

FairPoint Communications

Petition for Waiver of Section
54.313(c) of the FCC's Rules To
Exclude IAS, ICLS and LSS From the
Requirement To Repurpose Frozen
High-Cost Support Toward
Broadband

April 3, 2013

Frozen High-Cost Support

- Prior to the FCC's *USF Transformation Order*, some high-cost support mechanisms helped defray the *interstate* portions of incumbent local exchange carrier ("ILEC") common line and switched access infrastructure, while others were targeted to *intrastate* costs
- Both types of support effectively helped to keep *end-user* rates at reasonable levels
- Under the *USF Transformation Order*, all legacy high-cost support mechanisms became frozen Connect America Fund ("CAF") Phase I support

The Same Support Dollars Cannot Be Spent Twice

- §54.5 defines “frozen high-cost support” as all types of legacy high-cost support, including support for interstate and intrastate costs
 - Interstate access support (IAS) – Price cap LECs
 - Interstate common line support (ICLS) – ROR LECs
 - Local switching support (LSS) – ROR LECs
 - High-cost loop support (HCLS) – Rural LEC study areas
 - High-cost model support (HCMS) – Non-rural LEC study areas
 - Safety net additive (SNA) – ROR LECs

The Same Support Dollars Cannot Be Spent Twice

- FCC rules and policies established IAS, ICLS and LSS to keep end-user rates for voice services at reasonable levels where LECs have high interstate costs
- §54.313(c) requires repurposing of all frozen high-cost support to build and operate broadband in areas substantially unserved by an unsubsidized competitor, starting in 2013 – effectively requiring the same dollars to be used two different ways

FCC Rules Mandate Repurposing of Frozen High-Cost Support For Broadband

- This poses a problem for all price cap carriers; U S Telecom Association raised issue with FCC in 2012
- Hardship is especially acute for FairPoint, which is unique under the *USF Transformation Order*
- New obligations apply to calendar year 2013 spending, so FairPoint needs an answer from FCC ASAP
- FairPoint filed a petition February 8 for FCC waiver
- Amount is significant to FairPoint's financial position: its ability to cover its costs, meet its capital expenditure needs, pay interest and service its debt

Section 54.313(c) Repurposes All Types of Frozen High-Cost Support

- Price cap carriers that receive frozen high-cost support shall provide:
 - By July 1, 2013, certification that frozen high-cost support received in 2012 was used consistent with the goal of achieving universal availability of voice and broadband.
 - By July 1, 2014, certification that **at least one-third** of frozen high-cost support received in 2013 was used to build and operate broadband-capable networks used to offer the provider's own retail broadband service in areas substantially unserved by an unsubsidized competitor.
 - By July 1, 2015, certification that **at least two-thirds** of frozen high-cost support received in 2014 was used to build and operate broadband-capable networks used to offer the provider's own retail broadband service in areas substantially unserved by an unsubsidized competitor.
 - By July 1, 2016 and in subsequent years, certification that **all** frozen high-cost support received in the previous year was used to build and operate broadband-capable networks used to offer the provider's own retail broadband service in areas substantially unserved by an unsubsidized competitor.

FairPoint Frozen High-Cost Support

Support	Frozen	One-Third	Recoverable?	Unrecoverable
IAS	\$3,311,784	\$1,103,928	\$1,103,928 (SLCs) - ?	\$0
ICLS	\$17,921,145	\$5,973,715	\$0	\$5,973,715
LSS	\$5,542,956	\$1,847,652	\$ 685,880 (ARCs) + \$1,161,772 (CAF-ICC)	\$0
<i>Subtotal IAS+ICLS+LSS</i>	<i>\$26,775,885</i>	<i>\$8,925,295</i>	<i>\$2,951,580</i>	<i>\$5,973,715</i>
HCLS	\$5,456,070	\$1,818,690	\$0	\$1,818,690
HCMS	\$6,627,201	\$2,209,067	\$0	\$2,209,067
SNA	\$ 407,712	\$ 135,904	\$0	\$ 135,904
TOTAL	\$39,266,868	\$13,088,956	\$2,951,580	\$10,137,376

A Waiver In FairPoint's Case Would Serve the Public Interest

- The FCC's rules are in conflict -- Support dollars cannot be spent twice
 - IAS, ICLS and LSS support interstate costs, and help keep end-user rates reasonable in high-cost areas
 - Broadband obligations under the frozen support rules are not optional – frozen support is repurposed to areas “substantially unserved by an unsubsidized competitor” regardless of local circumstances
- Absent a waiver, FairPoint would be hard-pressed to support existing services, potentially harming customers in areas without competition