall be $\$3.83195 + (88,429.20 \div \text{the number of working loops})$; and

(3) For study areas with 18,006 or more working loops, the amount per working loop shall be $\$8.74472$.

(4) The monthly per-loop amount computed according to paragraphs (a)(2)(i)(B)(1) through, (a)(2)(i)(B)(3) of this section shall be adjusted each year to reflect the annual percentage change in the United States Department of Commerce's Gross Domestic Product--Chained Price Index (GDP-CPI) from January 1, 2002 until the current year.

(5) If a study area's monthly per-loop General and Administrative Expenses require limitation, the per-loop, per-month amount shall be multiplied by 12 months and then by total loops for use in determining maximum expenses permissible for interstate assignment.

- (ii) General and Administrative Expenses not assigned to interstate pursuant to §36.392(a)(i)(A or B) shall be assigned to the intrastate jurisdiction.

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Part 36
Discussion Draft - 10/13/11

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Subpart F – Universal Service Fund

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§ 36.605 Calculation of Safety net additive.

(a) *“Safety net additive support.”* A rural incumbent local exchange carrier shall receive safety net additive support if it satisfies the conditions set forth in paragraph (c) of this section. Safety net additive support is support available to rural telephone companies, as conditioned in paragraph (c) of this section, in addition to support calculated pursuant to § 36.631. ~~Safety net additive support shall not be available to rural telephone companies for exchange(s) that are subject to § 54.305 of this chapter.~~

(b) *Calculation of safety net additive support:* Safety net additive support is equal to the amount of capped support calculated pursuant to this subpart F in the qualifying year minus the amount of support in the year prior to qualifying for support subtracted from the difference between the uncapped expense adjustment for the study area in the qualifying year minus the uncapped expense adjustment in the year prior to qualifying for support as shown in the following equation: Safety net additive support = (Uncapped support in the qualifying year – Uncapped support in the base year) – (Capped support in the qualifying year – Amount of support received in the base year).

(c) *Operation of safety net additive support:*

(1) In any year in which the total carrier loop cost expense adjustment is limited by the provisions of § 36.603 a rural incumbent local exchange carrier shall receive safety net additive support as calculated in paragraph (b) of this section, if in any study area, the rural incumbent local exchange carrier realizes growth in end of period Telecommunications Plant in Service (TPIS), as prescribed in § 32.2001 of this chapter, ~~on a per loop basis~~, of at least 14 percent more than the study area’s TPIS ~~per loop investment~~ at the end of the prior period.

* * *

§ 36.606 Limitations on Loop Plant Capital Expenditures Eligible for Support

(a) For purposes of determining support limitations on loop plant capital expenditures for non-price cap carriers, the following definitions shall apply:

- (1) *Total Loop Investment* is the current gross balance of loop investment adjusted for inflation using the Department of Commerce Gross Domestic Product Chain-type Price Index (GDP-CPI).
- (2) *Total Allowed Loop Expenditure* is the amount of future loop plant that would qualify for support.
- (3) *Annual Allowed Loop Expenditure* is the portion of the Total Allowed Loop Expenditure eligible for support in the investment year.

Part 36
Discussion Draft - 10/13/11

- (4) Excess Loop Expenditure is the amount of loop plant investment in a given year that exceeds the Annual Allowed Loop Expenditure. The Excess Loop Expenditure may be carried forward to future years and be included in the future Annual Allowed Loop Expenditure to the extent permitted within the Total Allowed Loop Expenditure.
- (5) Loop Depreciation Factor is the ratio of the total loop accumulated depreciation associated with the total loop investment. This calculation uses the depreciation and investment amounts of the Data Year.
- (6) Data Year is defined as the year prior to the year the Annual Allowed Loop Expenditure is made.

(b) Beginning January 1, 2012, Telecommunications Plant In Service (TPIS) investment in unseparated (i.e. state and interstate) gross plant investment in Exchange Line Circuit Equipment Excluding Wideband Category 4.13, Wideband Exchange Line Circuit Equipment Category 4.11, Wideband and Exchange Trunk Cable and Wire Facilities (C&WF) Category 2, and Exchange Line Cable and Wire Facilities (C&WF) Subcategory 1.3 allowed for inclusion in annual data submissions and support calculations prescribed under this section and in conformity with §54.1104 include any capital expenditures as described in § 36.606(d) and any Excess Loop Expenditure, but cannot exceed the Annual Allowed Loop Expenditure.

(c) A company will determine the limitations on loop plant capital expenditures for inclusion in loop costs by application of the rules in this section to the loop portion of Account 2230, Central Office Transmission, and the loop portion of Account 2410, Cable and Wire facilities. The limitations on loop plant capital expenditures will be applied to Exchange Line Circuit Equipment Excluding Wideband Category 4.13, Wideband Exchange Line Circuit Equipment Category 4.11, Wideband and Exchange Trunk Cable and Wire Facilities (C&WF) Category 2, and Exchange Line Cable and Wire Facilities (C&WF) Subcategory 1.3 through application of the categorization and subcategorization procedures prescribed in this section.

(d) For purposes of this section, the term “capital expenditures” equals the cost of loop plant booked to Account 2001, TPIS, including Account 2230, Central Office Transmission, and Account 2410, Cable and Wire Facilities during the Data Year. Such costs will be determined consistent with the requirements of §32.2000. Additionally, capital expenditures as used in this section will include the amounts, if any, charged during the Data Year to Account 2681, Capital Leases associated with accounts 2230 or 2410.

(e) For inclusion in Annual Allowed Loop Expenditure, capital expenditures must be for the addition to loop equipment and facilities as referenced in § 36.606(c) that support transmission of broadband between the carrier’s central office and end user customer premises or for equipment in the carrier’s central office that supports broadband connections for end user customers.

(f) Annual Allowed Loop Expenditure is equal to the Total Loop Investment multiplied by the Annual Allowed Loop Expenditure Factor, plus adjustments, if any, pursuant to § 36.606(i), but cannot exceed the Total Allowed Loop Expenditure.

(1) The Annual Allowed Loop Expenditure Factor is arrived at by applying the following formula:

$$\text{Annual Allowed Loop Expenditure Factor} = (0.15 * \text{Loop Depreciation Factor} + 0.05)$$

Part 36
Discussion Draft - 10/13/11

(2) The Total Allowed Loop Expenditure is the Total Loop Investment multiplied by the Loop Depreciation Factor. Total Loop Investment is calculated by taking the Data Year year-end balances of the categories and subcategories referenced in § 36.606(c) and adjusting these balances by applying the inflation factor based on Vintages where possible; otherwise the calculated year the loop plant was put in service. The inflation factor to be used will be based on the Department of Commerce GDP-CPI.

(3) Carriers subject to this section will recalculate Annual Allowed Loop Expenditure for each Data Year based on the procedures established in this section. In the event capital expenditures for loop plant are below Annual Allowed Loop Expenditure for a Data Year, there will be no carry forward to future years of unused Annual Allowed Loop Expenditure. The recalculation of Annual Allowed Loop Expenditure for each Data Year will reflect the revised Annual Allowed Loop Expenditure, Loop Depreciation Factor, Total Loop Investment, and Total Allowed Loop Expenditure for the preceding year-end. Year-end calculations will reflect plant additions, plant retirements and depreciation expense during the preceding year. This method will allow for increases in Annual Allowed Loop Expenditure from year to year in the event a low level of capital expenditures is made during a year.

(g) A carrier subject to this section will maintain separate records of accumulated Excess Loop Expenditure for accounts referenced in § 36.606 (c) for the assets in addition to the corresponding depreciation accounts. Excess Loop Expenditure for a year, for an account, are equal to capital expenditures for that account in excess of Annual Allowed Loop Expenditure for the year, if any. Excess Loop Expenditure for the Data Year for each account are added to an accumulated Excess Loop Expenditure account. In the event a carrier makes capital expenditures for an account at a level below Annual Allowed Loop Expenditure for the account, the carrier may reduce accumulated Excess Loop Expenditure effective the Data Year by an amount up to, but not in excess of, the amount by which Annual Allowed Loop Expenditure for the Data year exceeds capital expenditures for the account during the same year.

(h) Carriers subject to this section will follow the requirements for depreciation accounting and computation of depreciation rates prescribed at § 32.2000(g).

(i) A carrier subject to this section may make adjustments to the Annual Allowed Loop Expenditure for any given year for loop capital expenditures associated with any of the following: 1) areas where there are currently no existing wireline local loop facilities in the support study area, 2) areas where grants funds are used, 3) areas covered by a loan that was in place by January 1, 2012, and 4) projects where carrier, prior to January 1, 2012, had awarded a contract to vendor for construction. A carrier will add the applicable adjustment to the amount of Annual Allowed Loop Expenditure for the year in which the additions to plant are booked to Loop Plant in Service.

(j) In addition to the Annual Allowed Loop Expenditure, a carrier subject to this section may make normal maintenance and routine upgrades to its loop investment. Carriers will be allowed to invest up to five percent (5%) of the Total Loop Investment as described in § 36.606(f) per year. This annual amount shall not be factored into any limitation, cap or reduction of support listed in or as a result of § 36.606.

(k) For instances where a carrier has an Annual Allowed Loop Expenditure that is less than \$4 million, the carrier shall be allowed to increase their Annual Allowed Loop Expenditure to either \$4 million or the Total Allowed Loop Expenditure, whichever is less.

Part 36
Discussion Draft - 10/13/11

DATA COLLECTION

§ 36.611 Submission of information to the National Exchange Carrier Association (NECA).

In order to allow determination of the study areas and wire centers that are entitled to an expense adjustment pursuant to § 36.631, each incumbent local exchange carrier (LEC) must provide the National Exchange Carrier Association (NECA) (established pursuant to part 69 of this chapter) with the information listed for each study area in which such incumbent LEC operates, with the exception of the information listed in paragraph (h) and (i) of this section, which must be provided for each study area and, if applicable, for each wire center, as defined in part 54 of this chapter, and each disaggregation zone as established pursuant to § 54.315 of this chapter. This information is to be filed with NECA by July 31st of each year. The information provided pursuant to paragraph (h) of this section must be updated pursuant to § 36.612. Rural telephone companies that acquired exchanges subsequent to May 7, 1997, and incorporated those acquired exchanges into existing study areas shall separately provide the information required by paragraphs (a) through (h) of this section for both the acquired and existing exchanges.

- (a) Unseparated, *i.e.*, state and interstate, gross plant investment in Exchange Line Cable and Wire Facilities (C&WF) Subcategory 1.3 and Exchange Line Central Office (CO) Circuit Equipment Category 4.13. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.
- (b) Unseparated accumulated depreciation and noncurrent deferred federal income taxes, attributable to Exchange Line C&WF Subcategory 1.3 investment, and Exchange Line CO Circuit Equipment Category 4.13 investment. These amounts shall be calculated as of December 31st of the calendar year preceding each July 31st filing, and shall be stated separately.
- (c) Unseparated depreciation expense attributable to Exchange Line C&WF Subcategory 1.3 investment, and Exchange Line CO Circuit Equipment Category 4.13 investment. This amount shall be the actual depreciation expense for the calendar year preceding each July 31st filing.
- (d) Unseparated maintenance expense attributable to Exchange Line C&WF Subcategory 1.3 investment and Exchange Line CO Circuit Equipment Category 4.13 investment. This amount shall be the actual repair expense for the calendar year preceding each July 31st filing.
- (e) Unseparated corporate operations expenses, operating taxes, and the benefits and rent proportions of operating expenses. The amount for each of these categories of expense shall be the actual amount for that expense for the calendar year preceding each July 31st filing. The amount for each category of expense listed shall be stated separately.
- (f) Unseparated gross telecommunications plant investment. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.
- (g) Unseparated accumulated depreciation and noncurrent deferred federal income taxes attributable to local unseparated telecommunications plant investment. This amount shall be calculated as of December 31st of the calendar year preceding each July 31st filing.
- (h) For rural telephone companies, as that term is defined in § 51.5 of this chapter, the number of working loops for each study area. For non-rural telephone companies, the number of working loops for each study area and for each wire center. For 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

Part 36
Discussion Draft - 10/13/11

with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service. These figures shall be calculated as of December 31st of the calendar year preceding each July 31st filing.

(i) Rural rate of return study areas potentially eligible to receive access restructure support pursuant to §54.1002 of this Chapter shall provide the following accounting information to the Association for purposes of determining whether adjustments to access restructure support amounts based on intrastate regulated earnings levels are needed:

- (1) Total Intrastate Rate Base Per FCC Part 32, 36 and 65 Rules
- (2) Total Intrastate Operating Revenues Per Part 32 Rules
- (3) Total Intrastate Operating Expenses Per Part 32, 36 and 65 Rules
- (4) Intrastate Other Operating Taxes and Other Per Part 32, 36 and 65 Rules
 1. Intrastate Other Operating Taxes (property, franchise, etc.)
 2. Intrastate AFUDC
 3. Intrastate Other Income Related Items
- (5) Intrastate Income Tax Items Part 32, 36 and 65 Rules
 1. Intrastate Fixed Charges
 2. Intrastate Income Tax Adjustment
- (6) Combined Effective Income Tax Rate
- (7) Additional End User Common Line Charge revenues billed or imputed pursuant to § 69.104(s) of this Chapter.

§ 36.612 Updating information submitted to the National Exchange Carrier Association.

(a) Any rural telephone company, as that term is defined in § 51.5 of this chapter, may update the information submitted to the National Exchange Carrier Association (NECA) on July 31st pursuant to §§ 36.611(a) through (h) one or more times annually on a rolling year basis according to the schedule, except that rural telephone companies in service areas where an eligible telecommunications carrier has initiated service and has reported line count data pursuant to § 54.307(c) of this chapter must update the information submitted to NECA on July 31st pursuant to § 36.611(h) according to the schedule. Every non-rural telephone company must update the information submitted to NECA on July 31st pursuant to § 36.611(h) according to the schedule.

- (1) Submit data covering the last nine months of the previous calendar year and the first three months of the existing calendar year no later than September 30th of the existing year;
- (2) Submit data covering the last six months of the previous calendar year and the first six months of the existing calendar year no later than December 30th of the existing year;
- (3) Submit data covering the last three months of the second previous calendar year and the first nine months of the previous calendar year no later than March 30th of the existing year.

(b) ~~Reserved~~ Updates submitted pursuant to this section by rural telephone companies shall no longer be accepted after July 1, 2012.

Part 36
Discussion Draft - 10/13/11

* * *

**CALCULATION OF EXPENSE ADJUSTMENT – ADDITIONAL INTERSTATE EXPENSE
ALLOCATION**

§ 36.631 Expense adjustment.

(a)-(b) [Reserved]

(c) Beginning January 1, 1988, for study areas reporting 200,000 or fewer working loops pursuant to § 36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of paragraphs (c)(1) through (2) of this section. After January 1, 2000, the expense adjustment (additional interstate expense allocation) for non-rural telephone companies serving study areas reporting 200,000 or fewer working loops pursuant to § 36.611(h) shall be calculated pursuant to § 54.309 of this Chapter or § 54.311 of this Chapter (which relies on this part), whichever is applicable.

(1) Sixty-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 115 percent of the national average for this cost but not greater than 150 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area; and

(2) Seventy-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 150 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area.

(d) Beginning January 1, 1998, for study areas reporting more than 200,000 working loops pursuant to § 36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of paragraphs (d)(1) through (4) of this section. After January 1, 2000, the expense adjustment (additional interstate expense allocation) for non-rural telephone companies serving study areas reporting more than 200,000 working loops pursuant to § 36.611(h) shall be calculated pursuant to § 54.309 of this chapter or § 54.311 of this chapter (which relies on this part), whichever is applicable.

(1) Ten percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 115 percent of the national average for this cost but not greater than 160 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area;

(2) Thirty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 160 percent of the national average for this cost but not greater than 200 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area;

(3) Sixty percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 200 percent of the national average for this cost but not greater than 250 percent of the national average for this cost as calculated

Part 36
Discussion Draft - 10/13/11

pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area; and

(4) Seventy-five percent of the study area average unseparated loop cost per working loop as calculated pursuant to § 36.622(b) in excess of 250 percent of the national average for this cost as calculated pursuant to § 36.622(a) multiplied by the number of working loops reported in § 36.611(h) for the study area.

(e) Beginning April 1, 1989, the expense adjustment calculated pursuant to § 36.631(c) and (d) shall be adjusted each year to reflect changes in the size of the Universal Service Fund resulting from adjustments calculated pursuant to § 36.612(a) made during the previous year. If the resulting amount exceeds the previous year's fund size, the difference will be added to the amount calculated pursuant to § 36.631(c) and (d) for the following year. If the adjustments made during the previous year result in a decrease in the size of the funding requirement, the difference will be subtracted from the amount calculated pursuant to § 36.631(c) and (d) for the following year.

(f) Subsequent to July 1, 2012, the interstate expense adjustment attributable to high cost loop support shall be adjusted pursuant to § 54.1103.

Subpart H – Access Restructure Mechanism Expense Adjustment

§ 36.801 General.

(a) The term Access Restructure Mechanism Expense Adjustment in this subpart refers only to the intrastate access revenue requirement of rural rate of return carriers assigned to the interstate jurisdiction for recovery pursuant to § 36.801(b).

(b) The Access Restructure Mechanism expense adjustment for each carrier will equal the intrastate amount of Access Restructure Support computed pursuant to § 54.1002 of this Chapter.

(c) Beginning July 1, 2012, the expense adjustment calculated pursuant to this subpart H shall be added to interstate expenses and deducted from state expenses after expenses and taxes have been apportioned pursuant to subpart D of this part.

Part 36
Discussion Draft - 10/13/11

APPENDIX TO PART 36 – GLOSSARY

The descriptions of terms in this glossary are broad and have been prepared to assist in understanding the use of such terms in the separation procedures. Terms which are defined in the text of this part are not included in this glossary.

* * *

Broadband Access Service Connection Point - the network equipment located in a telephone company serving wire center where broadband traffic from one or more telephone company serving wire centers is aggregated.

* * *

Broadband Line – loop equipment and facilities that support transmission of voice and broadband data, or broadband data only, between the carrier’s central office and end user customer premises, at a minimum downstream speed of 256 Kbps.

* * *

Middle Mile - broadband transmission facilities and services beyond the Broadband Access Service Connection Point as well as facilities and services necessary to connect to the Internet backbone.

* * *

Part 51 - Interconnection

* * *

§ 51.301 Duty to negotiate.

(a) An incumbent LEC shall negotiate in good faith the terms and conditions of agreements to fulfill the duties established by sections 251 (b) and (c) of the Act.

(b) A requesting telecommunications carrier shall negotiate in good faith the terms and conditions of agreements described in paragraph (a) of this section.

(c) If proven to the Commission, an appropriate state commission, or a court of competent jurisdiction, the following actions or practices, among others, violate the duty to negotiate in good faith:

(1) Demanding that another party sign a nondisclosure agreement that precludes such party from providing information requested by the Commission, or a state commission, or in support of a request for arbitration under section 252(b)(2)(B) of the Act;

(2) Demanding that a requesting telecommunications carrier attest that an agreement complies with all provisions of the Act, federal regulations, or state law;

(3) Refusing to include in an arbitrated or negotiated agreement a provision that permits the agreement to be amended in the future to take into account changes in Commission or state rules;

(4) Conditioning negotiation on a requesting telecommunications carrier first obtaining state certifications;

(5) Intentionally misleading or coercing another party into reaching an agreement that it would not otherwise have made;

(6) Intentionally obstructing or delaying negotiations or resolutions of disputes;

(7) Refusing throughout the negotiation process to designate a representative with authority to make binding representations, if such refusal significantly delays resolution of issues; ~~and~~

(8) Refusing to provide information necessary to reach agreement. Such refusal includes, but is not limited to:

(i) Refusal by an incumbent LEC to furnish information about its network that a requesting telecommunications carrier reasonably requires to identify the network elements that it needs in order to serve a particular customer; and

(ii) Refusal by an incumbent LEC to furnish cost data that would be relevant to setting rates if the parties were in arbitration; and

Part 51
Discussion Draft - 10/13/11

(9) Refusing to assist in performing traffic studies or taking reasonable steps to provide and evaluate traffic exchanged between the carriers' networks.

(d) An incumbent LEC may request interconnection from another LEC or telecommunications carrier and invoke the negotiation and arbitration procedures contained in section 252 of the Act. A LEC or telecommunications carrier receiving a request for interconnection must negotiate in good faith and must, if requested, submit to arbitration by the state commission. Once a request for interconnection is made, the interim transport and termination pricing described in § 51.715 shall apply.

* * *

§ 51.510 Rural Transport.

(a) For non-access switched calls made by the customer of a rural rate-of-return incumbent LEC to the customer of another carrier, the rural rate-of-return incumbent LEC will be responsible for transport to a non-rural terminating carrier's point of presence (POP) when it is located within the rural rate-of-return incumbent LEC's service area. When the non-rural terminating carrier's POP is located outside the rural rate-of-return incumbent LEC's service area, the rural rate-of-return incumbent LEC's transport and provisioning obligation stops at its meet point and the non-rural terminating carrier is responsible for the remaining transport to its POP.

(b) For purposes of this section the term "carrier" includes, but is not limited to LECs, commercial mobile radio services (CMRS) providers, Voice over Internet Protocol (VoIP) service providers, and Internet Service Providers (ISPs) using switched voice circuits for data transmission.

(c) Nothing in this section shall prohibit incumbent LECs from assessing charges through tariffs or contracts, nor shall anything herein excuse telecommunications carriers or other responsible parties from being required to pay such charges, associated with transmission of signaling data to interexchange access service customers and/or charges associated with signaling and call setup. The charges in such tariffs or contracts may be discrete charges for signaling or aggregated with other charges for either switched access local switching or switched access transport consistent with the Part 69 of this Chapter.

* * *

Subpart H – Reciprocal Compensation for Transport and Termination of Telecommunications Traffic

* * *

§ 51.703 Reciprocal compensation obligation of LECs.

(a) Each LEC shall establish reciprocal compensation arrangements for transport and termination of telecommunications traffic with any requesting telecommunications carrier.

(b) Except as otherwise provided in the Commission's rules, a LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC's network.

Part 51
Discussion Draft - 10/13/11

* * *

§ 51.716 Adjustments to reciprocal compensation rates.

- (a) Effective July 1, 2012, a local exchange carrier whose aggregate rates for services provided pursuant to reciprocal compensation agreements exceed its aggregate rates for terminating interstate access services shall reduce its reciprocal compensation rates by one half the difference between the two rates.
- (b) Effective July 1, 2013, each local exchange carrier shall reduce its aggregate reciprocal compensation rates by the remaining difference, if any, between its aggregate reciprocal compensation and aggregate terminating interstate access rates.
- (c) The aggregate switched access rate for each service shall be determined by computing a weighted average of terminating switched access end office rates and terminating transport rates per study area. Such weighted average shall be determined by summing terminating end office revenues, local transport revenues, and the terminating portion of tandem switched transport revenues as applicable and dividing that sum by the number of terminating local switching minutes.
- (d) The rate reductions required hereunder shall apply to all reciprocal compensation rates, whether established by negotiation or arbitration, unless the agreement governing such rates does not contain a change of law provision.
- (e) There will be no termination liability or other contract penalties related to these rate changes.

* * *

Part 54 - Universal Service

* * *

Subpart D – Universal Service Support for High Cost Areas

* * *

§ 54.301 Local switching support.

* * *

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

| | | |
|---|-----|---|
| | I | |
| Telecommunications Plant in Service (TPIS) | | Account 2001 |
| Telecommunications Plant - Other | | Accounts 2002, 2003, 2005 |
| General Support Assets | | Account 2110 |
| Central Office Assets | | Accounts 2210, 2220, 2230 |
| Central Office - switching, Category 3 (local switching) | | Account 2210, Category 3 |
| Information Origination/termination Assets | | Account 2310 |
| Cable and Wire Facilities Assets | | Account 2410 |
| Amortizable Tangible Assets | | Account 2680 |
| Intangibles | | Account 2690 |
| | II | |
| Rural Telephone Bank (RTB) Stock | | Included in Account 1410 |
| Materials and Supplies | | Account 1220.1 |
| Cash Working Capital | | Defined in 47 CFR 65.820(d) |
| | III | |
| Accumulated Depreciation | | Account 3100 |
| Accumulated Amortization | | Included in Accounts 2005, 2680, 2690, 3410 |
| Net Deferred Operating Income Taxes | | Accounts 4100, 4340 |
| Network Support Expenses | | Account 6110 |
| General Support Expenses | | Account 6120 |
| Central Office Switching, Operator Systems, and Central Office Transmission Expenses | | Accounts 6210, 6220, 6230 |
| Information Origination/Termination Expenses | | Account 6310 |
| Cable and Wire Facilities Expenses | | Account 6410 |
| Other Property, Plant and Equipment Expenses | | Account 6510 |
| Network Operations Expenses | | Account 6530 |
| Access Expense | | Account 6540 |
| Depreciation and Amortization Expense | | Account 6560 |
| Marketing Expense | | Account 6610 |

Part 54
Discussion Draft - 10/13/11

| | |
|---|---|
| Services Expense | Account 6620 |
| Corporate Operations Expense | Account 6720 <u>limited per § 36.392(a)(2)(i)</u> |
| Operating Taxes | Accounts 7230, 7240 |
| Federal Investment Tax Credits | Account 7210 |
| Provision for Deferred Operating Income Taxes - Net | Account 7250 |
| Allowance for Funds Used During Construction | Included in Account 7300 |
| Charitable Contributions | Included in Account 7300 |
| Interest and Related Items | Account 7500 |

IV

| | |
|---|--------------------------|
| Other Non-Current Assets | Included in Account 1410 |
| Deferred Maintenance and Retirements | Included in Account 1438 |
| Deferred Charges | Included in Account 1438 |
| Other Jurisdictional Assets and Liabilities | Accounts 1500, 4370 |
| Customers' Deposits | Account 4040 |
| Other Long-Term Liabilities | Included in Account 4300 |

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

* * *

(5) Corporate Operations Expenses (Account 6720) The portion limited per § 36.392(a)(2)(i) of this Chapter shall be allocated according to the following factor:

$$\frac{[(\text{Account 2210 Category 3 (Account 2210 + Account 2220 + Account 2230)})] \times (\text{Account 6210 + Account 6220 + Account 6230}) + [(\text{Account 6530 + Account 6610 + Account 6620}) \times (\text{Account 2210 Category 3 Account 2001})]}{(\text{Account 6210 + Account 6220 + Account 6230 + Account 6310 + Account 6410 + Account 6530 + Account 6610 + Account 6620})}$$

* * *

§ 54.305 Reserved Sale or transfer of exchanges.

~~(a) The provisions of this section are not applicable to the sale or transfer of exchanges between non-rural carriers after the complete phase-down of interim hold-harmless support, pursuant to § 54.311, for the non-rural carriers subject to the transaction.~~

~~(b) Except as provided in paragraph (c) of this section, a carrier that acquires telephone exchanges from an unaffiliated carrier shall receive universal service support for the acquired exchanges at the same per-line support levels for which those exchanges were eligible prior to the transfer of the exchanges. If the acquired exchanges are incorporated into an existing rural incumbent local exchange carrier study area, the rural incumbent local exchange carrier shall maintain the costs associated with the acquired exchanges separate from the costs associated with its pre-acquisition study area. The transferred exchanges may be eligible for safety-valve support for loop-related costs pursuant to paragraph (d) of this section.~~

~~(c) A carrier that has entered into a binding agreement to buy or acquire exchanges from an unaffiliated carrier prior to May 7, 1997 will receive universal service support for the newly~~

Part 54
Discussion Draft - 10/13/11

acquired lines based upon the average cost of all of its lines, both those newly acquired and those it had prior to execution of the sales agreement.

~~(d) Transferred exchanges in study areas operated by rural telephone companies that are subject to the limitations on loop-related universal service support in paragraph (b) of this section may be eligible for a safety valve loop cost expense adjustment based on the difference between the rural incumbent local exchange carrier's index year expense adjustment and subsequent year loop cost expense adjustments for the acquired exchanges. Safety valve loop cost expense adjustments shall only be available to rural incumbent local exchange carriers that, in the absence of restrictions on high-cost loop support in § 54.305(b), would qualify for high-cost loop support for the acquired exchanges under § 36.631 of this chapter.~~

~~(1) For carriers that buy or acquire telephone exchanges on or after January 10, 2005 from an unaffiliated carrier, the index year expense adjustment for the acquiring carrier's first year of operation shall equal the selling carrier's loop-related expense adjustment for the transferred exchanges for the 12-month period prior to the transfer of the exchanges. At the acquiring carrier's option, the first year of operation for the transferred exchanges, for purposes of calculating safety valve support, shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. For the first year of operation, a loop cost expense adjustment, using the costs of the acquired exchanges submitted in accordance with §§ 36.611 and 36.612 of this chapter, shall be calculated pursuant to § 36.631 of this chapter and then compared to the index year expense adjustment. Safety valve support for the first period of operation will then be calculated pursuant to paragraph (d)(3) of this section. The index year expense adjustment for years after the first year of operation shall be determined using cost data for the first year of operation of the transferred exchanges. Such cost data for the first year of operation shall be calculated in accordance with §§ 36.611, 36.612 and 36.631 of this chapter. For each year, ending on the same calendar quarter as the first year of operation, a loop cost expense adjustment, using the loop costs of the acquired exchanges, shall be submitted and calculated pursuant to §§ 36.611, 36.612, and 36.631 of this chapter and will be compared to the index year expense adjustment. Safety valve support for the second year of operation and thereafter will then be calculated pursuant to paragraph (d)(3) of this section.~~

~~(2) For carriers that bought or acquired exchanges from an unaffiliated carrier before January 10, 2005, and are not subject to the exception in paragraph (c) of this section, the index year expense adjustment for acquired exchange(s) shall be equal to the rural incumbent local exchange carrier's high-cost loop expense adjustment for the acquired exchanges calculated for the carrier's first year of operation of the acquired exchange(s). At the carrier's option, the first year of operation of the transferred exchanges shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. The index year expense adjustment shall be determined using cost data for the acquired exchange(s) submitted in accordance with §§ 36.611 and 36.612 of this chapter and shall be calculated in accordance with § 36.631 of this chapter. The index year expense adjustment for rural telephone companies that have operated exchanges subject to this section for more than a full year on the effective date of this paragraph shall be based on loop cost data submitted in accordance with § 36.612 of this chapter for the year ending on the nearest calendar quarter following the effective date of this paragraph. For each subsequent year, ending on the same calendar quarter as the index year, a loop cost expense adjustment, using the costs of the acquired exchanges, will be calculated pursuant to § 36.631 of this chapter and will be compared to the index~~

Part 54
Discussion Draft - 10/13/11

~~year expense adjustment. Safety valve support is calculated pursuant to paragraph (d)(3) of this section.~~

~~(3) Up to fifty (50) percent of any positive difference between the transferred exchanges loop cost expense adjustment and the index year expense adjustment will be designated as the transferred exchange's safety valve loop cost expense adjustment and will be available in addition to the per line loop related support transferred from the selling carrier to the acquiring carrier pursuant to § 54.305(b). In no event shall a study area's safety valve loop cost expense adjustment exceed the difference between the carrier's study area loop cost expense adjustment calculated pursuant to § 36.631 of this chapter and transferred support amounts available to the acquired exchange(s) under paragraph (b) of this section. Safety valve support shall not transfer with acquired exchanges.~~

~~(e) The sum of the safety valve loop cost expense adjustment for all eligible study areas operated by rural telephone companies shall not exceed five (5) percent of the total rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment calculated pursuant to § 36.603 of this chapter. The five (5) percent cap on the safety valve mechanism shall be based on the lesser of the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment calculated pursuant to § 36.603 of this chapter or the sum of rural incumbent local exchange carrier expense adjustments calculated pursuant to § 36.631 of this chapter. The percentage multiplier used to derive study area safety valve loop cost expense adjustments for rural telephone companies shall be the lesser of fifty (50) percent or a percentage calculated to produce the maximum total safety valve loop cost expense adjustment for all eligible study areas pursuant to this paragraph. The safety valve loop cost expense adjustment of an individual rural incumbent local exchange carrier also may be further reduced as described in paragraph (d)(3) of this section.~~

~~(f) Once an acquisition is complete, the acquiring rural incumbent local exchange carrier shall provide written notice to the Administrator that it has acquired access lines that may be eligible for safety valve support. Rural telephone companies also shall provide written notice to the Administrator defining their index year for those years after the first year of operation for~~

* * *

Subpart H – Administration

* * *

§ 54.702 Administrator's functions and responsibilities.

(a) The Administrator, and the divisions therein, shall be responsible for administering the schools and libraries support mechanism, the rural health care support mechanism, the high cost support mechanism, the low income support mechanism, the interstate access universal service support mechanism described in subpart J of this part, and the interstate common line support mechanism described in subpart K of this part.

(b) The Administrator shall be responsible for billing contributors, collecting contributions to the universal service support mechanisms, and disbursing universal service support funds.

Part 54
Discussion Draft - 10/13/11

(c) The Administrator may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress. Where the Act or the Commission's rules are unclear, or do not address a particular situation, the Administrator shall seek guidance from the Commission.

* * *

(h) The Administrator shall report quarterly to the Commission on the disbursement of universal service support program funds. The Administrator shall keep separate accounts for the amounts of money collected and disbursed for eligible schools and libraries, rural health care providers, low-income consumers, interstate access universal service support, interstate common line support, and high-cost and insular areas. The Administrator's quarterly report for 3rd quarter, filed on or about May 2 annually, shall contain projected annual funding requirements for Access Restructure Support and the Connect America Fund, including all high cost funding components, for Price Cap and Rate of Return carriers and the Mobility Fund.

* * *

§ 54.715 Administrative expenses of the Administrator.

* * *

(c) The Administrator shall submit to the Commission projected quarterly budgets at least sixty (60) days prior to the start of every quarter. The Commission must approve the projected quarterly budgets before the Administrator disburses funds under the federal universal service support mechanisms. The administrative expenses incurred by the Administrator in connection with the schools and libraries support mechanism, the rural health care support mechanism, the high cost support mechanism, the low income support mechanism, the interstate access universal service support mechanism, ~~and~~ the interstate common line support mechanism, the Connect America Fund, local switching support and the Access Restructure Support mechanism shall be deducted from the annual funding of each respective support mechanism. The expenses deducted from the annual funding for each support mechanism also shall include the Administrator's joint and common costs allocated to each support mechanism pursuant to the cost allocation manual filed by the Administrator under § 64.903 of this chapter.

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

§ 54.901 Calculation of Interstate Common Line Support.

(a) Interstate Common Line Support available to a rate-of-return carrier shall equal the Common Line Revenue Requirement per Study Area as calculated in accordance with part 69 of this chapter minus:

- (1) The study area revenues obtained from end user common line charges at their allowable maximum as determined by §§ 69.104(n) and 69.104(o) of this chapter;
- (2) The carrier common line charge revenues to be phased out pursuant to § 69.105 of this chapter;
- (3) The special access surcharge pursuant to § 69.114 of this chapter;

Part 54
Discussion Draft - 10/13/11

(4) The line port costs in excess of basic analog service pursuant to § 69.130 of this chapter; and

(5) Any Long Term Support for which the carrier is eligible or, if the carrier ceased participation in the NECA common line pool after October 11, 2001, any Long Term Support for which the carrier would have been eligible if it had not ceased its participation in the pool.

(b) The per-line Interstate Common Line Support available to a competitive eligible telecommunications carrier serving lines in a study area served by a rate-of-return carrier shall be calculated by the Administrator as follows:

(1) If the rate-of-return carrier has disaggregated the support it receives in the study area pursuant to § 54.315, the Administrator shall calculate the amount of Interstate Common Line support targeted to each disaggregation zone by the rate-of-return carrier (targeted Interstate Common Line Support). If the rate-of-return carrier has chosen not to disaggregate its support for a study area pursuant to § 54.315, then the entirety of its Interstate Common Line Support for the study area shall be considered targeted Interstate Common Line Support for purposes of performing the calculations in this section.

(2) In each disaggregation zone or undisaggregated study area, the Administrator shall calculate the Average Interstate Common Line Support by dividing the rate-of-return carrier's targeted Interstate Common Line Support by its total lines served.

(3) The Administrator shall then calculate the Interstate Common Line Support available to the competitive eligible telecommunications carrier for each line it serves for each customer class in a disaggregation zone or undisaggregated study area by the following formula:

(i) If the Average Interstate Common Line Support is greater than \$2.70 multiplied by the number of residential and single-line business lines served by the rate-of-return carrier in the disaggregation zone or undisaggregated study area, then:

(A) Interstate Common Line Support per Multi-Line Business Line = (Average Interstate Common Line Support - \$2.70 x residential and single-line business lines served by the rate-of-return carrier) ÷ (total lines served by the rate-of-return carrier); and

(B) Interstate Common Line Support per Residential and Single-Line Business Line = Interstate Common Line Support per Multi-Line Business Line + \$2.70.

(ii) If the Average Interstate Common Line Support is less than or equal to \$2.70 multiplied by residential and single-line business lines served by the rate-of-return carrier in the disaggregation zone or undisaggregated study area, but greater than \$0, then:

(A) Interstate Common Line Support per Multi-Line Business Line = \$0; and

(B) Interstate Common Line Support per Residential and Single-Line Business Line = Average Interstate Common Line Support ÷ residential and single line business lines served by the rate-of-return carrier.

Part 54
Discussion Draft - 10/13/11

(iii) If the Average Interstate Common Line Support is equal to \$0, then the competitive eligible telecommunications carrier shall receive no Interstate Common Line Support for lines served in that disaggregation zone or undisaggregated study area.

(c) Beginning July 1, 2012, Interstate Common Line Support shall be adjusted pursuant to § 54.1103(b) of this Part.

Subpart L: Access Restructure Support

§ 54.1001 Definitions.

(a) For purposes of determining Access Restructure Support for non-price cap ILECs, the following definitions shall apply:

(1) The Interstate Switched Access Revenue Shortfall shall equal the difference between revenues billed by the carrier for interstate Local Switching, Information, Entrance Facilities, Tandem Switched Transport Tandem Charge, and Direct-Trunked Transport services as well as other related services provided under tariffs filed pursuant to Part 69 of this Chapter and interstate revenue requirements calculated in accordance with Part 69 of this Chapter for the same elements reduced by Local Switching Support.

(2) The Intrastate Terminating Switched Access Revenue Shortfall shall equal:

(i) the difference between revenues billed by a carrier for intrastate terminating switched access services comparable to the interstate services described in (a)(1) above plus net reciprocal compensation revenues and an amount equal to the carrier's revenues for such services during the period January 1, 2011 through December 31, 2011 adjusted each year by the percent change in the carrier's interstate revenue requirements calculated in accordance with Part 69 of this chapter for the same elements;

(ii) as used in (2) (i) above, net reciprocal compensation revenues shall be the net difference between reciprocal compensation amounts received by the carrier from other carriers or service providers (including payments for transit service) and amounts paid by the carrier to other carriers or service providers (including payments for transit service) pursuant to agreements established under Part 51 of this Chapter.

(3) Additional End User Common Line Revenues shall include revenues associated with the Additional Common Line Charges billed or imputed pursuant to section 69.104(s) of this Chapter.

§ 54.1002 Calculation of Access Restructure Support

(a) Access Restructure Support available in a given year to a non-price cap incumbent local exchange carrier that does not participate in association tariffs filed pursuant to Subpart G, Part 69 of this Chapter shall equal the sum of the carrier's annual Interstate Switched Access Revenue Shortfall and its annual Intrastate Terminating Switched Access Revenue Shortfall, less its

Part 54
Discussion Draft - 10/13/11

Additional End User Common Line Revenues for the year.

(1) Application of Additional End User Common Line Revenues. In adjusting revenue shortfalls to account for Additional End User Common Line Revenues, the Administrator shall first apply such revenues to offset the carrier's Intrastate Terminating Switched Access Revenue Shortfall. In the event application of Additional End User Common Line Revenues causes the Intrastate Terminating Switched Access Revenue Shortfall to reach zero, the excess, if any shall be applied to the Interstate Switched Access Revenue Shortfall.

(2) Intrastate Regulated Earnings Test. In determining a carrier's Intrastate Terminating Switched Access Revenue Shortfall the Administrator shall, after application of the End User Common Line revenue in (1) above, further reduce the intrastate restructure support attributable to the carrier by the amount, if any, that its earnings for intrastate regulated services exceed the authorized interstate rate of return, as determined by comparing its regulated intrastate revenues plus the Intrastate Terminating Switched Access Revenue Shortfall (before application of the Intrastate Regulated Earnings test) to its regulated intrastate revenue requirement calculated pursuant to procedures set forth in Parts 32, 36 and 65 of this Chapter but excluding the adjustment pursuant to Part 36.801 of this Chapter.

(b) Access Restructure Support available in a given year to non-price cap ILECs participating in association tariffs pursuant to subpart G, Part 69 of this Chapter shall be computed as specified in subsection (a) above, but at the aggregate pool level.

(c) Non-price cap ILEC electing to withdraw from association tariffs for switched access elements on or after July 1, 2012 pursuant to § 69.3(3) of this Chapter who are net contributors for switched access services shall continue to pay to the pool an amount equal to the switched access service contribution that would otherwise have been available to other pool participants had the electing carrier remained in the association tariff. Such amounts shall be redistributed to companies continuing to participate in the association tariff..

(d) Amounts equal to the continuing contribution obligation made pursuant to subsection (c) above may be included by withdrawing carriers in revenue requirements recoverable under individual switched access service tariffs filed pursuant to § 69.3(3) of this Chapter.

New Subpart M – Connect America Fund for Rural Rate of Return Carriers

§ 54.1100 Terms and Definitions

(a) For purposes of determining Connect America Fund (CAF) support for rural rate of return carriers, the following definitions shall apply:

(1) *Broadband Access Service Connection Point* – the network equipment located in a telephone company serving wire center where broadband traffic from one or more telephone company service wire centers is aggregated.

Part 54
Discussion Draft - 10/13/11

(2) Broadband Line- loop equipment and facilities that support transmission of voice and broadband data, or broadband data only, between the carrier's central office and end user customer premises, at a minimum downstream speed of 256 Kbps.

(3) Broadband Take Rate – a percentage representing the extent to which a telephone company's customers adopt broadband services. For purposes of computing CAF support, a telephone company's Broadband Take Rate is the ratio of study area Broadband Lines in service to total Broadband Lines and voice-only common lines in service.

(4) Middle Mile - broadband transmission facilities and services beyond the Broadband Access Service Connection Point as well as facilities and services necessary to connect to the Internet backbone.

(5) Second Mile - broadband transmission facilities between the telephone company end office and the Broadband Access Service Connection Point.

(6) Rural Broadband Benchmark - for purposes of computing CAF support for a rate of return carrier, the Rural Broadband Benchmark includes a fixed per-line amount that applies to all study areas and a variable study area-specific amount, as more fully defined below.

(7) Rural Broadband Network Transmission Costs – costs associated with providing Broadband Lines, Second Mile and Middle Mile transmission services on a regulated, common carriage basis, as more fully defined below.

§ 54.1101 Connect America Fund Support for Rural Rate of Return Carriers

(a) Beginning July 1, 2012, rural rate of return carriers designated as eligible telecommunications carriers under subpart B of this Part shall be eligible to receive Connect America Fund (CAF) support as described in this subpart.

(b) CAF Support for a rural rate of return carrier is equal to the sum of the Rural Broadband Network Transmission Support component calculated pursuant to § 54.1102 below and adjustments to High Cost Loop Support, Interstate Common Line Support and Local Switching Support as calculated pursuant to § 54.1103 below.

§ 54.1102 Rural Broadband Network Transmission Support Component

(a) A rural rate of return telephone company's annual Rural Broadband Network Transmission Component support amount shall equal its Rural Broadband Network Transmission Costs minus the result of multiplying the Rural Broadband Benchmark by end of year study area working Broadband Lines times 12 months.

(b) Rural Broadband Network Transmission Costs for a rural rate of return telephone company shall equal the sum of its interstate-assigned common line costs as defined in Part 69 subpart F of this Chapter; its Additional Interstate Assignment determined pursuant to § 36.154(h) of this Chapter; its Middle Mile Broadband Costs; and its Second Mile Costs.

(1) For purposes of this computation Middle Mile Broadband Costs include the fully-distributed embedded costs of providing regulated transmission services between the Broadband Access Service Connection Point and the Internet backbone assigned to the Middle Mile Special Access subelement defined in § 69.114 (a)(ii) of this Chapter.

Part 54
Discussion Draft - 10/13/11

- (2) For purposes of this computation Second Mile Costs include the fully-distributed embedded costs of providing regulated transmission services between the telephone company end office and the Broadband Access Service Connection Point assigned to the Second Mile Special Access subelement defined in § 69.114 (a)(ii) of this Chapter.
- (c) The Rural Broadband Benchmark equals the sum of a fixed component applicable to all rural rate of return study areas as calculated in subsection (1) below and a variable, study area-specific component as calculated in subsection (2) below.
- (1) Fixed Component
- (i) For the period July 1, 2012 through December 31, 2012 the fixed component of the Rural Broadband Benchmark shall be \$19.25.
 - (ii) For 2013 the fixed component of the Rural Broadband Benchmark shall be \$20.00.
 - (iii) For 2014 the fixed component of the Rural Broadband Benchmark shall be \$20.75.
 - (iv) For 2015 the fixed component of the Rural Broadband Benchmark shall be \$21.50.
 - (v) For 2016 the fixed component of the Rural Broadband Benchmark shall be \$22.25.
 - (vi) For 2017 the fixed component of the Rural Broadband Benchmark shall be \$23.00.
 - (vii) For 2018 the fixed component of the Rural Broadband Benchmark shall be \$23.75.
 - (viii) For 2019, the fixed component of the Rural Broadband Benchmark shall be \$24.50.
 - (ix) For 2020, the fixed component of the Rural Broadband Benchmark shall be \$25.25.
 - (x) For 2021, the fixed component of the Rural Broadband Benchmark shall be \$26.00.
 - (xi) For 2022, the fixed component of the Rural Broadband Benchmark shall be \$26.75.
 - (xii) For 2023 and thereafter, the fixed component of the Rural Broadband Benchmark shall be \$27.50.
- (2) Variable Component
- (i) The variable component of the Rural Broadband Benchmark shall be \$6.50 for study areas having a Broadband Take Rate of 25 percent or less.

Part 54
Discussion Draft - 10/13/11

- (ii) For study areas having a Broadband Take Rate in excess of 25 but less than 50 percent, the variable component is equal to \$6.50 plus the product of the Broadband Take Rate minus 25 percent, divided by 25 percent, and multiplied by \$6.50 multiplied by the following annual transition factor:
- (1) For the period July 1, 2012 through December 31, 2012, the transition factor for the variable component of the Rural Broadband Benchmark shall be 0.0415.
 - (2) For 2013, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.166.
 - (3) For 2014, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.25.
 - (4) For 2015, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.333.
 - (5) For 2016, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.416.
 - (6) For 2017, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.5.
 - (7) For 2018, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.583.
 - (8) For 2019, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.66.
 - (9) For 2020, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.75.
 - (10) For 2021 the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.833.
 - (11) For 2022 the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 0.916.
 - (12) For 2023 and thereafter, the annual transition factor for the variable component of the Rural Broadband Benchmark shall be 1.0.
- (iii) For study areas having a Broadband Take Rate of 50 percent or higher, the variable component shall be calculated as specified in subsection 54.1102(c)(2)(ii) above, except that the portion of the Broadband Take Rate over 50 percent shall be reduced by one-half, such that the Broadband Take Rate for purposes of calculating the variable component shall not exceed 75 percent.

§ 54.1103 Adjustments to Other Universal Service Support Mechanisms

- (a) High Cost Loop Support: To the extent that the sum of the existing High Cost Loop Support calculated in accordance with Part 36 Subpart F of this Chapter plus Safety Net Additive Support calculated in accordance with Part 36 Subpart F of this Chapter plus Safety Valve Support

Part 54
Discussion Draft - 10/13/11

calculated in accordance with § 54.305 of this Chapter exceeds the additional interstate assignment of loop costs calculated pursuant to § 36.154(h) of this Chapter, the study area shall be eligible to receive the difference between the sum of these three mechanisms and the additional interstate assignment of loop costs in addition to the Connect America Fund Support for which it is eligible.

(1) For purposes of this section the additional interstate assignment of loop cost shall be determined by comparing the interstate Part 69 Common Line results for the study period to the Common Line results from a Part 36/69 cost study, excluding the Broadband Take Rate additive calculated pursuant to § 36.154(h) of this Chapter.

(b) Transitional Interstate Common Line Support: Effective July 1, 2012, Interstate Common Line Support available to a rate of return carrier qualifying for Connect America Fund support shall be modified by multiplying the carrier's Interstate Common Line Revenue Requirement and its end user subscriber line charge revenue by (1- its Broadband Take Rate).

(c) The provisions of this section shall be effective as of the effective date of Connect America Fund Support pursuant to section 54.1101, and shall remain effective for so long as section 54.1101 remains in effect.

§ 54.1104 Transitional Stability Plan

- (a) Connect America Fund (CAF) support available to rate of return carriers shall be subject to Transitional Stability Plan (TSP) adjustments as provided herein. TSP adjustments shall assure that in each year of a transitional period no rate of return study area experiences reductions in total support provided under this Chapter of more than five percent (5%) as a result of rule revisions in Parts 36, 54 and 69 of this Chapter occurring on July 1, 2012, to the extent funding is available as described in (f) below.
- (b) During the period July 1, 2012 through December 31, 2015, annual CAF support amounts payable to a rate of return study area pursuant to §§ 54.1101 and 54.1103 of this Chapter for each calendar year shall be compared to High Cost Loop (HCL) support (including any applicable safety net adjustments or safety valve support) in accordance with Part 36, Subpart F and § 54.305 of this Chapter, Local Switching Support (LSS) in accordance with § 54.301 of this chapter and Interstate Common Line Support (ICLS) in accordance with § 54.901 of this Chapter that would have been available to that same study area for that same calendar year if Part 36, 54 and 69 rules in effect prior to July 1, 2012 had remained in effect for the current year (Prior Rule Support). If CAF support amounts are lower than the Prior Rule Support amounts by more than five percent, CAF support payable to the study area for that year shall be adjusted to equal ninety-five percent of the Prior Rule Support amount.
- (c) For the period January 1, 2016 through December 31, 2016, the TSP adjustment described in subparagraph (b) above shall be reduced by one-third.
- (d) For the period January 1, 2017 through December 31, 2017, the TSP adjustment described in subparagraph (b) above shall be reduced by two-thirds.
- (e) Effective January 1, 2018 such TSP adjustments shall no longer be available.
- (f) Funding for the TSP adjustments described above in each calendar year shall be obtained by reducing, on a pro-rata basis, CAF support amounts available under §§ 54.1101 and 54.1103 of

Part 54
Discussion Draft - 10/13/11

this chapter payable to rate of return study areas having an increase in their CAF support in that same calendar year above their Prior Support amount. Such pro-rata adjustments shall apply only to the portion of CAF support for each study area that exceeds its Prior Rule Support. If adequate funding is not available from such increased amounts of CAF support, TSP adjustment amounts otherwise payable to study areas under subparagraphs (b) through (d) above shall be reduced on a pro-rata basis.

§ 54.1105 Data Reporting and True-up Procedures

(a) Each rate of return carrier shall submit to the Administrator annually on March 31st projected data necessary to calculate the carrier's prospective CAF Support for each of its study areas in the upcoming funding year. The funding year shall be July 1 of the current year through June 30 of the next year. Each rate of return carrier will be permitted to submit a correction to the projected data filed on March 31 until June 30 for the upcoming funding year. On June 30 each rate of return carrier will be permitted to submit to the Administrator an update to the projected data for the funding year ending on that date.

(b) Each rate of return carrier shall submit to the Administrator on December 31st of each year the data necessary to calculate a carrier's CAF Support for the prior calendar year. Such data shall be used by the Administrator to make adjustments to monthly CAF Support amounts in the final two quarters of the following calendar year to the extent of any differences between the carrier's CAF received based on projected data and the support for which the carrier is ultimately eligible based on its actual data during the relevant period.

Part 61 - Tariffs

Subpart C – General Rules for Nondominant Carriers

§ 61.18 Scope.

The rules in this subpart apply to all nondominant carriers.

§ 61.26 Tariffing of competitive interstate switched exchange access services.

(a) *Definitions.* For purposes of this section 61.26, the following definitions shall apply:

(1) *CLEC* shall mean a local exchange carrier that provides some or all of the interstate exchange access services used to send traffic to or from an end user and does not fall within the definition of “incumbent local exchange carrier” in 47 U.S.C. 251(h).

(2) *Competing ILEC* shall mean the incumbent local exchange carrier, as defined in 47 U.S.C. 251(h), that would provide interstate exchange access services, in whole or in part, to the extent those services were not provided by the CLEC.

(3) *Interstate switched exchange access services* shall include the functional equivalent of the ILEC interstate exchange access services typically associated with following rate elements: ~~carrier common line (originating); carrier common line (terminating)~~; local end office switching; interconnection charge; information surcharge; tandem switched transport termination (fixed); tandem switched transport facility (per mile); tandem switching.

(4) *Non-rural ILEC* shall mean an incumbent local exchange carrier that is not a *rural telephone company* under 47 U.S.C. 153(37).

(5) The *rate* for interstate switched exchange access services shall mean the composite, per-minute rate for these services, including all applicable fixed and traffic-sensitive charges.

(6) *Rural CLEC* shall mean a CLEC that ~~does not serve (i.e., terminate traffic to or originate traffic from) any end users located within either:~~

(i) does not serve (i.e., terminate traffic to or originate traffic from) any end users located within either:

(A) (i) Any incorporated place of 50,000 inhabitants or more, based on the most recently available population statistics of the Census Bureau or

(B) (ii) An urbanized area, as defined by the Census Bureau.

(ii) neither originates nor terminates more than 1500 minutes of use interstate switched exchange access traffic per working loop per month.

Part 61
Discussion Draft - 10/13/11

(7) Rural ILEC shall mean an incumbent local exchange carrier that is a rural telephone company under 47 U.S.C. § 153(37).

(8) Working Loop shall have the same definition as in 47 C.F.R. § 54.307(b), and a physical connection to a customer premise shall count as a single working loop without regard to the capacity of that connection or its capability to transmit multiple simultaneous calls.

(b) Except as provided in paragraphs (c) and ~~(d)~~ ~~(e)~~ of this section, a CLEC shall not file a tariff for its interstate switched exchange access services that prices those services above the ~~higher of:~~ benchmark rate. The benchmark rate for a CLEC's interstate switched exchange access services will be the rate charged for similar services by the competing ILEC.

~~(1) The rate charged for such services by the competing ILEC or~~

~~(2) The lower of:~~

~~(i) The benchmark rate described in paragraph (c) of this section or~~

~~(ii) The lowest rate that the CLEC has tariffed for its interstate exchange access services, within the six months preceding June 20, 2001.~~

~~(e) From June 20, 2001 until June 20, 2002, the benchmark rate for a CLEC's interstate switched exchange access services will be \$0.025 per minute. From June 20, 2002 until June 20, 2003, the benchmark rate for a CLEC's interstate switched exchange access services will be \$0.018 per minute. From June 20, 2003 until June 21, 2004, the benchmark rate for a CLEC's interstate switched exchange access services will be \$0.012 per minute. After June 21, 2004, the benchmark rate for CLEC's interstate switched exchange access services will be the rate charged for similar services by the competing ILEC, provided, however, that the benchmark rate for a CLEC's interstate switched exchange access services will not move to bill and keep, if at all, until June 20, 2005.~~

~~(d) Notwithstanding paragraphs (b) and (c) of this section, in the event that, after June 20, 2001, a CLEC begins serving end users in a metropolitan statistical area (MSA) where it has not previously served end users, the CLEC shall not file a tariff for its interstate exchange access services in that MSA that prices those services above the rate charged for such services by the competing ILEC.~~

(c) ~~(e)~~ *Rural exemption.* Notwithstanding paragraphs (b) ~~through (d)~~ of this section, a rural CLEC competing with a non-rural ILEC shall not file a tariff for its interstate exchange access services that prices those services above the rate prescribed in the NECA access tariff, assuming the highest rate band for local switching. In addition to ~~the rate described above,~~ the rural CLEC may assess a presubscribed interexchange carrier charge if, and only to the extent that, the competing ILEC assesses this charge that NECA rate, the rural CLEC may assess a presubscribed interexchange carrier charge if, and only to the extent that, the competing ILEC assesses this charge. Any rural CLEC that files a tariff pursuant to this exemption shall, no later than the 30th day after the end of each quarter for which it ceases to meet the requirements of the exemption, submit to the Commission a revised tariff based upon the competing ILEC's rates.

(d) Limitation on Use of a Rural ILEC Benchmark. Notwithstanding paragraph (b) of this section, if a CLEC's competing ILEC is a rural ILEC, the CLEC may benchmark to the competing rural ILEC only if the CLEC terminates 1500 or fewer minutes of use of interstate

Part 61
Discussion Draft - 10/13/11

switched exchange access traffic per working loop per month, determined on the basis of average use per quarter. Any CLEC benchmarking to a competing rural ILEC shall, no later than the 15th day after the end of each quarter, certify to the Commission either:

(1) that the CLEC continues to qualify as a CLEC entitled to benchmark to the competing rural ILEC pursuant to this paragraph based on the CLEC's average switched exchange access minutes of use per working loop per month for the preceding quarter and that the CLEC will retain the documentation necessary to support its certification for at least three (3) years and will provide that documentation to the Commission on demand; or

(2) that the CLEC is no longer eligible to benchmark to the competing rural ILEC pursuant to this paragraph based on the CLEC's average switched exchange access minutes of use per working loop per month for the preceding quarter and that the CLEC will file a revised tariff within 30 days that prices its interstate switched exchange access services no higher than the rate charged by [a] the Bell Operating Company as defined in 47 U.S.C. § 153(4) serving the CLEC's state, or the largest ILEC in the state, possession or territory if there is no Bell Operating Company (based on number of lines within the state).

(3) A CLEC required to file a new tariff under subsection (ii) hereof may not benchmark its interstate switched access rates to a rural ILEC for a minimum of one (1) year after the new tariff complying with subsection (ii) has been filed.

~~(e) (f)~~-If a CLEC provides some portion of the interstate switched exchange access services used to send traffic to or from an end user not served by that CLEC, the rate for the access services provided may not exceed the rate charged by the competing ILEC for the same access services.

Part 64 – Miscellaneous Rules Relating to Common Carriers

Subpart P – ~~Calling Party Telephone Number~~ Call Identification Information; Privacy

§ 64.1600 Definitions.

(a) *Aggregate information.* The term “aggregate information” means collective data that relate to a group or category of services or customers, from which individual customer identities or characteristics have been removed.

(b) *ANI.* The term “ANI” (automatic number identification) refers to the delivery of the calling party's billing number by a local exchange carrier or telecommunications provider to any ~~interconnecting~~ carrier for billing or routing purposes, and to the subsequent delivery of such number to end users.

(c) *Call detail.* The term “call detail” refers to specific information relating to a telephone call, such as, but not limited to, the Called Party Number, Calling Party Number (CPN), Carrier Identification Information, Charge Number (CN), call start time, call duration, call date, Jurisdiction Information Parameter (JIP), originating Local Routing Number (LRN), and other details of a call.

(d) *Called party number.* The term “called party number” refers to the called party's subscriber line number or directory number (or IP Equivalent).

(e) *Carrier identification information.* The term “carrier identification information” describes information used to identify a carrier such as, but not limited to, the Carrier Identification Code (CIC) or Operating Company Number (OCN).

(f) ~~(e)~~ *Caller identification information.* The term “caller identification information” means information provided by a caller identification service regarding the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or ~~interconnected VoIP~~ any IP-Enabled service.

(g) ~~(d)~~ *Caller identification service.* The term “caller identification service” means any service or device designed to provide the user of the service or device with the telephone number of, or other information regarding the origination of, a call made using a telecommunications service or ~~interconnected VoIP~~ any IP-Enabled service.

(h) ~~(e)~~ *Calling party number.* The term “Calling Party Number” (CPN) refers to the calling party's subscriber line number or ~~the~~ directory number (or IP equivalent) contained in the calling party number parameter of the call set up message associated with an interstate call on a Signaling System 7 network or any successor technology.

(i) ~~(f)~~ *Charge number.* The term “charge number”(CN) refers to the delivery of the calling party's billing number in a Signaling System 7 environment by a local exchange carrier or telecommunications provider to any ~~interconnecting~~ carrier for billing or routing purposes, and to the subsequent delivery of such number to end users.

(j) ~~(g)~~ *Information regarding the origination.* The term “information regarding the origination” means any:

Part 64
Discussion Draft - 10/13/11

- (1) Telephone number;
- (2) Portion of a telephone number, such as an area code;
- (3) Name;
- (4) Location information;
- (5) Billing number information, including charge number, ANI, or pseudo-ANI; or
- (6) Other information regarding the source or apparent source of a telephone call.

(k) ~~(h)~~ *Interconnected VoIP service.* The term “interconnected VoIP service” has the same meaning given the term “interconnected VoIP service” in 47 CFR 9.3 as it currently exists or may hereafter be amended.

(l) *Jurisdiction Information Parameter.* The term “jurisdictional information parameter” or “JIP” denotes a six digit Signaling System 7 (SS7) field in the SS7 record which is used to identify the originating switch.

(m) ~~(j)~~ *Privacy indicator.* The term “Privacy Indicator” refers to information, contained in the calling party number parameter of the call set-up message associated with an interstate call on a Signaling System 7 network, that indicates whether the calling party authorizes presentation of the calling party number to the called party.

(n) ~~(i)~~ *Signaling System 7.* The term “Signaling System 7” (SS7) refers to a carrier to carrier out-of-band signaling network used for call routing, billing and management.

(o) *Non-Interconnected VoIP service.* The term “non-interconnected VoIP service” means any service that enables real-time voice communications that originate from or terminate to a user's location using Internet protocol or any successor protocol; and requires Internet protocol compatible customer premises equipment.

(p) *IP-Enabled service.* For purposes of this subpart, the term “IP-Enabled service” means (i) an Interconnected VoIP service, (ii) a non-interconnected VoIP service, and (iii) any other service that enables the origination or termination of real-time communications from a user's location using Internet protocol or any successor protocol, regardless of the equipment utilized at the customer premises.

§ 64.1601 Delivery requirements and privacy restrictions.

(a) *Delivery.* Except as provided in paragraph (d) of this section, common carriers and other telecommunications providers using Signaling System 7 and offering or subscribing to any service based on Signaling System 7 functionality are required to transmit provide the unaltered calling party number (CPN or IP equivalent), JIP, and Carrier Identification Information associated with calls an interstate call to interconnecting carriers and telecommunications providers regardless of technology or call jurisdiction.

- (1) The CPN (or IP equivalent) shall not be replaced or superseded by numbers associated with intermediate switches, platforms, gateways, billing number, or number associated with a trunk group or anything other than the originating end user's CPN (or IP equivalent), nor may carriers or telecommunications providers populate the Charge Number (CN) parameter (or IP equivalent) in signaling with the

Part 64
Discussion Draft - 10/13/11

number of an intermediate switch, platform, gateway or with anything other than the customer's CN (or IP equivalent).

(2) The JIP shall be populated with the originating switch location and passed without alteration through the entirety of the call by all carriers and telecommunications providers. When providing Exchange Message Interface (EMI) records for billing purposes, the JIP shall be used to populate the originating LRN field.

(3) Carrier Identification Information must include carrier (or provider) identification codes (CIC, OCN, or other such identifying information) in order to allow for accurate intercarrier billing.

(3) All carriers and telecommunications providers are required to transmit all signaling information without alteration to the carriers and telecommunications providers in the call path, except as otherwise provided in Commission rules. All call detail that is not part of the signaling information, such as EMI, will be provided in a timely manner but in no event later than 60 days following the call.

(4) A terminating carrier may charge a penalty rate equal to its highest terminating access rate, regardless of jurisdiction, to any carrier or telecommunications provider that delivers calls for termination lacking the call detail information specified above. An intermediate carrier that is charged the highest access rate of the terminating carrier due to lack of call detail information may, in turn, pass this cost onto the next upstream carrier or provider if it received the call from that upstream carrier or provider without the necessary call detail information.

(b) *Privacy.* Except as provided in paragraph (d) of this section, originating carriers using Signaling System 7 and offering or subscribing to any service based on Signaling System 7 functionality will recognize *67 dialed as the first three digits of a call (or 1167 for rotary or pulse dialing phones) as a caller's request that the CPN not be passed on an interstate call. Such carriers providing line blocking services will recognize *82 as a caller's request that the CPN be passed on an interstate call. No common carrier subscribing to or offering any service that delivers CPN may override the privacy indicator associated with an interstate call. Carriers must arrange their CPN-based services, and billing practices, in such a manner that when a caller requests that the CPN not be passed, a carrier may not reveal that caller's number or name, nor may the carrier use the number or name to allow the called party to contact the calling party. The terminating carrier must act in accordance with the privacy indicator unless the call is made to a called party that subscribes to an ANI or charge number based service and the call is paid for by the called party.

(c) *Charges.* No common carrier subscribing to or offering any service that delivers calling party number may

(1) Impose on the calling party charges associated with per call blocking of the calling party's telephone number, or

(2) Impose charges upon connecting carriers for the delivery of the calling party number parameter or its associated privacy indicator.

(d) *Exemptions.* Section 64.1601(a) and (b) shall not apply when:

(1) A call originates from a payphone.

Part 64
Discussion Draft - 10/13/11

(2) A local exchange carrier with Signaling System 7 capability does not have the software to provide *67 or *82 functionalities. Such carriers are prohibited from passing CPN. A carrier or telecommunications provider that does not have this privacy capability shall file a petition with the Commission requesting waiver of the delivery and privacy requirements specified herein.

~~(3) A Private Branch Exchange or Centrex system does not pass end user CPN. Centrex systems that rely on *6 or *8 for a function other than CPN blocking or unblocking, respectively, are also exempt if they employ alternative means of blocking or unblocking.~~

~~(4)~~(3) CPN delivery -

(i) Is used solely in connection with calls within the same limited system, including (but not limited to) a Centrex system, virtual private network, or Private Branch Exchange;

(ii) Is used on a public agency's emergency telephone line or in conjunction with 911 emergency services, or on any entity's emergency assistance poison control telephone line; or

(iii) Is provided in connection with legally authorized call tracing or trapping procedures specifically requested by a law enforcement agency.

(e) Any person or entity that engages in telemarketing, as defined in section 64.1200(f)(10) must transmit caller identification information.

(1) For purposes of this paragraph, caller identification information must include either CPN or ANI, and, when available by the telemarketer's carrier, the name of the telemarketer. It shall not be a violation of this paragraph to substitute (for the name and phone number used in, or billed for, making the call) the name of the seller on behalf of which the telemarketing call is placed and the seller's customer service telephone number. The telephone number so provided must permit any individual to make a do-not-call request during regular business hours.

(2) Any person or entity that engages in telemarketing is prohibited from blocking the transmission of caller identification information.

(3) Tax-exempt nonprofit organizations are not required to comply with this paragraph.

* * *

§ 64.1604 Prohibition on transmission of inaccurate or misleading caller identification information.

(a) No person or entity in the United States shall, with the intent to defraud, cause harm, or wrongfully obtain anything of value, knowingly cause, directly or indirectly, any caller identification service to transmit or display misleading or inaccurate caller identification information.

(b) *Exemptions.* Paragraph (a) of this section shall not apply to:

Part 64
Discussion Draft - 10/13/11

(1) Lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States; or

(2) Activity engaged in pursuant to a court order that specifically authorizes the use of caller identification manipulation.

(c) A person or entity that blocks or seeks to block a caller identification service from transmitting or displaying that person or entity's own caller identification information pursuant to section 64.1601(b) of this part shall not be liable for violating the prohibition in paragraph (a) of this section. This paragraph (c) does not relieve any person or entity that engages in telemarketing, as defined in section 64.1200(f)(10) of this part, of the obligation to transmit caller identification information under section 64.1601(e).

§ 64.1605 Phantom Traffic

(a) The intentional misrouting of traffic to disguise the financially-responsible carrier or provider's identity, or alteration or omission of signaling data with intent to disguise the actual origination or termination points of a call (including replacement of data indicating the originating or terminating end points of a call with numbers or codes associated with intermediate switches, platforms or gateways), is deemed to be an unreasonable practice under the Act.

(b) Absent mutual agreement on traffic factors or sufficient data on the actual origination point of calls, terminating carriers may use the CPN and called party number associated with each call as a default proxy to determine call jurisdiction for intercarrier billing purposes.

(c) A terminating carrier receiving traffic lacking sufficient call detail to determine proper billing of intercarrier compensation charges can impose the penalty rate described in section 64.1601(a)(5) above and may file a complaint with the Commission pursuant to section 208 of the Act. Complainants may request an accelerated hearing pursuant to section 1.730 of this Chapter.

* * *

Part 69 – Access Charges

Subpart A – General

§ 69.1 Application of access charges.

(a) This part establishes rules ~~for access~~ governing charges for ~~interstate or foreign~~ access services provided by telephone companies ~~on or after January 1, 1984~~.

(b) Except as provided in § 69.1(c), charges for such access service shall be computed, assessed, and collected and revenues from such charges shall be distributed as provided in this part. Access service tariffs shall be filed and supported as provided under Part 61 of this chapter, except as modified herein.

(c) The following provisions of this part shall apply to telephone companies subject to price cap regulation only to the extent that application of such provisions is necessary to develop the nationwide average carrier common line charge, for purposes of reporting pursuant to §§ 43.21 and 43.22 of this chapter, and for computing initial charges for new rate elements: §§ 69.3(f), 69.106(b), 69.106(f), 69.106(g), 69.109(b), 69.110(d), 69.111(c), 69.111(g)(1), 69.111(g)(2), 69.111(g)(3), 69.111(l), 69.112(d), 69.114(b), 69.114(d), 69.125(b)(2), 69.301 through 69.310, and 69.401 through 69.412. The computation of rates pursuant to these provisions by telephone companies subject to price cap regulation shall be governed by the price cap rules set forth in Part 61 of this chapter and other applicable Commission Rules and orders.

§ 69.2 Definitions.

For purposes of the part:

(a) *Access minutes* or *Access minutes of use* is that usage of exchange facilities in interexchange (non-local) ~~interstate or foreign~~ service for the purpose of calculating chargeable usage. On the originating end of an interexchange (non-local) ~~interstate or foreign~~ call, usage is to be measured from the time the originating end user's call is delivered by the telephone company and acknowledged as received by the interexchange carrier's facilities connected with the originating exchange. On the terminating end of an interexchange (non-local) ~~interstate or foreign~~ call, usage is to be measured from the time the call is received by the end user in the terminating exchange. Timing of usage at both the originating and terminating end of an interexchange (non-local) ~~interstate or foreign~~ call shall terminate when the calling or called party disconnects, whichever event is recognized first in the originating and terminating end exchanges as applicable;

(b) *Access service* includes services and facilities provided for the origination or termination of any interexchange (non-local) ~~interstate or foreign~~ telecommunication;

* * *

(m) *End user* means any customer of an interexchange (non-local) ~~interstate or foreign~~ telecommunications service that is not a carrier except that a carrier other than a telephone company shall be deemed to be an "end user" when such carrier uses a telecommunications service for administrative purposes and a person or entity that offers telecommunications

Part 69
Discussion Draft - 10/13/11

services exclusively as a reseller shall be deemed to be an "end user" if all resale transmissions offered by such reseller originate on the premises of such reseller;

* * *

(s) *Interexchange* or the *interexchange category* includes services or facilities provided as an integral part of interexchange (non-local) interstate or foreign telecommunications that is not described as "access service" for purposes of this part;

* * *

(ee) *Public telephone* is a telephone provided by a telephone company through which an end user may originate interexchange (non-local) interstate or foreign telecommunications for which he pays with coins or by credit card, collect or third number billing procedures;

* * *

(xx) *Broadband Line* loop equipment and facilities that support transmission of voice and broadband data, or broadband data only, between the carrier's central office and end user customer premises, at a minimum downstream speed of 256 Kbps.

(yy) *Broadband Service Access Connection Point* means the network equipment located in a telephone company serving wire center where broadband traffic from one or more telephone company serving wire centers is aggregated.

§ 69.3 Filing of access service tariffs.

(a) Except as otherwise provided in paragraphs (g) and (h) of this section herein, a tariff for access service shall be filed with this Commission for a two-year period. Such tariffs shall be filed with a scheduled effective date of July 1. Such tariff filings shall be limited to rate level changes.

* * *

(e) A telephone company or group of telephone companies may file a tariff that is not an association tariff. Such a tariff may cross-reference the association tariff for some access elements and include separately computed charges of such company or companies for other elements. Any such tariff must comply with the requirements hereinafter provided:

(1) Such a tariff must cross-reference association charges for the Carrier Common Line and End User Common Line element or elements if such company or companies participate in the pooling of revenues and revenue requirements for such elements;

(2) Such a tariff that cross-references an association charge for any end user access element must cross-reference association charges for all end user access elements;

(3) Such a tariff that cross-references an association charge for any carrier's carrier access element other than the Carrier Common Line element must cross-reference association charges for all carrier's carrier access charges other than the Carrier Common Line element;

(4) Except for charges subject to price cap regulation as that term is defined in § 61.3(v) of this chapter, any charge in such a tariff that is not an association charge

Part 69
Discussion Draft - 10/13/11

must be computed to reflect the combined investment and expenses of all companies that participate in such a charge;

(5) A telephone company or companies that elect to file such a tariff for 1984 access charges shall notify AT&T on or before the 40th day after the release of the Commission order adopting this part;

(6) A telephone company or companies that elect to file such a tariff shall notify the association not later than March 1 of the year the tariff becomes effective, if such company or companies did not file such a tariff in the preceding biennial period or cross-reference association charges in such preceding period that will be cross-referenced in the new tariff. A telephone company or companies that elect to file such a tariff not in the biennial period shall file its tariff to become effective July 1 for a period of one year. Thereafter, such telephone company or companies must file its tariff pursuant to paragraphs (f)(1) or (f)(2) of this section.

(7) Such a tariff shall not contain charges for any access elements that are disaggregated or deaveraged within a study area that is used for purposes of jurisdictional separations, except as otherwise provided in this chapter.

(8) Such a tariff shall not contain charges included in the billing and collection category.

(9) A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff pursuant to paragraph (a) of this section shall notify the association not later than March 1 of the year the tariff becomes effective that it will no longer participate in the association tariff. A telephone company or group of affiliated telephone companies that elects to file its own Carrier Common Line tariff for one of its study areas shall file its own Carrier Common Line tariff(s) for all of its study areas.

(10) Any data supporting a tariff that is not an association tariff shall be consistent with any data that the filing carrier submitted to the association.

(11) Any changes in Association common line tariff participation and Long Term and Transitional Support resulting from the merger or acquisition of telephone properties are to be made effective on the next annual access tariff filing effective date following consummation of the merger or acquisition transaction, in accordance with the provisions of § 69.3(e)(9).

(k) Telephone companies offering intrastate switched access services shall file tariff revisions or take such other action as may be necessary to conform intrastate switched access rate structures, elements, and revenue-affecting terms and conditions to the rate structures, elements, and revenue affecting terms and conditions prescribed in this Chapter effective July 1, 2012, using the following criteria:

(1) In those cases where intrastate rates are different for originating and terminating traffic, separate rates for originating and terminating intrastate traffic can be maintained in an intrastate tariff even though the corresponding interstate tariff provisions and rates make no such distinction.

Part 69
Discussion Draft - 10/13/11

(2) Intrastate rate elements with different titles but relating to the same functions described in interstate rate elements may retain their current titles.

(3) Intrastate carrier common line rates, if any, shall be combined with the intrastate Local Switching rate element or its functional equivalent.

(4) All intrastate rate structure changes made pursuant to this section shall be targeted to produce the same aggregate intrastate revenues as produced under intrastate rate structures.

§ 69.4 Charges to be filed.

(a) The end user charges for access service ~~filed with this Commission~~ shall include charges for the End User Common Line element, and for line port costs in excess of basic, analog service.

(b) Except as provided in paragraphs (c), (e), and (h) of this section, and in § 69.118, the carrier's carrier charges for access service ~~filed with this Commission~~ shall include charges for each of the following elements:

(1) [Reserved]

(2) Carrier common line, provided that after June 30, 2003, non-price cap local exchange carriers may not assess a carrier common line charge;

(3) Local switching;

(4) Information;

(5) Tandem-switched transport;

(6) Direct-trunked transport;

(7) Special access; and

(8) Line information database;

(9) Entrance facilities.

(c) [Reserved]

(d) Recovery of Contributions to the Universal Service Support Mechanisms by Incumbent Local Exchange Carriers.

(1) [Reserved]

(2) (i) Local exchange carriers may recover their contributions to the universal service support mechanisms only through explicit, interstate, end-user charges assessed pursuant to either § 69.131 or § 69.158 that are equitable and nondiscriminatory.

(ii) Local exchange carriers may not recover any of their contributions to the universal service support mechanisms through access charges imposed on interexchange carriers.

Part 69
Discussion Draft - 10/13/11

(e) The carrier's carrier charges for access service ~~filed with this Commission~~ assessed by the telephone companies specified in § 64.1401(a) of this chapter shall include an element for connection charges for expanded interconnection. The carrier's carrier charges for access service ~~filed with this Commission~~ assessed by the telephone companies not specified in §64.1401(a) of this chapter may include an element for connection charges for expanded interconnection.

(f) [Reserved]

(g) Local exchange carriers may establish appropriate rate elements for a new service, within the meaning of § 61.3(x) of this chapter, in any tariff filing.

(h) In addition to the charges specified in paragraph (b) of this section, the carrier's carrier charges for access service ~~filed with this Commission~~ assessed by price cap local exchange carriers shall include charges for each of the following elements:

- (1) Presubscribed interexchange carrier;
- (2) Per-minute residual interconnection;
- (3) Dedicated local switching trunk port;
- (4) Shared local switching trunk port;
- (5) Dedicated tandem switching trunk port;
- (6) [Reserved]
- (7) Multiplexers associated with tandem switching.

(i) Paragraphs (b) and (h) of this section are not applicable to a price cap local exchange carrier to the extent that it has been granted the pricing flexibility in §69.727(b)(1).

(j) In addition to the charges specified in paragraph (b) of this section, the carrier's carrier charges ~~for access service filed with the Commission~~ assessed by non-price cap local exchange carriers may include charges for each of the following elements:

- (1) Dedicated local switching trunk port;
- (2) Shared local switching trunk port;
- (3) Dedicated tandem switching trunk port;
- (4) Multiplexers associated with tandem switching;
- (5) DS1/voice grade multiplexers associated with analog switches; and
- (6) Per-message call setup.

§ 69.5 Persons to be assessed.

(a) End user charges shall be computed and assessed upon public end users, and upon providers of public telephones, as defined in this subpart, and as provided in subpart B of this part.

Part 69
Discussion Draft - 10/13/11

(b) Carrier's carrier charges shall be computed and assessed upon all ~~interexchange~~ carriers and other interconnected telecommunications providers that use local exchange switching facilities for the provision of interexchange (non-local) interstate or foreign telecommunications services. Interexchange calls that originate or terminate in IP format shall be rated as interstate calls for purposes of assessing switched access charges regardless of whether the origination and termination points of such calls are located in the same state. In connection with the exchange of traffic, a telecommunications carrier may require certification that traffic is VoIP and require supporting information and documentation, which may be subject to audit.

(c) Special access surcharges shall be assessed upon users of exchange facilities that interconnect these facilities with means of ~~interstate or foreign~~ interexchange (non-local) telecommunications to the extent that carrier's carrier charges are not assessed upon such interconnected usage. As an interim measure pending the development of techniques accurately to measure such interconnected use and to assess such charges on a reasonable and non-discriminatory basis, telephone companies shall assess special access surcharges upon the closed ends of private line services and WATS services pursuant to the provisions of § 69.115 of this part.

* * *

Subpart B – Computation of Charges

§ 69.101 General.

Except as provided in § 69.1 and subpart C of this part, charges for each access element shall be computed and assessed as provided in this subpart including the limitations described in §69.132.

§ 69.104 End user common line for non-price cap incumbent local exchange carriers.

(a) This section is applicable only to incumbent local exchange carriers that are not subject to price cap regulation as that term is defined in § 61.3(ee) of this chapter. An interstate charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charges shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

* * *

(s) Additional End User Common Line Charge. Carriers subject to this section whose monthly charges for local residential telephone exchange service (including charges associated with basic residential local exchange telephone service, interstate End User Common Line charges, any comparable intrastate end user common line charges, mandatory Extended Area Service charges, and any state universal service fund or comparable fund per-line amounts) are less than twenty-five dollars per month (herein, the “Local Residential Service Benchmark”) may apply an Additional End User Common Line Charge or portion thereof according to the following schedule such that the amount specified is the total Additional End User Common Line Charge that may be assessed or imputed for that year:

(1) July 1, 2012 to June 30, 2013: \$0.75

Part 69
Discussion Draft - 10/13/11

(2) July 1, 2013 to June 30, 2014: \$1.50

(3) July 1, 2014 to June 30, 2015: \$2.25

(4) July 1, 2015 to June 30, 2016: \$3.00

(5) July 1, 2016 to June 30, 2017: \$3.75

(6) July 1, 2017 and thereafter: \$4.50

Provided, however, such Additional End User Common Line Charges shall not apply to the extent they would, if billed, cause a carrier's charges for basic residential local exchange telephone service as described above to exceed the Local Residential Service Benchmark.

* * *

§ 69.106 Local switching.

(a) Except as provided in § 69.118, charges that are expressed in dollars and cents per access minute of use shall be assessed by local exchange carriers that are not subject to price cap regulation upon all ~~interexchange~~ carriers and other interconnected telecommunications providers that use local exchange switching facilities for the provision of interexchange (non-local) interstate or foreign telecommunications services.

§ 69.114 Special access.

(a) (1) Appropriate subelements shall be established for the use of equipment or facilities that are assigned to the Special Access element for purposes of apportioning net investment, or that are equivalent to such equipment or facilities for companies subject to price cap regulation as that term is defined in § 61.3(x) of this chapter.

(2) Effective July 1, 2012 rate of return carriers will establish subelements within the Special Access category specifying charges for Middle Mile and Second Mile broadband access services.

(b) Charges for all subelements shall be designed to produce total annual revenue that is equal to the projected annual revenue requirement for the Special Access element, excluding any Rural Broadband Network Transmission Support received by the carrier pursuant to §54.1102 of this chapter.

(c) Charges for an individual element shall be assessed upon all interexchange carriers that use the equipment or facilities that are included within such subelement.

(d) Charges for individual subelements shall be designed to reflect cost differences among subelements in a manner that complies with applicable Commission rules or decisions.

§ 69.132 Unification of Intrastate and Interstate Access Rates

Part 69
Discussion Draft - 10/13/11

- (a) Effective July 1, 2012, each rate of return local exchange carrier's interstate originating and terminating switched access rates shall be capped at rate levels in effect as of June 30, 2012.
- (b) Effective July 1, 2012, each rate of return local exchange carrier shall revise its terminating intrastate switched access service rates so as to eliminate one-half the difference between its combined intrastate terminating switched access service rates and its interstate terminating switched access rates specified in tariffs filed pursuant to this Chapter.
- (c) Effective July 1, 2013, each rate of return local exchange carrier revise its terminating intrastate stitched access service rates so as to eliminate any remaining difference between its combined intrastate terminating switched access service rates its interstate terminating switched access rates specified in tariffs filed pursuant to this Chapter.
- (d) Each local exchange carrier shall annually file tariffs or take such other action as may be necessary to reduce, beginning July 1, 2014 and continuing until July 1, 2017 its combined rates for intrastate and interstate terminating local switching and information access services to \$0.005 per minute of use, such reductions to be implemented in equal annual increments.
- (e) Each local exchange carrier shall annually file tariffs or take such other action as may be necessary to reduce, beginning July 1, 2017 and continuing until July 1, 2020 its combined rates for intrastate and interstate terminating local switching and information access services to \$0.0007 per minute of use, such reductions to be implemented in equal annual increments. Transport and tandem switched rates for access traffic shall remain at levels determined pursuant to § 69.132(d) above.
- (f) The rate revisions specified in this section shall be imposed only to the extent that high-cost universal service funding as specified in Part 54 of this Chapter including Access Restructure Support is sufficient to offset reductions in revenue resulting from such reductions. In the event the Administrator submits a report pursuant to subsection 54.702(h) of this Chapter indicating funding will not be sufficient for the upcoming period, the Commission shall issue a public notice on or before June 1 of each year suspending planned rate reductions for July 1 of that year. Absent positive action by the Commission to suspend rate reductions by June 1 in a particular year, carriers reducing rates on July 1 of that year shall be entitled to receive full High Cost universal service funding pursuant to Part 54 of this Chapter.

Subpart D – Apportionment of Net Investment

§ 69.304 Subscriber line cable and wire facilities.

- (a) Investment in local exchange subscriber lines shall be assigned to the Common Line element.
- (b) Investment in interstate and foreign private lines and interstate WATS access lines shall be assigned to the Special access element.

Part 69
Discussion Draft - 10/13/11

(c) Investment associated with data-only Broadband Lines shall be assigned to the Second Mile subelement.

§ 69.305 Carrier cable and wire facilities (C&WF).

- (a) Carrier C&WF that is not used for “origination” or “termination” as defined in §69.2(bb) and §69.2(cc) shall be assigned to the interexchange category.
- (b) Carrier C&WF, other than WATS access lines, not assigned pursuant to paragraph (a), (c), or (e) of this section that is used for interexchange services that use switching facilities for origination and termination that are also used for local exchange telephone service shall be apportioned to the local Transport elements.
- (c) Carrier C&WF that is used to provide transmission between the local exchange carrier’s signalling transfer point and the database shall be assigned to the Line Information Database sub-element at §69.120(a).
- (d) All Carrier C&WF that is not apportioned pursuant to paragraphs (a), (b), (c), ~~and (e),~~ and (f) of this section shall be assigned to the Special Access element.
- (e) Carrier C&WF that is used to provide transmission between the local exchange carrier’s signalling transfer point and the local switch shall be assigned to the local switching category.
- (f) Carrier C&WF that is used to provide transmission between the Broadband Access Service Connection Point and the Internet backbone connection point shall be assigned to the Middle Mile subelement.
- (g) Carrier C&WF that is used to provide transmission between a broadband customer’s serving wire center and the Broadband Access Service Connection Point shall be assigned to the Second Mile subelement.

* * *

Subpart E – Apportionment of Expenses

§ 69.401 Direct expenses.

* * *

- (e) (1) Until July 1, 2012, Plant Non Specific Operations Expenses in Account 6540 shall be assigned to the interexchange category.
- (e) (2) Beginning July 1, 2012, Plant Non Specific Operations Expenses related to the Middle Mile in Account 6540 shall be assigned to the Middle Mile subelement. All other Plant Non Specific Operations Expenses in Account 6540 shall be assigned to the interexchange category.

* * *

§ 69.413 Universal service fund expenses.

Part 69
Discussion Draft - 10/13/11

Expenses allocated to the interstate jurisdiction pursuant to §§ 36.631 and 36.641 shall be assigned to the Carrier Common Line Element until March 31, 1989. Beginning April 1, 1989, such expenses shall be assigned to the Universal Service Fund Element. Beginning July 1, 2012 expenses allocated to the interstate jurisdiction pursuant to Part 36.801 shall be assigned to the Universal Service Fund Element.

* * *