PBGC missing participants assumptions means the actuarial assumptions prescribed in §§ 4044.51 through 4044.57 of this chapter with the following modifications:

* * * * *

(2) The mortality assumption is the mortality table in § 4044.53(h) of this chapter.

* * * * *

(4) The interest assumption is the assumption for valuing benefits under § 4044.54 of this chapter applicable to valuations occurring on December 31 of the calendar year preceding the calendar year in which the benefit determination date occurs.

* * * * *

(7) * * *

(i) In the case of a participant who is not in pay status and whose normal retirement date is on or after the benefit determination date, benefits are assumed to commence at the XRA, determined using the high retirement rate category under Table II–C (Expected Retirement Ages for Individuals in the High Category) in § 4044.58 of this chapter;

* * * * *

■ 17. Amend § 4050.302 by revising paragraphs (2), (4), and (7)(i) of the definition of ''*PBGC missing participants assumptions*'' to read as follows:

§ 4050.302 Definitions.

* * * * *

PBGC missing participants assumptions means the actuarial assumptions prescribed in §§ 4044.51 through 4044.57 of this chapter with the following modifications:

* * * * *

(2) The mortality assumption is the mortality table in § 4044.53(h) of this chapter.

* * * * *

(4) The interest assumption is the assumption for valuing benefits under § 4044.54 of this chapter applicable to valuations occurring on December 31 of the calendar year preceding the calendar year in which the benefit determination date occurs.

* * * * *

(7) * * *

(i) In the case of a participant who is not in pay status and whose normal retirement date is on or after the benefit determination date, benefits are assumed to commence at the XRA, determined using the high retirement rate category under Table II–C (Expected Retirement Ages for Individuals in the High Category) in § 4044.58 of this chapter;

* * * * *

■ 18. Amend § 4050.402 by revising paragraphs (2), (4), and (7)(i) of the definition of ''*PBGC missing participants assumptions*'' to read as follows:

§ 4050.402 Definitions.

* * * * *

PBGC missing participants assumptions means the actuarial assumptions prescribed in §§ 4044.51 through 4044.57 of this chapter with the following modifications:

* * * * *

(2) The mortality assumption is the mortality table in § 4044.53(h) of this chapter.

* * * * *

(4) The interest assumption is the assumption for valuing benefits under § 4044.54 of this chapter applicable to valuations occurring on December 31 of the calendar year preceding the calendar year in which the benefit determination date occurs.

* * * * *

(7) * * *

(i) In the case of a participant who is not in pay status and whose normal retirement date is on or after the benefit determination date, benefits are assumed to commence at the XRA, determined using the high retirement rate category under Table II–C (Expected Retirement Ages for Individuals in the High Category) in § 4044.58 of this chapter;

* * * * *

PART 4262—SPECIAL FINANCIAL ASSISTANCE BY PBGC

■ 19. The authority citation for part 4262 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1432.

§ 4262.16 [Amended]

■ 20. Amend § 4262.16 by removing the words ''in Appendix B to part 4044'' wherever it appears and adding in its place the words ''under § 4044.54''.

PART 4281—DUTIES OF PLAN SPONSOR FOLLOWING MASS WITHDRAWAL

■ 21. The authority citation for part 4281 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1341(a), 1399(c)(1)(D), 1431, and 1441.

■ 22. Amend § 4281.13 by revising paragraphs (a) and (e) to read as follows:

§ 4281.13 Benefit valuation methods—in general.

* * * * *

(a) Using the interest assumptions under § 4044.54 of this chapter;

* * * * *

(e) Adjusting the values to reflect the loading for expenses in accordance with § 4044.52(d) of this chapter (substituting the term ''benefits'' for the term ''benefit liabilities (as defined in 29 U.S.C. 1301(a)(16))'').

* * * * *

Signed in Washington, DC.

Gordon Hartogensis,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2023–17521 Filed 8–17–23; 8:45 am]

BILLING CODE 7709–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 10–90, 14–58, 09–197, 16–271; RM 11868; FCC 23–60; FR ID 162168]

Connect America Fund: A National Broadband Plan for Our Future High-Cost Universal Service Support; ETC Annual Reports and Certifications; Telecommunications Carriers Eligible To Receive Universal Service Support; Connect America Fund—Alaska Plan; Expanding Broadband Service Through the ACAM Program

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) seeks comment on how to address the immediate needs of legacy rate-of return support mechanisms, while balancing the Commission's objectives of maintaining its commitment to supporting broadband at evolving levels of service and also avoiding unnecessary duplication of support in light of other available funding programs.

DATES: Comments are due on or before September 18, 2023, and reply comments are due on or before October 2, 2023.

ADDRESSES: You may submit comments, identified by WC Docket Nos. 10–90, 14–58, 09–197 and 16–271, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *www.fcc.gov/ecfs.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

○ Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the

Secretary, Federal Communications Commission.

○ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

○ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

○ Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. *See* FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, 35 FCC Rcd 2788, 2788–89 (OS 2020).

Interested parties may file comments and reply comments on or before the dates indicated in this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

Comments and reply comments exceeding ten pages must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. The Commission directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission. The Commission also strongly encourages parties to track the organization set forth in the Notice of Proposed Rulemaking (NPRM) or the concurrently adopted Notice of Inquiry (NOI) in order to facilitate its internal review process.

People with Disabilities. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530.

FOR FURTHER INFORMATION CONTACT: For further information, please contact, Jesse Jachman, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Jesse.Jachman@fcc.gov* or Theodore Burmeister, Special Counsel, Telecommunications Access Policy Division, Wireline Competition Bureau, at *Theodore.Burmeister@fcc.gov* or 202–418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket Nos. 10–90, 14–58, 09–197, 16–271; RM 11868; FCC 23–60, adopted on July 23, 2023 and released on July 24, 2023. The full text of this document is available at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-23-60A1.pdf.*

Ex Parte Presentations—Permit-But-Disclose. The proceedings these NPRM and concurrently adopted NOI initiates shall be treated as ''permit-but-disclose'' proceedings in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies).

In light of the Commission's trust relationship with Tribal Nations and its commitment to engage in government-to-government consultation with them, it finds the public interest requires a limited modification of the *ex parte* rules in these proceedings. Tribal Nations, like other interested parties, should file comments, reply comments, and *ex parte* presentations in the record to put facts and arguments before the Commission in a manner such that they may be relied upon in the decision-making process consistent with the requirements of the Administrative Procedure Act. However, at the option of the Tribe, *ex parte* presentations made during consultations by elected and appointed leaders and duly appointed representatives of federally recognized Indian Tribes and Alaska Native Villages to Commission decision makers shall be exempt from disclosure in permit-but-disclose proceedings and exempt from the prohibitions during the Sunshine Agenda period. To be clear, while the Commission recognizes consultation is critically important, it emphasizes that they will rely in its decision-making only on those presentations that are placed in the public record for these proceedings.

Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in these proceedings should familiarize themselves with the Commission's *ex parte* rules.

I. Introduction

1. With the NPRM, the Commission takes significant next steps in achieving its goal of ensuring all consumers, even those living in the costliest areas in the nation, have access to affordable and reliable broadband service so that they can work, learn, engage, and obtain essential services no matter where they live. The Commission also focuses on the future and seeks comment on how to reform its high-cost programs so that it can continue to efficiently promote broadband deployment and meaningfully support networks long term in the face of a significantly changing broadband landscape.

II. Notice of Proposed Rulemaking

2. In the NPRM, the Commission seeks comment on how to amend legacy rate-of-return mechanisms to align them with the current broadband deployment and support environment. The broadband landscape has changed significantly in recent years. Rural consumers expect to receive higher quality and faster broadband service, which they need for work, school, healthcare, and more. To expedite the deployment of broadband, for example, Congress passed the Infrastructure Investment and Jobs Act (Infrastructure Act) and appropriated funds for the Broadband, Equity, Access, and Deployment Program (BEAD Program) and other Federal programs to provide grants to pay for deployment. Many

states have also instituted broadband deployment funding programs. In other areas, unsubsidized providers have deployed high-speed broadband alternatives. The Commission, meanwhile, maintains its commitment to promote deployment of broadband at evolving levels of service, while seeking to avoid unnecessary duplication of services that would be provided in the absence of high-cost universal service, whether by unsubsidized competitors or through awards made by other programs. Although reforms for legacy mechanisms are needed now, the Commission also explores in the concurrently adopted NOI ways that different support mechanisms can continue to provide meaningful support over the longer term once broadband networks have been ubiquitously deployed.

3. To address immediate needs, the Commission seeks comment on three key areas. First, the Commission seeks comment on a variety of reforms to legacy support mechanisms and appropriate funding, so that rate-of-return carriers are subject to a smaller reduction when the budget control mechanism applies. The Commission then seeks comment regarding appropriate deployment obligations for carriers receiving Connect America Fund Broadband Loop Support (CAF BLS) when the current deployment term ends this year. Finally, the Commission seeks comment regarding methodologies for preventing duplication of support between legacy high-cost universal service support mechanisms and funding provided by other Federal and state agencies for the deployment of broadband.

4. The Commission seeks comment on needed reforms to legacy support mechanisms, including the budget control mechanism, deployment obligations, and the effect of funding awards for broadband deployment from other Federal and state agencies. Considering these issues in a holistic manner will provide the best opportunity for the Commission to achieve its universal service goals. Accordingly, the Commission seeks comment on modifications to the budget control mechanism and measures to better target funding to mechanisms that support modern broadband. In doing so, the Commission notes that it has, through the concurrently adopted Enhanced Alternative Connect America Cost Model (A–CAM) offer, provided a pathway for legacy carriers to make an enforceable commitment to provide 100/20 Mbps or faster service to all locations in their service areas, and re-set the budget for legacy support to reflect the exit of electing carriers from the pool to which the budget control mechanism applies. The Commission seeks comment regarding additional reforms to guide support for carriers that remain subject to legacy mechanisms during this next phase of broadband deployment.

5. The Commission first seeks comment on adjustments to the budget, and measures that would mitigate the impact of the budget control mechanism when applied. In considering such measures, the Commission seeks to balance the requirements to provide support that is sufficient to achieve the Commission's universal service goals, but also provides appropriate incentives for prudent and efficient expenditures. As the Commission has previously recognized, the cost of universal service is ultimately borne by American consumers and businesses. Support that is greater than necessary therefore violates the Commission's obligation to be a good steward of the universal service fund.

6. For rate-of-return carriers that receive legacy support, the Commission has attempted to achieve the necessary balance in part through the budget control mechanism, which operates to reduce CAF BLS and High Cost Loop Support (HCLS) to the budgeted amount. The Commission, however, has repeatedly acted to waive the budget control mechanism, even after the 2018 reforms, to avoid potentially calamitous consequences. Specifically, the Commission waived the budget control mechanism for the 2021–22, 2022–23, and 2023–24 July 1 to June 30 tariff years, in which, to meet the budget, legacy support was forecasted to be reduced by 8.6%, 14%, and 18.4% respectively. While carriers have the ability to make up most reductions to CAF BLS through higher consumer broadband-only loop (CBOL) rates, the progressively larger support reductions would have resulted in unduly excessive CBOL rates. For example, in the *2023 Budget Control Waiver Order,* the Commission estimated that applying the budget control would require carriers to impute CBOL revenues equivalent to an average monthly CBOL rate of $73. The Commission seeks comment in the following on mitigating the effect of the budget control mechanism through increases to the budget, but also reducing demand for legacy support through other reforms and offsetting increases to the budget through reductions to Connect America Fund Intercarrier Compensation (CAF ICC), which is outside the budget.

7. *Budget Control Mechanism.* The Commission seeks comment on the budget for legacy support and methods for reducing support when appropriate in light of the reforms adopted for the Enhanced A–CAM program. In this document, as part of the adjustments the Commission makes to remove support received by carriers electing Enhanced A–CAM from the legacy budget, it re-sets the budget to the level of 2023–24 demand. This reset is consistent with the NTCA—The Rural Broadband Association's (NTCA) proposal to ''recalibrate'' the budget.

8. The Commission seeks comment regarding whether other adjustments should be made to the budget control mechanism to better account for ongoing trends. NTCA has further proposed that future savings associated with the election of fixed support by legacy support recipients should accrue to the budget applied to the remaining, non-electing legacy support recipients. Under NTCA's proposal, transitional support for Enhanced A–CAM electing carriers begins to phase down after six years and the savings associated with the phasedown would be applied to the legacy support budget. The Commission seeks comment on NTCA's proposal for future budget increases. Should the budget control mechanism reflect ongoing trends to CBOL conversions? In 2018, the Commission noted that the conversion of voice lines to CBOLs was a driver of increasing support because, for most carriers, CBOLs provided a higher per-line support amount than voice lines. Further, the number of CBOLs continues to grow rapidly: in their 2023–24 forecasts for CAF BLS, carriers forecasted that CBOLs would increase by 18% over 2022–23, even as voice and voice-broadband bundled lines declined by 9%. Because CBOLs provide higher per-line support than voice lines, the increasing number of CBOL lines remains a significant driver of increases to uncapped CAF BLS. Should the Commission adjust the budget control mechanism to address the high rates of CBOL adoption? Are there other trends the Commission should consider if it modifies the budget control mechanism? How can the budget control mechanism accommodate these trends while also maintaining the budget control mechanism's fundamental purpose of constraining growth in legacy support? In the following, the Commission seeks comment regarding deployment obligations for locations that remain unserved after the BEAD Program process. If the Commission concludes that additional deployment obligations should be required, how, if at all, should the Commission assess the

impact on the budget control mechanism? Broadband funding from programs established by the Infrastructure Act and other Federal programs may have a significant impact on the need for legacy support. Should the Commission revisit the budget or the budget control mechanism after the completion of the BEAD Program process, or after a certain period of deployment commitments have been realized?

9. *Increased CBOL Revenue Imputation.* The Commission seeks comment regarding whether it should undertake reforms that would reduce the amount of pre-budget control support. Reducing the amount of CAF BLS and HCLS before the application of the budget control would have a similar effect on total support as applying the budget control, but may result in a more stable and predictable reduction factor when the budget control is applied. For example, the Commission seeks comment regarding whether it should increase the amount of end-user revenue imputed to CBOL lines in the CAF BLS calculation. While the CAF BLS calculations initially assume CBOL revenues of $42 per line per month, the Commission's rules have always anticipated that the application of the budget control mechanism would result in increased CBOL rates. Increasing the imputed CBOL revenue amount from $42 per line per month in the initial CAF BLS calculation would mathematically decrease the demand for CAF BLS as reflected in the budget control analysis. This would result in a lower budget reduction factor, even if the budget were held constant.

10. Should the Commission increase the CBOL revenue imputation to reflect inflation? For instance, the Commission set the imputed CBOL rate at $42 in 2016. If the rate had grown with inflation (as measured by the same rate used to index the budget amount) since that time, it would now be more than $48.21. Similarly, the Commission partially justified the $42 per line per month revenue imputation based on the 10/1 Mbps urban rate benchmark, which has increased 17.3% since 2016. If the CBOL revenue imputation had grown similarly, it would be $49.28 per line per month. Many CBOLs provide 25/3 Mbps or faster service. Should the Commission impute the urban rate benchmark for 25/3 Mbps for some fraction of CBOL rates, and similarly the urban rate benchmark for higher speeds? If so, how should the CBOL rate be weighted to reflect the proportions of CBOLs providing different speeds?

11. What would be the impact of raising the CBOL revenue imputation on end-user broadband rates? The Commission recognized in 2016 that, because the CBOL encompassed only the local line portion of providing broadband, end-user rates would likely be higher than just the CBOL rate. That said, many carriers do not charge the maximum allowable CBOL rate. The Commission seeks comment on the effect raising the CBOL imputation would have on affordability and reasonable comparability of rates. Are there other concerns that the Commission should consider or address with respect to raising the CBOL imputation? Section 69.132(d) of the Commission's rules caps the monthly CBOL charge for A–CAM and Alaska Plan support recipients at $42. If the Commission increases the CBOL revenue imputation for CAF BLS, should the Commission also raise the cap on CBOLs for A–CAM and Alaska Plan carriers? Are there considerations the Commission should take in account for related to the imputation of CBOLs for carriers serving Tribal lands? For example, the Commission notes that it included a Tribal Broadband Factor for the Enhanced A–CAM mechanism it adopts today, as it did for A–CAM II and the Rural Digital Opportunity Fund. Would it be in the public interest to include a similar factor for imputed CBOL revenue?

12. *HCLS.* Currently both CAF BLS and HCLS are subject to the budget control mechanism, but only CAF BLS is associated with broadband deployment obligations. Because HCLS is indexed to growth or loss of voice lines (as well as inflation), it is declining as voice lines are converted to CBOLs. Even with those declines, however, HCLS is likely to continue for many years as a financial benefit. Should the Commission take steps to reduce HCLS and target a larger share of the legacy support to CAF BLS, with its associated broadband deployment obligations? The Commission seeks comment on how HCLS should be phased down, if it concluded it would be appropriate to do so. One possibility would be for the HCLS indexed cap to decline in 10 regular annual increments until it reaches $0. Would a period longer or shorter than 10 years be better? Are there alternative methods of phasing down HCLS that the Commission should consider?

13. *CAF ICC.* Another avenue for increasing the legacy budget amount without further straining the contribution factor would be to shift support from other mechanisms. The Commission seeks comment on whether it should increase the budget for legacy carriers to account for reductions in CAF ICC support. At its inception, the budget control mechanism was set by first subtracting the amount of CAF ICC received by rate-of-return carriers (as well as any A–CAM support) from an overall $2 billion budget. In 2018, when the Commission re-set the budget and indexed it to inflation, however, it delinked CAF ICC from the budget for CAF BLS and HCLS. What benefits has unlinking CAF ICC from the budget provided? A–CAM and Alaska Plan carriers also receive CAF ICC. Would it be appropriate to link reductions to CAF ICC for those carriers to an increase in the legacy support budget? Is there another appropriate purpose for which reductions in CAF ICC for A–CAM and Alaska Plan carriers should be allocated?

14. The Commission also seeks comment regarding whether it should adopt measures to accelerate the phase out of CAF ICC for rate-of-return carriers. Unlike CAF BLS, CAF ICC does not have defined broadband deployment obligations. If the reductions to CAF ICC were linked to the budget for legacy universal service support, as discussed in this document, then an accelerated phase out would increase the portion of universal service support tied to enforceable deployment of modern broadband networks.

15. Further, while the Commission recognized, at the time of adoption, that CAF ICC would phase out over a longer period for rate-of-return carriers than for price cap carriers (who have received no CAF ICC since 2020), it did not intend the transition to be interminable. Rate-of-return carriers (including A–CAM I and II recipients and carriers subject to the Alaska Plan) received $351 million in 2022, which is only 11% less than the $395 million those carriers received at CAF ICC's peak in 2016.

16. In the *USF/ICC Transformation FNPRM,* 76 FR 78384, December 16, 2011, the Commission sought comment regarding whether CAF ICC for rate-of-return carriers should be subjected to a phase-out on a defined schedule. It also sought comment on accelerating the phasedown of support the initial five years by decreasing the Eligible Recovery amount at a faster rate than originally adopted by the Commission, which would also have the effect of accelerating CAF ICC reductions. The Commission seeks comment regarding whether either of these methods of accelerating CAF ICC reductions, or another method, would be appropriate.

17. Finally, the Commission seeks comment on whether adjustments should be made to CAF ICC to reflect the growth of CBOLs. In order to avoid an unintentional increase in CAF ICC

due to the migration of voice customers to broadband-only service that would ''upset the careful balancing of burdens as between end-user Access Recovery Charge (ARC) and [CAF ICC],'' the Commission required rate-of-return carriers to impute an amount equal to the ARC charge they assess on voice lines to their CBOLs. While the residential ARC—the portion of the Eligible Recovery amount that a carrier may collect from its residential voice subscribers—is capped at $3.00 per line per month for affordability reasons, it is also subject to the $30 per month Residential Rate Ceiling, and some carriers therefore charge less than $3.00 per line per month. Broadband-only customers who do not pay an ARC (or most of the other rates included in the Residential Rate Ceiling) because they do not receive voice service, therefore have imputed to them an ARC which, for affordability reasons, in many cases is less than $3.00, and can be as low as $0. Given that affordability considerations associated with the ARC do not directly apply to broadband-only customers (who do not pay an ARC because they do not receive voice service), would it be reasonable to impute a higher ARC for CBOLs, independent of the ARC charged for voice customers? Should there be any cap on the ARC imputed to broadband-only customers? In 2018, the Commission sought comment on the relationship between CAF ICC and conversions of voice-broadband lines to CBOLs and asked, among other questions, whether there are circumstances in which some portion of revenues from interconnected voice over internet protocol (VoIP) service should be imputed against CAF ICC support. The Commission asks commenters to refresh the record regarding whether interconnected VoIP revenue should be imputed to reduce CAF ICC support. The Commission notes that carriers already have the opportunity to recover the full cost of serving their broadband-only customers through end-user rates and CAF BLS. Should the Commission impute any portion of such revenue to reduce CAF ICC?

18. The Commission seeks comment regarding whether it should, alternatively, reduce Eligible Recovery or base period revenue amounts to reflect the conversion of voice lines to broadband-only lines. The Commission notes that consumer broadband-only loops were not an established category of service at the time it adopted CAF ICC, and it therefore did not consider the implications of consumers substituting broadband-only service for voice and voice-broadband service. Are carriers able to avoid the switched access service costs the ARC and CAF ICC are intended to recover as their customers convert their voice service to broadband-only lines? For example, among the rate-of-return carriers that reported costs for HCLS purposes in all years from 2007 through 2021, the net plant-in-service for Central Office Switching Equipment (Account 2210) has declined from $963.4 million in 2011, when CAF ICC was adopted, to $507.1 million in 2016, when CBOLs were adopted, to $280.1 million in 2021. Is the amount of switched access net plant-in-service declining because demand for switched access service is declining and carriers are not replacing depreciated or retired switching plant as quickly as the plant is being depreciated or retired? Is there switched access plant that should be retired because it is no longer used and useful, which would suggest that switching costs should be even lower than reported? Are carriers able to replace switched access plant with cheaper plant in a modern network?

19. The Commission next seeks comment regarding the deployment obligations for rate-of-return carriers receiving CAF BLS. In this document, the Commission adopts a voluntary pathway to model-based support for current CAF BLS recipients, pursuant to which the electing carriers would be required to deploy service of at least 100/20 Mbps to all required locations in their study areas. In addition, programs administered by other Federal agencies, as well as state programs, have made or will be awarding funding to broadband providers. Notably, the BEAD Program, created by the Infrastructure Act, is expected to begin awarding grants to carriers to provide 100/20 Mbps or faster in unserved or underserved areas (or an enforceable commitment to deploy 100/20 Mbps or faster service). In considering whether to modify the deployment obligations for CAF BLS recipients, the Commission is mindful that, in order to minimize wasteful duplicative funding of broadband deployment, the deployment obligations should take into account the funding being provided by other government agencies, and the associated deployment obligations. In this section, the Commission seeks comment regarding updates to its rules to reflect the expected award of funding pursuant to BEAD and other Federal programs for areas within the service territories of legacy rate-of-return support recipients.

20. CAF BLS recipients currently have defined obligations to deploy broadband with a minimum speed of 25/3 Mbps to a specified number of locations over a five-year term that runs through 2023. Under the Commission's rules, a second five-year term, with obligations determined to deploy additional 25/3 Mbps or faster service, as determined by a pre-set formula, will begin January 1, 2024.

21. The Commission first asks whether it should continue to require deployment obligations for CAF BLS recipients. If the Commission does require deployment obligations, should it increase the obligations to 100/20 Mbps, consistent with the Infrastructure Act and Enhanced A–CAM? Alternatively, should the Commission retain the existing 25/3 Mbps deployment obligations and methodology? If the Commission adopts an obligation to deploy 100/20 Mbps, how should the Commission determine the number of locations to which the carrier must deploy? Now that the Commission has a comprehensive list of locations and served areas from the Fabric and the Broadband Data Collection, should a carrier's buildout obligation correspond with unserved Fabric locations in its study area? Can the existing methodology be updated to determine the amount of 100/20 Mbps deployment that should be required? Currently, the Commission's rules use various statistics to calculate obligations, such as five-year CAF BLS forecasts, density groupings, and average cost per loop for carriers with 95% deployment. The Commission proposes to update those inputs to the formula and seeks comment on the proposal. The Commission notes that CAF BLS carriers are currently prohibited from deploying wireline technology to provide broadband if doing so would cause their high-cost support to exceed the monthly per-line cap on support. How should the Commission reflect that prohibition in setting the deployment obligations?

22. Next, the Commission notes that many locations served by CAF BLS recipients are likely to be eligible for BEAD and other programs. Should the Commission require deployment obligations for CAF BLS carriers that includes areas where they or competitors are subject to deployment obligations pursuant to awards from agencies? Alternatively, should the Commission limit deployment obligations to locations without enforceable commitments to deploy broadband? Under the alternative, what criteria should the Commission use to identify qualifying enforceable commitments? The Commission seeks comment on whether it should re-assess

or adjust deployment obligations. For example, if the new term for CAF BLS deployment obligations commences in 2025, but another agency makes a qualifying award with enforceable deployment obligations in 2026, how should the Commission adjust the CAF BLS carrier's obligations to reflect that new qualifying award? Should the CAF BLS deployment obligations be revisited mid-term? Alternatively, should obligations set at the beginning of the term continue, unadjusted, even if that results in some obligations that may be duplicative of deployment that results from funding awarded after the initial determination?

23. The Commission seeks comment on deferring the commencement of the next five-year term, should it find it necessary, by one year, to January 1, 2025. This would enable the Commission to make an initial determination, prior to the commencement of the term, regarding areas for which new CAF BLS deployment obligations would be appropriate. On the other hand, deferring the commencement of the next term until 2025 may further delay deployment of broadband in areas that currently lack high-quality broadband. Are there other benefits or disadvantages to deferring the commencement of the next term of deployment obligations? Deferring the next term of deployment obligations would not, in itself, affect support for legacy support recipients.

24. The Commission seeks comment regarding measures to prevent duplication of support where a service provider other than the legacy rate-of-return carrier is awarded funding for broadband deployment. The Commission notes that § 54.319 of the Commission's rules already eliminates CAF BLS in areas served by an unsubsidized competitor. The Commission seeks comment regarding whether it should similarly eliminate CAF BLS support in areas for which competitors have been awarded funding to provide broadband service. Under § 54.319, a rate-of-return carrier loses CAF BLS for any census blocks in which an unsubsidized competitor, or a combination of unsubsidized competitors, provides qualifying service to at least 85 percent of the residential locations. Would it be appropriate to simply extend that standard to include locations served by competitors subject to awards made by Federal or state agencies? Is competitive service to ''at least 85 percent of residential locations in a census block'' still the appropriate standard for disallowing legacy support for the incumbent carrier? Is there a different geographic area, including sets of locations below the census block level, that should be considered? Or is the census block the smallest unit for which the removal of support due to competition should be applied?

25. The Commission seeks comment regarding what criteria should be used to determine a qualifying service. Section 54.319(d) defines qualifying service as ''voice and broadband service meeting the public interest obligations in § 54.308(a)(2).'' If an award by another agency does not require voice service to be provided, should it nonetheless be treated as qualifying service? Section 54.308(a)(2) prescribes the broadband deployment requirements for CAF BLS recipients, and currently requires 25/3 Mbps service. If the Commission does not modify the speed associated with the deployment obligation, should § 54.319 instead require a competitor's provision of or commitment to provide 100/20 Mbps or faster service as a condition of applying § 54.319?

26. The Commission seeks comment regarding how to reduce legacy support for areas that are served by an unsubsidized competitor or subject to a qualifying enforceable commitment to deploy broadband. Given the shared nature of the costs incurred by rate-of-return carriers and the long-established methods of recording costs pursuant to Part 32, the Commission does not believe it is feasible to calculate CAF BLS only for specific areas within a study area, while excluding other parts of the study area. Instead, the Commission tentatively concludes that support should be calculated for the entire study area, then ''disaggregated'' to various areas using some allocation method. The Commission seeks comment regarding this tentative conclusion. Under § 54.319, when census blocks have been determined to be served by an unsubsidized competitor, the CAF BLS recipient is permitted to elect a disaggregation methodology from among three methods identified in the *2016 Rate-of-Return Reform Order,* 81 FR 24282, April 25, 2016: (1) based on the relative density of competitive and non-competitive areas; (2) based on the ratio of competitive to non-competitive square miles in a study area; or (3) based on the ratio of calculated A–CAM support for competitive areas to total study area support. The Commission seeks comment regarding whether these methods are appropriate for continued use in general, and specifically for the purpose of disallowing support where a competitor has an obligation to deploy pursuant to a funding award. Should any of these methodologies be discontinued or revised? Even under this disaggregation process, a rate-of-return carrier might have an incentive to continue incurring deployment expenses to serve the competitive areas because those costs could not be excluded from its cost study and therefore would still be incorporated in the CAF BLS calculation. Indeed, the disaggregation methods assume that the costs of service are distributed across both competitive and non-competitive areas. Are there alternative methods for disaggregating CAF BLS between competitor-served or -obligated areas and non-competitive areas?

27. The Commission seeks comment regarding the timing of any support reductions associated with qualifying funding to competitors. Section 54.319 sets forth schedules for phased reductions where unsubsidized competitors provide service. Are phased reductions in support also appropriate where a competitor has received a qualifying award? When should the reductions, whether a graduated phase-down or flash-cut elimination of support, occur? When a qualifying award is identified by the Wireline Competition Bureau (the Bureau) review? The Commission notes that there may be cases where, due to default or other unforeseen issues, the required deployment is never made by the competitor. Would it therefore be better to eliminate support for the rate-of-return carrier only when the required competitive deployment is made?

28. The Commission seeks comment regarding the process for making the determinations that a qualifying award has been made to a competitor. Pursuant to § 54.319(h), the Bureau is instructed to update its analysis of competitive overlap by unsubsidized competitors every seven years. In the *2016 Rate-of-Return Reform Order,* the Commission adopted a challenge process to be conducted for determining which census blocks are competitively served. The Commission seeks comment regarding updating this process generally and regarding changes necessary to address areas being served by competitors receiving qualifying awards. The Commission notes that the process as adopted relies on deployment data provided on FCC Form 477. Deployment data is now collected pursuant to the Broadband Data Collection (and depicted on the National Broadband Map) process, and Federal funding data is collected pursuant the National Broadband Funding Map process. Can the challenge process described in the *2016 Rate-of-Return Reform Order* be improved or

simplified as a result of these recent data initiatives? Because the National Broadband Map and the National Broadband Funding Map will provide location-specific service data, would the Bureau be able to determine whether the 85 percent threshold has been met without first publishing a preliminary list of competitors serving census blocks and collecting certifications from unsubsidized competitors? While the Commission expects the National Broadband Funding Map data to include information regarding some awards, it may not be complete and may not, for example, include all awards made by state agencies. Should the Bureau adopt a process for collecting such data, permitting competitors that received awards and awarding agencies to identify census blocks for which qualifying awards have been made? Alternatively, if reductions to support are triggered only by actual deployment by the competitor receiving a qualifying award, should the Commission rely on the National Broadband Map to determine the areas in which legacy support should be discontinued?

29. The Commission seeks comment regarding how often a review should be conducted. The current rule requires a review every seven years. Is this an appropriate schedule for review? Alternatively, should the Bureau conduct its review every five years, prior to the development of new deployment obligations for CAF BLS recipients? Or should a review be conducted each time a new versions of the National Broadband Map or the National Broadband Funding Map are released? Is there some other period the Commission should consider?

30. Finally, the Commission notes that § 54.319 only reduces the amount of CAF BLS received by rate-of-return carriers. Should it be extended to reduce HCLS or CAF ICC?

31. *Support Where the Rate-of-Return Carrier Receives Grants for Deployment.* The Commission next seeks comment regarding the treatment of legacy support in areas where the incumbent rate-of-return carrier receives a grant for deployment from another Federal or state agency.

32. Under the Commission's rules, rate-of-return carriers treat grants as capital contributions, which must be excluded from their Part 32 property accounts. The grants are therefore excluded from the capital costs on which CAF BLS and HCLS are based, preventing double-recovery of investment paid for with grants. The Commission seeks comment regarding whether further safeguards are necessary to ensure compliance with its existing rules. For example, should the Universal Service Administrative Company be required to collect information regarding grants received by legacy support recipient on CAF BLS-related forms, or in annual compliance filings?

33. The Commission also seeks comment regarding whether further measures should be adopted to address receipt of grants by recipients of legacy support. The Commission notes that many operating expenses are allocated among services based on relative amounts of capital (or, ''plant-in-service'') in various cost categories. Might the exclusion of large amounts of plant associated with grants result in distortions in the allocation of expenses? For example, if a carrier receives a grant to deploy middle mile facilities and excludes that property from its cost study in accordance with Part 32, relatively more operating expenses would be allocated to local loop, and therefore recoverable through CAF BLS and HCLS, than would be recoverable if the carrier had financed the facilities through debt or equity. Conversely, a carrier receiving grants to deploy broadband-capable end-user lines may receive less support because the operating expenses that would otherwise be associated with the common line or CBOLs would be allocated to other cost categories. Is this issue likely to be significant, requiring further attention? If the Commission should address this issue, how would it do so?

34. The Commission, as part of its continuing effort to advance digital equity for all, including people of color, persons with disabilities, persons who live in rural or Tribal areas, and others who are or have been historically underserved, marginalized, or adversely affected by persistent poverty or inequality, invites comment on any equity-related considerations and benefits (if any) that may be associated with the proposals and issues discussed herein. Specifically, the Commission seeks comment on how its proposals may promote or inhibit advances in diversity, equity, inclusion, and accessibility, as well the scope of the Commission's relevant legal authority.

III. Procedural Matters

A. Paperwork Reduction Act

35. The NPRM contains proposed new and modified information collection requirements. The Commission as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

36. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the *NPRM.* The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

37. In the *NPRM,* the Commission seeks comment on how to amend legacy rate-of-return mechanisms to align them with the current broadband deployment and support environment. The broadband landscape has changed significantly in recent years. The Commission, meanwhile, maintains its commitment to promote deployment of broadband at evolving levels of service, while seeking to avoid unnecessary duplication of services that would be provided in the absence of high-cost universal service, whether by unsubsidized competitors or through awards made by other programs.

38. To address immediate needs, the Commission seeks comment on three key areas. First, the Commission seeks comment on a variety of reforms to legacy support mechanisms and appropriate funding, so that rate-of-return carriers are subject to a smaller reduction when the budget control mechanism applies. The Commission then seeks comment regarding appropriate deployment obligations for carriers receiving CAF BLS when the current deployment term ends this year. Finally, the Commission seeks comment regarding methodologies for preventing duplication of support between legacy high-cost universal service support mechanisms and funding provided by other Federal and state agencies for the deployment of broadband.

39. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

40. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* The Commission's actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 33.2 million businesses.

41. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' The Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2020, there were approximately 447,689 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

42. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate there were 90,075 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number, there were 36,931 general purpose governments (county, municipal, and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment populations of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

43. Small entities potentially affected herein include Wired Telecommunications Carriers, Local Exchange Carriers (LECs), Incumbent Local Exchange Carriers (Incumbent LECs), Competitive Local Exchange Carriers (LECs), Interexchange Carriers (IXCs), Local Resellers, Toll Resellers, Other Toll Carriers, Prepaid Calling Card Providers, Wireless Telecommunications Carriers (except Satellite), Cable and Other Subscription Programming, Cable Companies and Systems (Rate Regulation), Cable System Operators (Telecom Act Standard), All Other Telecommunications, Wired Broadband Internet Access Service Providers (Wired ISPs), Wireless Broadband Internet Access Service Providers (Wireless ISPs or WISPs), internet Service Providers (Non-Broadband), All Other Information Services.

44. The Commission's proposal to reform legacy rate-of-return mechanisms to align these mechanisms with current broadband deployment and the specific issues to implement the reform upon which it seeks comment in the NPRM, may impose new or additional reporting or recordkeeping and/or other compliance obligations on small entities. For example, the Commission seeks comment regarding the deployment obligations for rate-of-return carriers receiving CAF BLS. The Commission seeks comment on whether it should continue to require CAF BLS recipients to meet broadband deployment obligations or increase the broadband speeds beyond their current obligations. If the Commission chooses to continue to require deployment obligations, small entities and other CAF BLS recipients will likely have to serve a certain number of locations with broadband service meeting certain performance requirements.

45. The Commission also seeks comment on whether the Universal Service Administrative Company should collect information regarding grants received by legacy support recipients on CAF BLS-related forms, or in annual compliance forms to prevent double recovery of investment paid for with grants. This would require legacy support recipients, including small entities, to track and report the grants they receive from other funding programs. Additionally, the Commission seeks comment on updating a challenge process for determining which census blocks are competitively served. As part of this process, competitive carriers, that may include small entities, could be required to submit data to demonstrate that they are already serving a location or that they received awards from other programs to serve an area in order to prevent a rate-of-return carrier from receiving support from legacy support mechanisms to serve the same area. As an alternative, the Commission also seeks comment on relying on existing data sources instead of requiring competitors to submit information.

46. At this time, the Commission is not in a position to determine whether, if adopted, its proposals and the matters upon which it seeks comment will require small entities to hire professionals to comply, and cannot quantify the cost of compliance with the potential rule changes discussed herein. The Commission anticipates the information it receives in comments including where requested, cost and benefit analyses, will help the Commission identify and evaluate relevant compliance matters for small entities, including compliance costs and other burdens that may result from the proposals and inquiries made in the *NPRM.*

47. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

48. In the NPRM, the Commission seeks to balance the requirement to provide support that is sufficient to achieve its universal service goals, but also provide appropriate incentives for prudent and efficient expenditures. With these goals in mind, the Commission seeks comment on measures related to the budget for CAF BLS and other legacy support mechanisms that could potentially benefit legacy support recipients, including small entities, by having their support shifted towards costs that are trending higher for such carriers. For

example, the Commission seeks comment on alternatives like resetting the budget amount to account for trends like the conversion of voice lines in CBOL, reducing HCLS and targeting the support to CAF BLS to account for broadband deployment costs, or shifting support from another mechanism like CAF ICC. The Commission also seeks comment on increasing the amount of end-user revenue imputed to CBOL lines in the CAF BLS calculation. While some of these proposals may have the consequence of reducing high-cost universal support to small entities, they may potentially result in more stable and predictable annual support when the budget control is applied, giving all legacy carriers, including small carriers, more certainty regarding their support. In considering these matters, the Commission notes that the costs of high-cost universal service is ultimately borne by consumers, including small entities, through the contributions factors assessed on their bills.

49. The Commission also considered and seeks comment on alternatives for specific deployment obligations for rate-of-return carriers receiving support through legacy support mechanisms. For example, the Commission considers whether it should increase the obligations to require the deployment of broadband at 100/20 Mbps consistent with the Infrastructure Act and the Enhanced A–CAM program, and what methodology to use to determine those obligations. Alternatively, the Commission seeks comment on retaining the existing requirement that legacy support recipients offer broadband at speeds of 25/3 Mbps deployment obligations and the methodology for determining these obligations. The Commission also seeks comment on revisiting deployment obligations to account for another agency making a qualifying award with enforceable deployment obligations in the rate-of-return carrier's service area. If the Commission were to adopt lower broadband speed obligations, like 25/3 Mbps, it might reduce costs for all legacy support recipients, including small entities. A carrier's costs may also be reduced if other funding programs award grants in the rate-of-return carrier's service area, and the legacy rate-of-return carrier is no longer required to serve the locations receiving the alternative funding. However, these scenarios may also result in the reduction of support for such carriers if the Commission adjusts support to account for the lower costs or duplicative funding.

50. The Commission seeks comment on alternatives for reducing a rate-of-return carrier's support amount to reflect the availability of funding from other Federal and state programs in their service areas or to reflect that an unsubsidized competitor serves the area. For example, the Commission seeks comment on alternatives for identifying overlap, methods for disaggregating CAF BLS between competitor-served or -obligated areas, the timing for making support reductions, and the process for making the determinations that qualifying awards have been made to a competitor. In areas where the rate-of-return carrier receives a grant from another source, the Commission seeks comment on alternatives for how to account for the grant in the rate-of-return's cost recovery.

51. More generally, the Commission expects to more fully consider the economic impact on small entities following its review of comments filed in response to the NPRM and the IRFA, including costs and benefits information and any alternative proposals. The matters discussed in the NPRM are designed to ensure the Commission has a complete understanding of the benefits and potential burdens associated with the different actions and methods before reaching its final. The Commission's evaluation of the comments filed in this proceeding will shape the final alternatives it considers, the final conclusions it reaches, and the actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities as a result of any final rules that are adopted.

IV. Ordering Clauses

52. *It is further ordered* that, pursuant to the authority contained in sections 4(i), 214, 218–220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 214, 218–220, 254, 303(r), and 403, and § 1.1, 1.411, and 1.412 of the Commission's rules, 47 CFR 1.1, 1.411, and 1.412, this Notice of Proposed Rulemaking *is adopted*. This Notice of Proposed Rulemaking will be *effective* upon publication in the **Federal Register**, with comment dates indicated therein.

Federal Communications Commission.

Aleta Bowers,

Information Management Specialist, Office of the Secretary.

[FR Doc. 2023–17486 Filed 8–17–23; 8:45 am]

BILLING CODE 6712–01–P