

PART 69—ACCESS CHARGES

63. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

64. Add paragraph (d) to §69.1 to read as follows:

§69.1 Application of access charges.

* * * * *

(d) To the extent any provision contained in part 51 subparts H and J conflict with any provision of this part, the part 51 provision supersedes the provision of this part.

* * * * *

65. Revise §69.3 paragraphs (e)(6) and (e)(9) and add paragraph (e)(12) to read as follows:

§69.3 Filing of access service tariffs.

* * * * *

(e) * * *

(6) Except as provided in paragraph (e)(12) of this section, 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.

* * * * *

(9) Except as provided in paragraph (e)(12) of this section, 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.

* * * * *

(12)(i) A local exchange carrier, or a group of affiliated carriers in which at least one carrier is engaging in access stimulation, as that term is defined in §61.3(aaa) of this chapter, shall file its own access tariffs within forty-five (45) days of commencing access stimulation, as that term is defined in

§61.3(aaa) of this chapter, or within forty-five (45) days of [date] if the local exchange carrier on that date is engaged in access stimulation, as that term is defined in §61.3(aaa) of this chapter.

(ii) Notwithstanding paragraphs (e)(6) and (e)(9) of this section, a local exchange carrier, or a group of affiliated carriers in which at least one carrier is engaging in access stimulation, as that term is defined in §61.3(aaa) of this chapter, must withdraw from all interstate access tariffs issued by the association within forty-five (45) days of engaging in access stimulation, as that term is defined in §61.3(aaa) of this chapter, or within forty-five (45) days of [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] if the local exchange carrier on that date is engaged in access stimulation, as that term is defined in §61.3(aaa) of this chapter.

(iii) Any such carrier(s) shall notify the association when it begins access stimulation, or on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] if it is engaged in access stimulation, as that term is defined in §61.3(aaa) of this chapter, on that date, of its intent to leave the association tariffs within forty-five (45) days.

APPENDIX B**Proposed Rules**

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 to read as follows:

PART 54 – UNIVERSAL SERVICE

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

Authority: 47 U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

2. Revise subpart L to part 54 to read as follows:

Subpart L – Mobility Fund**Sec.**

54.1011 Mobility Fund – Phase II

54.1012 Geographic Areas Eligible for Support

54.1013 Provider Eligibility

54.1014 Service to Tribal Lands

54.1015 Application Process

54.1016 Public Interest Obligations

54.1017 Letter of Credit

54.1018 Mobility Fund Phase II Disbursements

54.1019 Annual Reports

54.1020 Record Retention for Mobility Fund Phase II

§ 54.1011 Mobility Fund – Phase II.

The Commission will use competitive bidding, as provided in part 1, subpart AA, to determine the recipients of support available through Phase II of the Mobility Fund and the amount(s) of support that they may receive for specific geographic areas, subject to applicable post-auction procedures.

§ 54.1012 Geographic Areas Eligible for Support

(a) Mobility Fund Phase II support may be made available for census blocks or other areas identified as eligible by public notice.

(b) Except as provided in § 54.1014, coverage units for purposes of conducting competitive bidding and disbursing support based on designated road miles will be identified by public notice for each area eligible for support.

§ 54.1013 Provider Eligibility.

(a) Except as provided in § 54.1014, an applicant shall be an Eligible Telecommunications Carrier in an area in order to receive Mobility Fund Phase II support for that area. The applicant's designation as an Eligible Telecommunications Carrier may be conditional subject to the receipt of Mobility Fund support.

(b) An applicant shall have access to spectrum in an area that enables it to satisfy the applicable performance requirements in order to receive Mobility Fund Phase II support for that area. The applicant shall certify, in a form acceptable to the Commission, that it such access at the time it applies to participate in competitive bidding and at the time that it applies for support and that it will retain such access for ten (10) years after the date on which it is authorized to receive support.

(c) An applicant shall certify that it is financially and technically qualified to provide the services supported by Mobility Fund Phase II in order to receive such support.

§ 54.1014 Service to Tribal Lands.

(a) A Tribally-owned or –controlled entity that has pending an application to be designated an Eligible Telecommunications Carrier may participate in an auction by bidding for support in areas located within the boundaries of the Tribal land associated with the Tribe that owns or controls the entity. To bid on this basis, an entity shall certify that it is a Tribally-owned or –controlled entity and identify the applicable Tribe and Tribal lands in its application to participate in the competitive bidding. A Tribally-owned or –controlled entity shall receive any Mobility Fund Phase II support only after it has become an Eligible Telecommunications Carrier.

(b) In any auction for support solely in Tribal lands, coverage units for purposes of conducting competitive bidding and disbursing support based on designated population will be identified by public notice for each census block eligible for support.

(c) Tribally-owned or –controlled entities may receive a bidding credit with respect to bids for support within the boundaries of associated Tribal lands. To qualify for a bidding credit, an applicant shall certify that it is a Tribally-owned or –controlled entity and identify the applicable Tribe and Tribal lands in its application to participate in the competitive bidding. An applicant that qualifies shall have its bid(s) for support in areas within the boundaries of Tribal land associated with the Tribe that owns or controls the applicant reduced by twenty-five (25) percent or purposes of determining winning bidders without any reduction in the amount of support available.

(d) A winning bidder for support in Tribal lands shall notify and engage the Tribal governments responsible for the areas supported.

(1) A winning bidder's engagement with the applicable Tribal government shall consist, at a minimum, of discussion regarding:

(i) A needs assessment and deployment planning with a focus on Tribal community anchor institutions;

(ii) Feasibility and sustainability planning;

(iii) Marketing services in a culturally sensitive manner;

(iv) Rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and

(v) Compliance with Tribal business and licensing requirements

(2) A winning bidder shall notify the appropriate Tribal government of its winning bid no later than five (5) business days after being identified by public notice as a winning bidder.

(3) A winning bidder shall certify in its application for support that it has substantively engaged appropriate Tribal officials regarding the issues specified in § 54.1014(d)(1), at a minimum, as well as any other issues specified by the Commission, and provide a summary of the results of such engagement. A copy of the certification and summary shall be sent to the appropriate Tribal officials when it is sent to the Commission.

(4) A winning bidder for support in Tribal lands shall certify in its annual report, pursuant to § 54.1019(a)(5), and prior to disbursement of support, pursuant to § 54.1018, that it has substantively engaged appropriate Tribal officials regarding the issues specified in § 54.1014(d)(1), at a minimum, as well as any other issues specified by the Commission, and provide a summary of the results of such engagement. A copy of the certification and summary shall be sent to the appropriate Tribal officials when it is sent to the Commission.

§ 54.1015 Application Process.

(a) **Application to Participate in Competitive Bidding for Mobility Fund Phase II Support.** In addition to providing information specified in § 1.21001(b) of this chapter and any other information required by the Commission, an applicant to participate in competitive bidding for Mobility Fund Phase II support shall:

- (1) Provide ownership information as set forth in § 1.2112(a) of this chapter;
- (2) Certify that the applicant is financially and technically capable of meeting the public interest obligations of § 54.1016 in each area for which it seeks support;
- (3) Disclose its status as an Eligible Telecommunications Carrier in any area for which it will seek support or as a Tribal entity with a pending application to become an Eligible Telecommunications Carrier in any such area, and certify that the disclosure is accurate;
- (4) Describe the spectrum access that the applicant plans to use to meet obligations in areas for which it will bid for support, including whether the applicant currently holds a license for or leases the spectrum, and certify that the description is accurate and that the applicant will retain such access for at least ten (10) years after the date on which it is authorized to receive support;
- (5) Make any applicable certifications required in § 54.1014.

(b) **Application by Winning Bidders for Mobility Fund Phase II Support.**

- (1) **Deadline.** Unless otherwise provided by public notice, winning bidders for Mobility Fund Phase II support shall file an application for Mobility Fund Phase II support no later than 10 business days after the public notice identifying them as winning bidders.
- (2) **Application Contents.**
 - (i) Identification of the party seeking the support, including ownership information as set forth in § 1.2112(a) of this chapter.
 - (ii) Certification that the applicant is financially and technically capable of meeting the public interest obligations of § 54.1016 in the geographic areas for which it seeks support.
 - (iii) Proof of the applicant's status as an Eligible Telecommunications or as a Tribal entity with a pending application to become an Eligible Telecommunications Carrier in any area for which it seeks support and certification that the proof is accurate.
 - (iv) A description of the spectrum access that the applicant plans to use to meet obligations in areas for which it is winning bidder for support, including whether the applicant currently holds a license for or leases the spectrum, and certification that the description is accurate and that the applicant will retain such access for at least ten (10) years after the date on which it is authorized to receive support.
 - (v) A detailed project description that describes the network, identifies the proposed technology, demonstrates that the project is technically feasible, discloses the budget and describes each specific phase of the project, *e.g.*, network design, construction, deployment and maintenance.

(vi) Certifications that the applicant has available funds for all project costs that exceed the amount of support to be received from Mobility Fund Phase II and that the applicant will comply with all program requirements.

(vii) Any guarantee of performance that the Commission may require by public notice or other proceedings, including but not limited to the letters of credit required in §54.1017, or a written commitment from an acceptable bank, as defined in §54.1017(a)(1), to issue such a letter of credit.

(viii) Certification that the applicant will offer service in supported areas at rates that are within a reasonable range of rates for similar service plans offered by mobile wireless providers in urban areas for a period during the term of the support the applicant seeks.

(ix) Any applicable certifications and showings required in §54.1014.

(x) Certification that the party submitting the application is authorized to do so on behalf of the applicant.

(xi) Such additional information as the Commission may require.

(3) Application Processing. (i) No application will be considered unless it has been submitted in an acceptable form during the period specified by public notice. No applications submitted or demonstrations made at any other time shall be accepted or considered.

(ii) Any application that, as of the submission deadline, either does not identify the applicant seeking support as specified in the public notice announcing application procedures or does not include required certifications shall be denied.

(iii) An applicant may be afforded an opportunity to make minor modifications to amend its application or correct defects noted by the applicant, the Commission, the Administrator, or other parties. Minor modifications include correcting typographical errors in the application and supplying non-material information that was inadvertently omitted or was not available at the time the application was submitted.

(iv) Applications to which major modifications are made after the deadline for submitting applications shall be denied. Major modifications include, but are not limited to, any changes in the ownership of the applicant that constitute an assignment or change of control, or the identity of the applicant, or the certifications required in the application.

(v) After receipt and review of the applications, a public notice shall identify each winning bidder that may be authorized to receive Mobility Fund Phase II support, after the winning bidder submits a Letter of Credit and an accompanying opinion letter as required by § 54.1016, in a form acceptable to the Commission, and any final designation as an Eligible Telecommunications Carrier that any Tribally-owned or –controlled applicant may still require. Each such winning bidder shall submit a Letter of Credit and an accompanying opinion letter as required by § 54.1016, in a form acceptable to the Commission, and any required final designation as an Eligible Telecommunications Carrier no later than 10 business days following the release of the public notice.

(v) After receipt of all necessary information, a public notice will identify each winning bidder that is authorized to receive Mobility Fund Phase II support.

§ 54.1016 Public Interest Obligations.

(a) **Deadline for Construction.** A winning bidder authorized to receive Mobility Fund Phase II support shall, no later than three (3) years after the date on which it was authorized to receive support, submit data from drive tests covering the area for which support was received demonstrating mobile transmissions supporting voice and data to and from the network covering 75% of the designated coverage units in the area deemed uncovered, or an applicable higher percentage established by public notice prior to the competitive bidding, and meeting or exceeding the following:

(1) Outdoor minimum data transmission rates of 200 kbps uplink and 768 kbps downlink at vehicle speeds appropriate for the roads covered;

(2) Transmission latency low enough to enable the use of real time applications, such as VoIP.

(b) **Coverage Test Data.** Drive tests submitted in compliance with a recipient's public interest obligations shall cover roads designated in the public notice detailing the procedures for the competitive bidding that is the basis of the recipient's support. Scattered site tests submitted in compliance with a recipient's public interest obligations shall be in compliance with standards set forth in the public notice detailing the procedures for the competitive bidding that is the basis of the recipient's authorized support.

(c) **Collocation Obligations.** During the period when a recipient shall file annual reports pursuant to § 54.1019, the recipient shall allow for reasonable collocation by other providers of services that would meet the technological requirements of Mobility Fund Phase II on newly constructed towers that the recipient owns or manages in the area for which it receives support. In addition, during this period, the recipient may not enter into facilities access arrangements that restrict any party to the arrangement from allowing others to collocate on the facilities.

(d) **Voice and Data Roaming Obligations.** During the period when a recipient shall file annual reports pursuant to § 54.1019, the recipient shall comply with the Commission's voice and data roaming requirements that were in effect as of October 27, 2011, on networks that are built through Mobility Fund Phase II support.

(e) **Liability for Failing To Satisfy Public Interest Obligations.** A winning bidder authorized to receive Mobility Fund Phase II support that fails to comply with the public interest obligations in this paragraph or any other terms and conditions of the Mobility Fund Phase II support will be subject to repayment of the support disbursed together with an additional performance default payment. Such a winning bidder may be disqualified from receiving Mobility Fund Phase II support or other USF support. The additional performance default amount will be a percentage of the Mobility Fund Phase II support that the applicant has been and is eligible to request be disbursed to it pursuant to § 54.1018. The percentage will be determined as specified in the public notice detailing competitive bidding procedures prior to the commencement of competitive bidding. The percentage will not exceed twenty percent.

§ 54.1017 Letter of Credit.

(a) Before being authorized to receive Mobility Fund Phase II support, a winning bidder shall obtain an irrevocable standby letter of credit which shall be acceptable in all respects to the Commission. Each winning bidder authorized to receive Mobility Fund Phase II support shall maintain the standby letter of credit or multiple standby letters of credit in an amount equal to the amount of Mobility Fund Phase II support that the winning bidder has been and is eligible to request be disbursed to it pursuant to § 54.1018 plus the additional performance default amount described in § 54.1016(e), until at least 120 days after the winning bidder receives its final distribution of support pursuant to § 54.1017.

- (1) The bank issuing the letter of credit shall be acceptable to the Commission. A bank that is acceptable to the Commission is
- (i) Any United States Bank that
 - (A) Is among the 50 largest United States banks, determined on the basis of total assets as of the end of the calendar year immediately preceding the issuance of the letter of credit,
 - (B) Whose deposits are insured by the Federal Deposit Insurance Corporation, and
 - (C) Who has a long-term unsecured credit rating issued by Standard & Poor's of A- or better (or an equivalent rating from another nationally recognized credit rating agency); or
 - (ii) Any non-U.S. bank that
 - (A) Is among the 50 largest non-U.S. banks in the world, determined on the basis of total assets as of the end of the calendar year immediately preceding the issuance of the letter of credit (determined on a U.S. dollar equivalent basis as of such date),
 - (B) Has a branch office in the District of Columbia or such other branch office agreed to by the Commission,
 - (C) Has a long-term unsecured credit rating issued by a widely-recognized credit rating agency that is equivalent to an A- or better rating by Standard & Poor's, and
 - (D) Issues the letter of credit payable in United States dollars.
- (2) Reserved.
- (b) A winning bidder for Mobility Fund Phase II support shall provide with its Letter of Credit an opinion letter from its legal counsel clearly stating, subject only to customary assumptions, limitations, and qualifications, that in a proceeding under Title 11 of the United States Code, 11 U.S.C. 101 et seq. (the "Bankruptcy Code"), the bankruptcy court would not treat the letter of credit or proceeds of the letter of credit as property of the winning bidder's bankruptcy estate under section 541 of the Bankruptcy Code.
- (c) Authorization to receive Mobility Fund Phase II support is conditioned upon full and timely performance of all of the requirements set forth in § 54.1016 , and any additional terms and conditions upon which the support was granted.
- (1) Failure by a winning bidder authorized to receive Mobility Fund Phase II support to comply with any of the requirements set forth in § 54.1015 or any other term or conditions upon which support was granted, or its loss of eligibility for any reason for Mobility Fund Phase II support will be deemed an automatic performance default, will entitle the Commission to draw the entire amount of the letter of credit, and may disqualify the winning bidder from the receipt of Mobility Fund Phase II support or additional USF support.
 - (2) A performance default will be evidenced by a letter issued by the Chief of either the Wireless Bureau or Wireline Bureau or their respective designees, which letter, attached to a standby letter of credit draw certificate, and shall be sufficient for a draw on the standby letter of credit for the entire amount of the standby letter of credit.

§ 54.1018 Mobility Fund Phase II Disbursements.

- (a) A winning bidder for Mobility Fund Phase II support will be advised by public notice whether it has been authorized to receive support. The public notice will detail disbursement will be made available.
- (b) Mobility Fund Phase II support will be available for disbursement to a winning bidder authorized to receive support on a quarterly basis for ten (10) years following the date on which it is authorized.
- (c) Prior to each disbursement request, a winning bidder for support in a Tribal land will be required to certify that it has substantively engaged appropriate Tribal officials regarding the issues specified in §54.1014(d)(1), at a minimum, as well as any other issues specified by the Commission and to provide a summary of the results of such engagement.
- (d) Prior to each disbursement request, a winning bidder will be required to certify that it is in compliance with all requirements for receipt of Mobility Fund Phase II support at the time that it requests the disbursement.

§ 54.1019 Annual Reports.

(a) A winning bidder authorized to receive Mobility Fund Phase II support shall submit an annual report no later than April 1 in each year for the five years after it was so authorized. Each annual report shall include the following, or reference the inclusion of the following in other reports filed with the Commission for the applicable year:

- (1) Electronic Shapefiles site coverage plots illustrating the area newly reached by mobile services at a minimum scale of 1:240,000;
- (2) A list of relevant census blocks previously deemed unserved, with road miles and total resident population and resident population residing in areas newly reached by mobile services (based on Census Bureau data and estimates);
- (3) If any such testing has been conducted, data received or used from drive tests, or scattered site testing in areas where drive tests are not feasible, analyzing network coverage for mobile services in the area for which support was received;
- (4) Certification that the winning bidder offers service in supported areas at rates that are within a reasonable range of rates for similar service plans offered by mobile wireless providers in urban areas;
- (5) Any applicable certifications and showings required in § 54.1014; and
- (6) Updates to the information provided in § 54.1015(b)(2)(v).

(b) The party submitting the annual report must certify that they have been authorized to do so by the winning bidder.

(c) Each annual report shall be submitted to the Office of the Secretary of the Commission, clearly referencing WT Docket No. 10-208; the Administrator; and the relevant state commissions, relevant authority in a U.S. Territory, or Tribal governments, as appropriate

§ 54.1020 Record Retention for Mobility Fund Phase II.

A winning bidder authorized to receive Mobility Fund Phase II support and its agents are required to retain any documentation prepared for, or in connection with, the award of Mobility Fund Phase II support for a period of not less than ten (10) years after the date on which the winning bidder receives its final disbursement of Mobility Fund Phase II support.

3. Add subpart M to part 54 to read as follows:

Subpart M – Connect America Fund Phase II Competitive Bidding

Sec.

54.1101 Connect America Fund (CAF) Phase II Competitive Bidding

54.1102 Geographic Areas Eligible for Support

54.1103 Provider Eligibility

54.1104 Service to Tribal Lands

54.1105 Application Process

54.1106 Public Interest Obligations and Annual Reports

54.1107 Connect America Fund (CAF) Phase II Competitive Bidding Disbursements

§ 54.1101 Connect America Fund (CAF) Phase II Competitive Bidding.

The Commission will use competitive bidding, as provided in part 1, subpart AA, to determine the recipients of support available through Connect America Fund Phase II Competitive Bidding and the amount(s) of support that they may receive for specific geographic areas, subject to applicable post-auction procedures.

§ 54.1102 Geographic Areas Eligible for Support.

(a) CAF Fund Phase II Competitive Bidding support may be made available for census blocks or other areas identified as eligible by public notice.

(b) Except as provided in § 54.1104, coverage units for purposes of conducting competitive bidding and disbursing support based on the number of residential and business locations will be identified by public notice for each area eligible for support.

§ 54.1103 Provider Eligibility.

(a) Except as provided in § 54.1104, an applicant shall be an Eligible Telecommunications Carrier in an area in order to receive CAF Phase II Competitive Bidding support for that area. The designation may be conditional subject to the receipt of CAF Phase II Competitive Bidding support.

(b) An applicant shall certify that is financially and technically qualified to provide the services supported by CAF Phase II Competitive Bidding support in order to receive such support.

§ 54.1104 Service to Tribal Lands.

(a) A Tribally-owned or –controlled entity that has pending an application to be designated an Eligible Telecommunications Carrier may participate in an auction by bidding for support in areas located within the boundaries of the Tribal land associated with the Tribe that owns or controls the entity. To bid on this basis, an entity shall certify that it is a Tribally-owned or –controlled entity and identify the applicable Tribe and Tribal lands in its application to participate in the competitive bidding. A Tribally-owned or -controlled entity shall receive any CAF Phase II Competitive Bidding support only after it has become an Eligible Telecommunications Carrier.

(b) Tribally-owned or –controlled entities may receive a bidding credit with respect to bids for support within the boundaries of associated Tribal lands. To qualify for a bidding credit, an applicant shall certify that it is a Tribally-owned or –controlled entity and identify the applicable Tribe and Tribal lands in its application to participate in the competitive bidding. An applicant that qualifies shall have its bid(s) for support in areas within the boundaries of Tribal land associated with the Tribe that owns or controls the applicant reduced by twenty-five (25) percent or purposes of determining winning bidders without any reduction in the amount of support available.

(c) A winning bidder for support in Tribal lands shall notify and engage the Tribal governments responsible for the areas supported.

(1) A winning bidder’s engagement with the applicable Tribal government shall consist, at a minimum, of discussion regarding:

(i) A needs assessment and deployment planning with a focus on Tribal community anchor institutions;

(ii) Feasibility and sustainability planning;

(iii) Marketing services in a culturally sensitive manner;

(iv) Rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and

(v) Compliance with Tribal business and licensing requirements

(2) A winning bidder shall notify the appropriate Tribal government of its winning bid no later than five (5) business days after being identified by public notice as a winning bidder.

(3) A winning bidder shall certify in its application for support that it has substantively engaged appropriate Tribal officials regarding the issues specified in § 54.1104(c)(1), at a minimum, as well as any other issues specified by the Commission, and provide a summary of the results of such engagement. A copy of the certification and summary shall be sent to the appropriate Tribal officials when it is sent to the Commission.

(4) A winning bidder for support in Tribal lands shall certify in its annual report, pursuant to § 54.1106, and prior to disbursement of support, pursuant to § 54.1107, that it has substantively engaged appropriate Tribal officials regarding the issues specified in § 54.1104(c)(1), at a

minimum, as well as any other issues specified by the Commission, and provide a summary of the results of such engagement. A copy of the certification and summary shall be sent to the appropriate Tribal officials when it is sent to the Commission.

§ 54.1105 Application Process.

(a) **Application to Participate in CAF Phase II Competitive Bidding.** In addition to providing information specified in §1.21001(b) of this chapter and any other information required by the Commission, an applicant to participate in competitive bidding for CAF Phase II support shall:

- (1) Provide ownership information as set forth in § 1.2112(a) of this chapter;
- (2) Certify that the applicant is financially and technically capable of meeting the public interest obligations of § 54.1106 in each area for which it seeks support;
- (3) Disclose its status as an Eligible Telecommunications Carrier in any area for which it will seek support or as a Tribal entity with a pending application to become an Eligible Telecommunications Carrier in any such area, and certify that the disclosure is accurate.
- (4) Make any applicable certifications required in § 54.1104 of this chapter.

(b) **Application by Winning Bidders for CAF Phase II Support.** (1) **Deadline.** Unless otherwise provided by public notice, winning bidders for CAF Phase II support shall file an application for CAF Phase II support no later than 10 business days after the public notice identifying them as winning bidders.

- (2) **Application Contents.** (i) Identification of the party seeking the support, including ownership information as set forth in § 1.2112(a) of this chapter.
- (ii) Certification that the applicant is financially and technically capable of meeting the public interest obligations of §54.1106 in the geographic areas for which it seeks support.
- (iii) Proof of the applicant's status as an Eligible Telecommunications Carrier or as a Tribal entity with a pending application to become an Eligible Telecommunications Carrier in any area for which it seeks support and certification that the proof is accurate.
- (iv) Certification that the applicant will offer service in supported areas at rates that are within a reasonable range of rates for similar service plans offered by providers in urban areas for a period extending until 5 years after the date on which it is authorized to receive support.
- (v) Any applicable certifications and showings required in § 54.1104.
- (vi) Certification that the party submitting the application is authorized to do so on behalf of the applicant.
- (vii) Such additional information as the Commission may require.

(3) **Application Processing.** (i) No application will be considered unless it has been submitted in an acceptable form during the period specified by public notice. No applications submitted or demonstrations made at any other time shall be accepted or considered.

(ii) Any application that, as of the submission deadline, either does not identify the applicant seeking support as specified in the public notice announcing application procedures or does not include required certifications shall be denied.

(iii) An applicant may be afforded an opportunity to make minor modifications to amend its application or correct defects noted by the applicant, the Commission, the Administrator, or other parties. Minor modifications include correcting typographical errors in the application and supplying non-material information that was inadvertently omitted or was not available at the time the application was submitted.

(iv) Applications to which major modifications are made after the deadline for submitting applications shall be denied. Major modifications include, but are not limited to, any changes in the ownership of the applicant that constitute an assignment or change of control, or the identity of the applicant, or the certifications required in the application.

(v) A tribally-owned or –controlled winning bidder that was not as an Eligible Telecommunications Carrier shall provide its final designation as an Eligible Telecommunications Carrier.

(vi) After receipt of all necessary information, the Commission shall release a public notice identifying each winning bidder that is authorized to receive CAF Phase II support.

§ 54.1106 Public Interest Obligations and Annual Reports.

A winning bidder authorized to receive CAF Phase II shall satisfy all public interest obligations and annual reporting requirements of § 54.313.

§ 54.1107 Connect America Fund (CAF) Phase II Competitive Bidding Disbursements.

(a) A winning bidder for CAF Phase II Competitive Bidding support will be advised by public notice whether it has been authorized to receive support. The public notice will detail how disbursement will be made available.

(b) CAF Phase II Competitive Bidding support will be available for disbursement to each winning bidder authorized to receive support on a quarterly basis for five (5) years after it is authorized to receive support.

(c) Prior to each disbursement request, a winning bidder for support in a Tribal land will be required to certify that it has substantively engaged appropriate Tribal officials regarding the issues specified in § 54.1104(c)(1), at a minimum, as well as any other issues specified by the Commission and to provide a summary of the results of such engagement.

(d) Prior to each disbursement request, a winning bidder will be required to certify that it is in compliance with all requirements for receipt of CAF Phase II Competitive Bidding support at the time that it requests the disbursement.

4. Add subpart N to part 54 to read as follows:

Subpart N – Remote Areas Fund**Sec.**

54.1201 Remote Areas Fund

54.1202 Geographic Areas Eligible for Support

54.1203 Provider Eligibility

54.1204 Public Interest Obligations and Annual Reports

54.1205 Remote Areas Fund Disbursements

§ 54.1201 Remote Areas Fund.

This subpart sets forth procedures for determining the recipients of universal service support pursuant to the Remote Areas Fund and the amount(s) of support that each recipient respectively may receive.

§ 54.1202 Geographic Areas Eligible for Support.

Remote Areas Fund support may be made available for census blocks or other areas identified by public notice.

§ 54.1203 Provider Eligibility.

(a) An applicant applying for Remote Areas Fund support must be designated an Eligible Telecommunications Carrier in any area for which it will seek support. The designation may be conditional subject to the receipt of Remote Areas Fund support.

(b) An applicant applying for Remote Areas Fund support must certify that is financially and technically qualified to provide the supported services.

§ 54.1204 Public Interest Obligations and Annual Reports.

(a) Except as expressly provided in this paragraph or otherwise by the Commission, an applicant authorized to receive Remote Areas Fund support shall satisfy all public interest obligations and annual reporting requirements of § 54.313 for applicants receiving CAF Phase II support.

(b) An applicant for Remote Areas Fund support must pass the per location support received along to the subscriber at the qualifying location as a discount on the price of service. Provided, however, that the subscriber must pay, or provide a deposit of, an amount sufficient to assure that the subscriber is able to pay for the services to which they subscribe and to provide an incentive to comply with any terms of the service agreements regarding use and return of equipment.

§ 54.1205 Remote Areas Fund Disbursements.

(a) An applicant for Remote Areas Fund support will be advised by public notice that it is authorized to receive support. Procedures by which applicants authorized to receive support may obtain disbursements will be provided by public notice.

(b) Remote Areas Fund support will be available for disbursement to an applicant authorized to receive support on a quarterly basis for five (5) years following its authorization.

(c) Remote Areas Fund support will be disbursed in an amount calculated based on the number of newly served residences or households within an eligible area. For purposes of this paragraph, “residence” and “household” shall use the same definition applied in the Lifeline Program. Applicants for Remote Areas Fund support must certify the number of qualifying locations newly served in the most recent quarter, specifying the number of signed contracts for qualifying locations, and certify that each location meets the qualifying criteria established by the Commission.

(d) Prior to each disbursement request, an applicant authorized to receive support will be required to certify that it is in compliance with all requirements for receipt of Remote Areas Fund support at the time that it requests the disbursement.

APPENDIX C

Explanation of Methodology for Modifications to Corporate Operations Expense Formulae

1. This appendix describes the procedure used to derive the formulae, set forth in section 36.621, for determining the maximum allowable corporate operations expense recoverable through universal service support mechanisms.

The Basic Formulae

2. We conducted a statistical analysis using actual incumbent local exchange carrier data submitted by NECA.¹ We used statistical regression techniques that focused on corporate operations expense per loop and the number of loops, in which the cap on corporate operations expense per loop declines as the number of loops increases so that economies of scale, which are evident in the data, can be reflected in the model. As in the previous corporate operations expense limitation formulae, the linear spline model developed has two line segments joined together at a single point or knot. In general, the linear spline model allows the per-line cap on corporate operations expense to decline as the number of loops increases for the smaller study areas having fewer loops than the knot point. Estimates produced by the linear spline model suggest that the per-loop cap on corporate operations expense for study areas with a number of loops higher than the spline knot is constant.

3. The linear spline model requires selecting a knot, the point at which the two line segments of differing slopes meet. We retained the knot point at 10,000 loops from the Commission's previous analysis. The regression results are as follows:

- for study areas having fewer than 10,000 total working loops, the projected monthly corporate operations expense per-loop equals $\$ 36.815 - 0.00285 \times (\text{number of working loops})$;
- for study areas with total working loops equal or greater than 10,000 loops, the projected monthly corporate operations expense per-loop equals \$8.12.

Correcting for Non-monotonic Behavior in the Model's Total Corporate Operations Expense

4. The linear spline model has one undesirable feature. For a certain range, it yields a total allowable corporate operations expense that declines as the number of working loops increases. This occurs because multiplying the linear function that defines the first line segment of the estimated spline model ($36.815 - (0.00285 \times \text{the number of loops})$) by the number of loops defines a quadratic function that determines total allowable corporate operations expense. This quadratic function produces a maximum value at 6,459 loops, well below the selected knot point of 10,000.² To correct this problem, we refined the formulae to ensure that the total allowable corporate operations expense always increases

¹ See NECA 2010 USF Data Filing. Our analysis only examined rural study areas. Additionally, in order to avoid skewed results caused by outliers, we excluded study areas whose corporate operations expense were in excess of \$200 per loop.

² The feature exists with all knot points considered. The practical effect of the function peaking at 6,459 loops is that a carrier with more than 6,459 loops, but less than 10,000 loops, will receive less corporate operations expense support than one with just 6,459 loops.

as the number of loops increases. We chose a point to the left of the point at which the total corporate operations expense estimate peaks. At that selected point, the slope of the function defining total corporate operations expense is positive. We then calculated the slope at that point and extended a line with the same slope upward to the right of that point until the line intersected the original estimated total operations expense, which is represented by $8.315 \times$ the number of loops. Thus, we created a line segment with constant slope covering the region over which the original model of corporate operations expenses declines so that total corporate operations expense continues to increase with the number of loops. We chose the point that leads to a line segment that yields the highest R^2 .

5. Using this procedure, we selected 6,000 as the point. The slope of total operations expense at this point is 2.615 and the line extended intersects the original total operations expense model at 17,887. Accordingly, the line segment formed for total corporate operations expenses, to be applied from 6,000 loops to 17,887 loops, is $\$2.615 \times$ the number of working loops + \$102,600. Dividing this number by the number of working loops defines the maximum allowable corporate operations expense per-loop for the range from 6,000 to 17,887 working loops, i.e., $\$2.615 + (\$102,600/\text{number of working loops})$. Therefore, the projected per-loop corporate operations expense formulae are:

- for study areas having fewer than 6,000 total working loops, the projected monthly corporate operations expense per-loop equals $\$36.815 - 0.00285 \times$ (number of total working loops);
- for study areas having 6,000 or more total working loops, but less than 17,887 total working loops, the projected monthly corporate operations expense per-loop equals $\$2.615 + (102,600/\text{number of total working loops})$;
- for study areas having total working loops greater than or equal to 17,887 total working loops, the projected monthly corporate operations expense per-loop equals \$8.315.

6. The Commission concluded previously that the amount of corporate operations expense per-loop that is supported through our universal service programs should fall within a range of reasonableness.³ Consistent with the formulae currently in place, we define this range of reasonableness for each study area as including levels of reported corporate operations expense per-loop up to a maximum of 115 percent of projected level of corporate operations expense per-loop. Therefore, each of the above formulae is multiplied by 115 percent to yield the maximum allowable monthly per-loop corporate operations expense as follows:

- for study areas having fewer than 6,000 total working loops, the maximum allowable monthly corporate operations expense per-loop equals $\$42.337 - 0.00328 \times$ number of total working loops;⁴
- for study areas having 6,000 or more total working loops, but fewer than 17,887 total working loops, the maximum allowable monthly corporate operations expense per-loop equals $\$3.007 + (117,990/\text{number of total working loops})$;

³ See *Universal Service First Report and Order*, 12 FCC Rcd at 8931, para. 284.

⁴ We also retain the existing rule that for incumbents LECs with fewer than 6,000 total working loops, the maximum allowable monthly corporate operations expense per-loop will be the amount produced by this formula or \$50,000/the number of total working loops, whichever is greater. Pursuant to section 36.621(a)(4)(ii), however, the \$50,000 figure has been adjusted for inflation to \$63,000 effective January 1, 2012. See 47 C.F.R. § 36.621(a)(4)(ii).

- for study areas with total working loops greater than or equal to 17,887 total working loops, the maximum allowable monthly corporate operations expense per-loop equals \$9.562.

Consistent with the existing rules, we will adjust the monthly per-loop limit to reflect the annual change in GDP-CPI.⁵

⁵ See 47 C.F.R § 36.621(a)(4)(iii)(D).

APPENDIX D

Puerto Rico Telephone Company Petition for Reconsideration

1. For the reasons set forth below, we Puerto Rico Telephone Company, Inc.'s (PRTC) petition to reconsider our decision declining to adopt a new high-cost support mechanism for non-rural insular carriers.¹ For the sake of brevity, we decline to restate PRTC's request or our reasons for having rejected it previously. We emphasize, however, that our rejection of PRTC's request should not be taken to suggest that we are unmindful of the significant challenges facing consumers in Puerto Rico.

2. Reconsideration is appropriate only when the petitioner either shows a material error or omission in the original Order or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters.² PRTC has not done so. Below, we briefly address PRTC's principal arguments and several minor ones.

3. PRTC, in its petition, repeats its assertion that section 254 of the Act requires us to establish a "separate insular support mechanism for insular areas."³ We have already considered and rejected that interpretation of the statute.⁴ Rather, as we explained in the *2010 Insular Order*, "the statute leaves to the Commission's discretion the task of developing one or more mechanisms" to implement the statute's goals.⁵

4. PRTC next asserts that the Commission's decision not to create a separate insular support mechanism is unlawful because it embodies the view that "consumers in Puerto Rico [need not have any] access to wireline service as long as wireless service is available to a substantial majority of the population."⁶ PRTC argues that "[b]ecause other areas have access to *both* wireline and wireless services, then insular areas are entitled to 'reasonably comparable' wireline *and* wireless service."⁷

5. PRTC's argument for a separate, dedicated insular fund suffers from a fundamental flaw. PRTC failed to show that consumers in Puerto Rico lack access to supported voice services because of inadequate federal universal service support, a point emphasized by the Commission in the Order. That is, PRTC did not demonstrate that it needs additional high-cost universal service support to deploy facilities to provide voice service to unserved communities in Puerto Rico. To the contrary, the

¹ See *High-Cost Universal Service Support*, WC Docket Nos. 05-337, 03-109, CC Docket No. 96-45, Order and Notice of Proposed Rulemaking, 25 FCC Rcd 4136, 4137-38, paras. 1-3 (2010) (*2010 Insular Order*); Puerto Rico Telephone Company Petition for Reconsideration, WC Docket Nos. 05-337, 03-109, CC Docket No. 96-45 (filed Apr. 27, 2010) (PRTC Petition for Recon).

² *Petition for Reconsideration by National Association of Broadcasters*, Memorandum Opinion and Order, 18 FCC Rcd 24414, 24415, para. 4 (2003).

³ PRTC Petition for Recon at 4.

⁴ See *2010 Insular Order*, 25 FCC Rcd at 4148-49, paras. 22-24.

⁵ See *2010 Insular Order*, 25 FCC Rcd at 4148, para. 22. As a fallback, PRTC argues that even if the statute is ambiguous with regard to whether a separate insular support mechanism is required, our interpretation of the statute is unreasonable. See PRTC Petition for Recon at 6. We do not believe, however, that the statute is ambiguous on this point. As we have said, the statute provides us with discretion about how to structure universal service support mechanisms, and that discretion includes the discretion to decide whether to create a separate insular mechanism. See *2010 Insular Order*, 25 FCC Rcd at 4148-49, paras. 22-24.

⁶ PRTC Petition for Recon at 7.

⁷ *Id.*

Commission noted that PRTC's parent had committed to investing more than \$1 billion to improve services in Puerto Rico.⁸ PRTC has never claimed that such a sum would have been inadequate to fund the deployment of wireline facilities to all residents that currently lack them.

6. PRTC, moreover, did not show that it would have to raise rates in order to deploy additional facilities, or that if it did, any such rate increase would result in rates that are not reasonably comparable to the national average urban rate.⁹ Indeed, as the Commission noted in the Order, PRTC did not submit any rate data in the record at all, and the rate data submitted by Verizon showed that PRTC's rates were well below the national average urban rate.¹⁰ But even if the foregoing were not so, PRTC did not indicate that, even if it *did* receive additional high-cost universal service support, it would actually deploy wireline facilities. Rather, PRTC initially resisted the idea that any conditions at all should be placed on its receipt of support, and only later informed the Commission that it would "be willing to commit" to apply funding from its proposed support mechanism "for the provision, maintenance, and upgrading of broadband facilities, with the priority of extending broadband capabilities to lines that are not broadband-capable today."¹¹ However, as the Commission pointed out in the Order, such a commitment would do nothing to address PRTC's allegation that some Puerto Rico consumers lack access to wireline *voice* service, which forms the basis of its demand for additional high-cost support.

7. PRTC alleges that the Commission "reversed course," without adequate explanation, when it declined to follow the tentative conclusion in the *2005 Insular NPRM* that the Commission should create an insular support mechanism.¹² PRTC relies on the Supreme Court's statement in *Motor Vehicle Manufacturers Ass'n v. State Farm Mutual Automobile Insurance Co.*¹³ which, as quoted by PRTC, holds that "an agency changing its course . . . is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance."¹⁴

8. The passage from *State Farm* cited by PRTC has little bearing on the present situation. Restoring the text that PRTC has omitted (here in italics), the passage reads "an agency changing its course *by rescinding a rule* is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance."¹⁵ The Commission did not rescind a rule in the *2010 Insular Order*; instead, it declined to adopt its tentative conclusion, put forward in a notice of proposed rulemaking, that it should amend its rules to create a new insular support mechanism. On that point, another passage from *State Farm* is perhaps more relevant: "If Congress established a presumption from which judicial review should start, that presumption . . . is not *against* . . . regulation, but *against* changes in current policy that are not justified by the rulemaking record."¹⁶ We further note

⁸ See *2010 Insular Order*, 25 FCC Rcd at 4154, para. 29.

⁹ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, 18 FCC Rcd 22559, 22638, para. 140 (2003) (noting, in discussing PRTC's concerns with the non-rural high cost support mechanism, "the purpose of non-rural high-cost support is to ensure reasonable comparability of rates among states").

¹⁰ *2010 Insular Order*, 25 FCC Rcd at 4153-54, para. 29.

¹¹ See *id.* at 4153, para. 28 & n.96 (citing Letter from Nancy J. Victory, counsel for PRTC, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45, WC Docket No. 05-337 at 3 (April 1, 2010)).

¹² PRTC Petition for Recon at 10.

¹³ 463 U.S. 29 (1983) (*State Farm*).

¹⁴ PRTC Petition for Recon at 10 n.29 (quoting *State Farm*, 463 U.S. at 42) (ellipses in PRTC Petition for Recon).

¹⁵ *State Farm*, 463 U.S. at 42 (emphasis added).

¹⁶ *Id.* (emphasis in original).

that the D.C. Circuit has considered, and rejected, an argument much like the one PRTC seems to make. As that court put it, “petitioners would have us bind [the agency] to its ‘tentative[.]’ [earlier] conclusions.”¹⁷ The court declined to do so, explaining that it “kn[ew] of no authority for this proposition.”¹⁸

9. Even if the passage from *State Farm* that PRTC relies upon were controlling, which it is not, the Commission would only be required to offer a reasoned explanation for its decision.¹⁹ The Commission did so, and we will not rehash that discussion here.

10. PRTC next takes aim at the reasoned explanation provided by the Commission. First, PRTC attacks the Commission’s reliance on telephone subscribership numbers in Puerto Rico in support of its conclusion that a non-rural insular fund was unnecessary.²⁰ Those subscribership figures included wireless subscribers, and PRTC argues that the Commission could not rely on those figures because it has previously found, in a different context, that mobile wireless service and wireline service are not perfect substitutes. We are unpersuaded. As the Commission explained in the *2010 Insular Order*, data in the record suggested that “PRTC’s line losses have resulted from customer migration to new service providers, not from the decisions of customers to terminate service entirely because high-cost support levels have rendered local telephone service rates unaffordable.”²¹ In the context of universal service, the Commission has never held that we must ignore the fact that some consumers prefer to purchase telephone service from a mobile wireless service provider rather than a wireline service provider. Indeed, as the Commission explained in the *2010 Insular Order*, “[t]he Commission measures telephone subscribership based on access to telecommunications service, regardless of whether such service is provided by traditional wireline service or by newer technologies, including wireless.”²² In any event, as discussed above, there is no evidence that, because of inadequate high-cost support, PRTC’s rates for voice service are so high that they are not reasonably comparable to rates paid by consumers in non-insular areas.²³

11. PRTC next claims that the telephone subscribership numbers used by the Commission—which include wireless subscribers—demonstrate that additional high-cost universal service support is necessary for Puerto Rico, because those figures show subscribership below the national average.²⁴ In the *2010 Insular Order*, the Commission recognized that telephone subscribership in Puerto Rico likely falls below the national average because of the number of low-income consumers who are unable to afford

¹⁷ *New York v. EPA*, 413 F.3d 3, 32 (D.C. Cir. 2005).

¹⁸ *Id.*

¹⁹ See *FCC v. Fox Television Stations, Inc.*, 129 S. Ct. 1800, 1810-11 (2009).

²⁰ See PRTC Petition at 12-13.

²¹ See *2010 Insular Order*, 25 FCC Rcd at 4151-52, para. 27.

²² *Id.* PRTC finds no support in the *Qwest II Remand Order* for its position that wireline service “is the proper benchmark for the ‘reasonably comparable’ assessment” required by section 254(b)(3) of the Act. See PRTC Petition at 8 (citing *High-Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45, Order on Remand and Memorandum Opinion and Order, 25 FCC Rcd 4072 (2010) (“*Qwest II Remand Order*”). That order relied on the near ubiquitous deployment of wireless services to support the Commission’s conclusion that rates and services are reasonably comparable nationwide. See *Qwest II Remand Order*, 25 FCC Rcd at 4078-81, 4085, 4102-03, paras. 14-18, 22, 55-57.

²³ See *supra* para. 6; see also *2010 Insular Order*, 25 FCC Rcd at 4153-54, para. 29.

²⁴ See PRTC Petition at 14.

access to telephone service.²⁵ But if low telephone subscribership is related to consumer income, as PRTC seems to acknowledge, it is not at all apparent why the Commission should establish a new insular high-cost support mechanism rather than increase support for low-income consumers through its existing low-income support programs. Indeed, as the Commission stated in the *2010 Insular Order*, subscribership in Puerto Rico is on the rise due, in part, to efforts by the Commission, the Telecommunications Regulatory Board of Puerto Rico, and telecommunications carriers in Puerto Rico to improve the effectiveness and consumer awareness of federal low-income support programs.²⁶

12. PRTC further argues that the Commission erred because, in assessing the total amount of high-cost support that PRTC receives, the Commission relied upon “cherry-picked” data, specifically PRTC’s 2008 data rather than 2009 data.²⁷ The Commission sufficiently explained why it elected not to rely on the 2009 data—it found the data were not a reliable guide to how much support PRTC could be expected to receive in the future.²⁸

13. PRTC argues the Commission erred because it allegedly “failed to consider ‘relevant data’”—specifically, a variety of assertions in the record about the costs and burdens of providing telephone service in Puerto Rico.²⁹ We disagree. The Commission considered, *inter alia*, evidence regarding telephone subscribership, telephone rates, and high-cost support levels. That the particular obstacles to service in Puerto Rico might include costs related to providing service in “rough, hilly terrain and heavy tropical vegetation,”³⁰ among other challenges, does not demonstrate that PRTC needs additional high-cost support to keep rates for voice service affordable, or that PRTC requires additional high-cost support to extend lines to areas where it may not already have wireline facilities.³¹ This is particularly so given evidence in the record that PRTC’s rates and its costs are both relatively low compared to other carriers.³²

14. PRTC next argues that the *2010 Insular Order* arbitrarily treats carriers serving insular areas differently from carriers that serve rural areas.³³ In this regard, PRTC cites the Commission’s decision to provide additional high-cost support to a carrier serving Wyoming under a “separate mechanism.”³⁴ PRTC’s argument suffers from two fatal flaws. The first is that the “separate mechanism” to which PRTC refers is not “separate” at all—Wyoming received additional support under an “exception” or “safety valve” that is equally available to PRTC.³⁵ Second, PRTC ignores the facts of the Wyoming case. There, the petitioners (the Wyoming Public Service Commission and the Wyoming Office of Consumer Advocate) demonstrated that rates for customers in rural areas in Wyoming were not reasonably comparable to the national average urban rate, and that the state had taken all reasonably

²⁵ See *id.* (citing *2010 Insular Order*, 25 FCC Rcd at 4165, para. 49).

²⁶ See *2010 Insular Order*, 25 FCC Rcd at 4151-52, 4155-57, paras. 27, 33-34 & n.91.

²⁷ See PRTC Petition at 15.

²⁸ See *2010 Insular Order*, 25 FCC Rcd at 4143 n.52.

²⁹ See PRTC Petition at 16 (citing *State Farm*, 463 U.S. at 43).

³⁰ PRTC Petition at 17.

³¹ See *supra* para. 6.

³² See *2010 Insular Order*, 25 FCC Rcd at 4154, 4160, paras. 29 & 39.

³³ See PRTC Petition at 20.

³⁴ See *id.* at 20-21 (citing *Qwest II Remand Order*, 25 FCC Rcd at 4116, para. 84 and 47 C.F.R. § 54.316).

³⁵ See 47 C.F.R. § 54.316.

possible steps to achieve reasonable rate comparability.³⁶ PRTC provided no comparable evidence. As discussed above, for example, PRTC failed to provide any rate data at all, and the rate data in the record provided by another party indicated that PRTC's rates were below the national average.³⁷

15. For these reasons, we deny PRTC's petition for reconsideration.

³⁶ See *Qwest II Remand Order*, 25 FCC Rcd at 4117-20, paras. 86-88.

³⁷ See *2010 Insular Order*, 25 FCC Rcd at 4153-54, para. 29.