

Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 23, 2001.

**James Jones,**

*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

#### PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.458 is amended by alphabetically adding the entry vegetable, root (except sugar beet) subgroup to the table in paragraph (a)(3), by revising the entry for vegetable, tuberous and corm group, and by deleting the entries for carrot and radish roots to read as follows:

**§ 180.458 [(E)-(±)-2-[1-[(3-chloro-2-propenyl)oxy]imino]propyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one]; tolerances for residues.**

(a) \* \* \*

(3) \* \* \*

| Commodity                                          | Parts per million |
|----------------------------------------------------|-------------------|
| Vegetable, root (except sugar beet) subgroup ..... | 1.0               |
| Vegetable, tuberous and corm, subgroup .....       | 1.0               |

\* \* \* \* \*

[FR Doc. 01-14086 Filed 6-4-01; 8:45 am]

BILLING CODE 6560-50-S

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 36 and 54

[CC Docket Nos. 96-45 and 00-256; FCC 01-157]

#### Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission takes actions in response to the Rural Task Force's recommended reforms to rural high-cost universal service support and the proposals made by the Multi-Association Group (MAG) relating to this universal service support mechanism.

**DATES:** Effective June 5, 2001, except for §§ 36.605(c)(2), 36.611, 54.305(f), the amendments to § 54.307(b), §§ 54.313(b) and (c), 54.314, and 54.315, which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal**

**Register** announcing the effective date of those sections.

#### FOR FURTHER INFORMATION CONTACT:

Genaro Fullano, Paul Garnett, or Greg Guice, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418-7400.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Fourteenth Report and Order, Twenty-Second Order on Reconsideration in CC Docket No. 96-45 and Report and Order in CC Docket No. 00-256 released on May 23, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC, 20554.

#### I. Executive Summary

1. In this Order, we take the following actions in response to the Rural Task Force's recommended reforms to rural high-cost universal service support and the proposals made by the Multi-Association Group (MAG) relating to this mechanism:

- We adopt the Rural Task Force's recommendation to re-base the high-cost loop support fund for rural telephone companies and retain an indexed cap on the fund. We conclude that re-basing the indexed fund will ensure that rural carriers are able to continue providing supported services at affordable and reasonably comparable rates during the transition to a more permanent high-cost support mechanism for rural carriers.

- We adopt a "rural growth factor" that allows the high-cost loop support fund to grow based on annual changes in the Gross Domestic Product-Chain Price Index (GDP-CPI) and the total number of working loops of rural carriers. We find that allowing the fund to grow in this fashion over the next five years will enable rural carriers to make prudent investments in rural America.

- We adopt the Rural Task Force's recommendation to freeze the national average loop cost at \$240.00. We conclude that freezing the national average loop cost will provide rural carriers with greater certainty as to their eligibility for high-cost loop support.

- We adopt a modified version of the Rural Task Force's proposal as it relates to corporate operations expenses. We revise the corporate operations expense limitation calculation so that the dollar values in the formula are re-based and indexed by the GDP-CPI.

- We also raise the minimum cap in the revised corporate operations expense limitation formula. Specifically, we permit small rural carriers to receive support for corporate operations expenses of up to \$600,000 or amounts derived from the revised corporate operations expense formula, whichever is greater. We find that raising the minimum cap from \$300,000 to \$600,000 will enable small rural carriers to receive more support for corporate operations expenses without having to file for waiver of our rules.

- We adopt a modified version of the Rural Task Force's proposed "safety net additive" so that a carrier will receive

support for its incremental expense adjustment associated with new investment, rather than 50 percent of the difference between capped and uncapped support in a given year as proposed by the Rural Task Force. By modifying safety net support in this way, we ensure that carriers that meet the threshold requirement for eligibility will receive support for their incremental investment, but do not recover more than the costs incurred as a result of the additional investment.

- Consistent with the Rural Task Force's recommendation, we retain § 54.305 of the Commission's rules, which provides that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost support for which the acquired exchanges were eligible prior to their transfer. We modify the rule, however, to provide a "safety valve" that provides support for additional investment made in the acquired exchanges.

- We decline at this time to adopt the Rural Task Force's proposal to freeze high-cost loop support upon competitive entry in rural carrier study areas. The proposal may be of limited benefit in serving its intended purpose of preventing excessive fund growth, and in some circumstances might increase high-cost loop support levels. We also conclude that the Rural Task Force's proposal would be administratively burdensome and may have the unintended consequence of discouraging investment in rural America.

- We address the Rural Task Force's concerns regarding frequency of reporting and the lag in support in study areas with competitive eligible telecommunications carriers. First, we require all eligible telecommunications carriers serving such areas to report updated line counts on a regular quarterly basis. Second, we clarify that competitive eligible telecommunications carriers may submit data and receive high-cost loop support on a regular quarterly basis.

- We adopt, with certain modifications, the three paths for the disaggregation and targeting of high-cost universal service support proposed by the Rural Task Force. We also adopt the general requirements that the Rural Task Force proposed for all disaggregation plans. We find that providing rural carriers flexibility in the methods of disaggregation and targeting is a reasonable approach to address the significant diversity among such carriers and will facilitate competitive entry in rural areas.

- We find that the Rural Task Force's proposed framework, with certain modifications, shall remain in place for five years and implementation shall begin as of July 1, 2001.

- We adopt the use of a wireless mobile customer's billing address as the basis for determining the customer's location for purposes of delivering high-cost universal service support.

- We conclude that states should file annual certifications with the Commission to ensure that eligible telecommunications carriers providing service in the service area of a rural carrier use universal service support "only for the provision, maintenance and upgrading of facilities and services for which the support is intended" consistent with section 254(e) of the Act.

- Consistent with the Rural Task Force's recommendation, the Joint Board on Universal Service is currently considering the definition of supported services. We agree with the Rural Task Force that our universal service policies should not inadvertently create barriers to the provision of access to advanced services, and believe that our current universal service system does not create such barriers. We commit to further consideration of the Rural Task Force's proposed "no barriers to advanced services" policy in the future.

- We find the Rural Task Force's recommended principles for access reform to be reasonable and generally consistent with prior Commission actions to reform the access rate structure of price cap carriers. These principles will aid our consideration of access charge reform issues in the pending MAG proceeding. We recognize the importance of completing access reform for rate-of-return carriers and intend to act expeditiously to resolve issues raised in the MAG proceeding.

## II. Procedural Matters

### A. Final Regulatory Flexibility Analysis

2. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Further Notice of Proposed Rulemaking (*FNPRM*), 66 FR 7725, January 25, 2001. The Commission sought written public comment on the proposals in the *FNPRM*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the Order

3. The 1996 Act requires the Commission to consult with the Joint Board in implementing section 254,

which establishes a number of principles for the preservation and advancement of universal service in a competitive telecommunications environment. The Commission initiated this proceeding to consider the Recommended Decision of the Joint Board regarding a rural universal service plan developed by the Rural Task Force. In this Order, consistent with the recommendation of the Joint Board, we adopt interim rules for determining high-cost universal service support for rural telephone companies based upon the modified embedded cost mechanism proposed by the Rural Task Force. These rules should benefit all rural carriers because they will result in predictable levels of support so that rural carriers can continue to provide affordable service in rural America, while ensuring that consumers in all regions of the Nation, including rural areas, have access to affordable and quality telecommunications services.

4. In this Order, we take the following actions in response to the Rural Task Force's recommended reforms to the rural high-cost loop support mechanism and the proposals made by the MAG relating to these rules. First, we adopt the Rural Task Force's recommendation to re-base the high-cost loop support fund for rural telephone companies and retain an indexed cap on the fund. Second, we adopt a rural growth factor that allows growth in the high-cost loop support fund based on the annual increases in the Gross Domestic Product-Chained Price Index (GDP-CPI) and growth in the total number of working loops of rural carriers. Third, we adopt a modified version of the Rural Task Force's proposal as it relates to corporate operations expense. We revise the corporate operations expense limitation calculation so that the dollar values in the formula are re-based and indexed by the GDP-CPI. We also raise the minimum cap for those carriers with 6,000 or fewer loops. In the revised corporate operations expense formula, we allow these carriers to receive support for corporate operations expenses of up to \$600,000 or amounts derived from the revised corporate operations expense formula, whichever is greater. Fourth, we adopt a modified version of the Rural Task Force's proposed safety net additive so that if certain criteria are met, a carrier may receive support for its incremental expense adjustment associated with new investment. Fifth, while we retain § 54.305 of the Commission's rules which provides that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of

high-cost support for which the acquired exchanges were eligible prior to their transfer, we also modify the rule to provide safety valve support for additional investment made in the acquired exchanges. Sixth, we adopt, with certain modifications, the three paths for the disaggregation and targeting of high-cost universal service support proposed by the Rural Task Force. We also adopt the general requirements that the Rural Task Force proposed for all disaggregation plans. Seventh, we adopt the Rural Task Force's proposed framework, with the noted modifications, and it shall remain in place for five years. Finally, we conclude that states should file annual certifications with the Commission to ensure that rural carriers and competitive eligible telecommunications carriers providing service in the service area of a rural local exchange carrier use universal service support "only for the provision, maintenance and upgrading of facilities and services for which the support is intended" consistent with section 254(e) of the Act.

5. In this Order, the Commission also addresses certain issues raised in the MAG proceeding. Specifically, we find that the MAG proposal to remove the indexed cap entirely and to eliminate the limits on corporate operations expenses is unwarranted. We also decide against the MAG proposal to the extent that it recommends elimination of § 54.305 entirely. Finally, we disagree with the MAG proposal to allow rural carriers to disaggregate universal service support up to three zones per wire center. We find the Rural Task Force's recommended principles for access reform to be reasonable and generally consistent with prior Commission actions to reform the access rate structure of price cap carriers. These principles will aid our consideration of access charge reform issues in the pending MAG proceeding.

6. We find that the interim rules strike a fair and reasonable balance among the principles and goals enumerated in section 254 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996. Specifically, as the Commission continues to develop a long-term coordinated universal service plan, this interim plan will provide predictable levels of support so that rural carriers can make prudent investments in rural America.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

7. No comments were submitted in response to the IRFA, nor did commenters address the potential impact of these interim rules on small business. The Commission, however, did consider the burden that certain provisions contained in the Order may have on smaller carriers and sought to minimize that burden. For example, as the Commission states in this Order, to reduce the need for small carriers to seek a waiver under the corporate operations expense rules, we raise the minimum cap on allowable corporate operations expenses supported by universal service to \$600,000 or amounts derived from the revised corporate operations expense formulas, whichever is greater. This eliminates the burden and expense associated with the waiver process for those carriers.

3. Description and Estimate of the Number of Small Entities to Which the Notice Will Apply

8. 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 adopted herein. 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. 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) meets any additional criteria established by the Small Business Administration (SBA).

9. We have included small incumbent local exchange carriers in this RFA analysis. As noted, a "small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent carriers in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and

determinations in other, non-RFA contexts.

10. *Local Exchange Carriers*. Neither the Commission nor the SBA has developed a definition for small providers of local exchange services. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* report, 1,335 incumbent carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of local exchange carriers that would qualify as small business concerns under the SBA's definition. Of the 1,335 incumbent carriers, 13 entities are price cap carriers that are not subject to these rules. Consequently, we estimate that fewer than 1,322 providers of local exchange service are small entities or small incumbent local exchange carriers that may be affected.

11. *Competitive Access Providers*. Neither the Commission nor the SBA has developed a definition of small entities specifically applicable to competitive access services providers (CAPs). The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent *Trends in Telephone Service* data, 349 CAPs/competitive local exchange carriers and 60 other local exchange carriers reported that they were engaged in the provision of competitive local exchange services. We do not have data specifying the number of these carriers that are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are less than 349 small entity CAPs and 60 other local exchange carriers that may be affected.

12. *Cellular Licensees*. Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company

employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent *Trends Report* data, 806 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 808 small cellular service carriers that may be affected.

13. *Broadband Personal Communications Service (PCS)*. The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined "small entity" for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. For Block F, an additional classification for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These regulations defining "small entity" in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

14. *Rural Radiotelephone Service*. The Commission has not adopted a

definition of small entity specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS). We will use the SBA's definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and we estimate that almost all of them qualify as small entities under the SBA's definition.

15. *Specialized Mobile Radio (SMR)*. The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than \$15 million in each of the three previous calendar years. In the context of both the 800 MHz and 900 MHz SMR, a definition of "small entity" has been approved by the SBA.

16. These fees apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. We assume, for purposes of this FRFA, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA.

17. For geographic area licenses in the 900 MHz SMR band, there are 60 who qualified as small entities. For the 800 MHz SMRs, 38 are small or very small entities.

18. *Fixed Microwave Services*. Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this FRFA, we utilize the SBA's definition applicable to radiotelephone companies—*i.e.*, an entity with no more than 1,500 persons. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

19. *39 GHz Licensees*. Neither the Commission nor the SBA has developed

a definition of small entities applicable to 39 GHz licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. For purposes of the 39 GHz license auction, the Commission defined "small entity" as an entity that has average gross revenues of less than \$40 million in the three previous calendar years, and "very small entity" as an entity that has average gross revenues of not more than \$15 million for the preceding three calendar years. The Commission has granted licenses to 29 service providers in the 39 GHz service. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of 39 GHz licensees that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are no more than 29 service providers in the 39 GHz service that may be affected.

#### 4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

20. In the Order, we adopt the Rural Task Force's proposal that rural carriers be given a choice of three different options for disaggregating and targeting per-line universal service high-cost support, including high-cost loop support, Long Term Support (LTS), and Local Switching Support (LSS). Rural carriers are required to choose one of the paths detailed within 270 days of the effective date of the new rules through submission to the state commissions. Rural carriers not subject to the jurisdiction of the state are required to make such submissions to the Commission. Rural carriers that elect to disaggregate and target per-line support under either Path Two or Three are required to report loops at the cost-zone level, which is a modification of the current requirement that carriers report loops at the study-area level. This change will require only minor increases in a carrier's reporting burdens, and predominantly only in the first year that the carrier revises its method of reporting. Path 1 is available to rural carriers that do not want to target high-cost support. Path Two is available to rural carriers that want state commission review and approval of a disaggregation plan. Path Three is available to rural carriers interested in self-certifying a method for

disaggregating universal service support into a maximum of two cost zones per wire center. Only a disaggregation plan filed under Path Three requires additional reporting requirements to the Commission. Under Path Three, a carrier must use a rationale that is reasonably related to the cost of providing service for each cost zone within each disaggregation category (high-cost loop support, LSS, and LTS). We estimate that the annual burden hours in the first year would be 60 hours. We estimate subsequent annual burden hours at 8 hours. We believe the burden associated with this reporting requirement is appropriately balanced with the benefits reporting rural carriers will receive.

21. The Commission also adopted the Rural Task Force's proposal to extend the section 254(e) certification process to rural carriers. Under this process, state regulatory commissions provide the Commission with annual certifications indicating that the rural carriers in their states receiving federal universal service support will use the support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." Carriers not subject to the jurisdiction of the state must submit a sworn affidavit to the Commission stating that they will use support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." This reporting requirement will provide states and carriers with access to federal universal service support in a way that ensures the integrity of the universal service fund. We estimate that the annual burden hours associated with the section 254(e) certification process would be 12 hours per carrier. This is a nominal burden on rural carriers and is balanced against the high degree of federal universal service benefits rural carriers would receive.

22. Finally, the Commission adopted a modification to an existing reporting requirement regarding working loops. Under the current rules, rural carriers are required to submit, on an annual basis, the number of working loops it has for each study area it serves. In this Order, we modify this reporting requirement to require that once a competitor enters a rural carriers study area, working loops are required to be reported on a quarterly basis. The Commission determined that this was necessary to prevent the overpayment of support to incumbent rural carriers, which occurs under the current rule because competitors have an incentive to update quarterly, while the

incumbent has an incentive to only update annually.

#### 5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

23. The RFA requires an agency to describe any significant 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 or reporting requirements under the rule for 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 small entities.

24. The Order adopted herein is the result of an analysis of a number of options for distributing federal universal service support to rural carriers. Throughout the Order, it is evident that the Commission took great strides in balancing the burdens associated with modification of the existing embedded cost mechanism and the benefits these modifications confer on rural carriers and competitive eligible telecommunications carriers. In this regard, it is important to note that we make these modifications with only minimal reporting requirements.

25. Among the significant alternatives, we considered whether modification of the corporate operations expense cap would minimize the burden and expense associated with seeking a waiver for smaller carriers. In this Order, we decide to raise the existing cap for carriers with 6,000 or fewer working loops so they can receive support for up to \$600,000 or amounts derived from the revised corporate operations expense formula adopted herein, whichever is greater. We thus decrease the need of smaller carriers to request a waiver. In addition, we adopt a modified version of the safety net additive mechanism proposed by the Rural Task Force. We conclude that a modification to the safety net additive is warranted because as proposed, the mechanism potentially allowed for the recovery of more than 100 percent of incremental costs. We also consider alternative measurements of "meaningful investment" for purposes of calculating safety valve support. We conclude that the alternatives considered would, in some instances, deny the recovery of such meaningful investments.

26. *Report to Congress:* The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including the FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

#### B. Paperwork Reduction Act

27. As described, the rules we adopt in this Order reflect our efforts to balance the needs of rural carriers, while minimizing the burden on those entities that must comply with our reporting requirements. The information we request should not require significant additional resources as they are a modification of current reporting requirements. Additionally, by freezing the national average loop cost at \$240, we eliminate the need for non-rural carriers to file loop cost data on a quarterly basis, thus alleviating those carriers of an administrative burden.

28. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act, and will go into effect once OMB approves the collection requirements. Once OMB approves the required collections the Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

#### C. Effective Date of Final Rules

29. We conclude that the amendments to our rules adopted herein shall be effective June 5, 2001, except for §§ 36.605(c)(2), 36.611, 54.305(f), 54.307(b), 54.313(b) and (c), 54.314, and 54.315, which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections. The final rules must take effect prior to 30 days after their publication in the **Federal Register** in order for NECA to be able to implement the necessary changes to the high-cost loop support mechanism by July 1, 2001.

### III. Ordering Clauses

30. Pursuant to the authority contained in sections 1–4, 201–205, 214, 218–220, 254, 303(r), 403, 405, and 410 of the Communications Act of 1934, as amended, this Fourteenth Report and Order and Twenty-Second Order on Reconsideration in CC Docket No. 96–45, and Report and Order in CC Docket No. 00–256 is adopted.

31. Parts 36 and 54 of the Commission's rules, are amended as set forth hereto, effective June 5, 2001, except for §§ 36.605(c)(2), 36.611, 54.305(f), 54.307(b), 54.313(b) and (c), 54.314, and 54.315, which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

32. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects

##### 47 CFR Part 36

Jurisdictional separations, Reporting and recordkeeping requirements, Telecommunications, Telephone.

##### 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

**William F. Caton,**  
Deputy Secretary.

#### Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 36 and 54 as follows:

#### **PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES**

1. The authority citation for part 36 continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i) and (j), 205, 221(c), 254, 403, and 410.

2. Amend § 36.601 by revising the first sentence of paragraph (c) to read as follows.

#### **§ 36.601 General.**

\* \* \* \* \*

(c) Until June 30, 2001, the annual amount of the total nationwide expense adjustment shall consist of the amounts calculated pursuant to § 54.309 of this chapter and the amounts calculated pursuant to this subpart F.\* \* \*

\* \* \* \* \*

3. Add §§ 36.602, 36.603, 36.604, and 36.605 to subpart F under the center heading "General" to read as follows:

#### **§ 36.602 Calculation of non-rural carrier portion of nationwide loop cost expense adjustment.**

Effective July 1, 2001, for purposes of determining non-rural carrier interim hold-harmless support, pursuant to § 54.311 of this chapter, the annual amount of the total nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total loop cost expense adjustment for the immediately preceding calendar year, increased by a rate equal to the rate of increase in the total number of working loops during the calendar year preceding the July 31st filing. The total loop cost expense adjustment shall consist of the loop cost expense adjustments, including amounts calculated pursuant to §§ 36.612(a) and 36.631. The rate of increase in total working loops shall be based upon the difference between the number of total working loops on December 31 of the calendar year preceding the July 31st filing and the number of total working loops on December 31 of the second calendar year preceding that filing, both determined by the company's submissions pursuant to § 36.611. Non-rural incumbent local exchange carriers and eligible telecommunications carriers serving lines in the service area of non-rural incumbent local exchange carriers shall only receive support pursuant to this subpart F to the extent that they qualify pursuant to § 54.311 of this chapter for interim hold-harmless support. Support amounts calculated pursuant to this subpart F but not received due to the phase down of interim hold-harmless support or the receipt of forward-looking support pursuant to § 54.311 of this chapter shall not be redistributed to other carriers.

#### **§ 36.603 Calculation of rural incumbent local exchange carrier portion of nationwide loop cost expense adjustment.**

(a) Effective July 1, 2001, the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment will be recomputed by the fund administrator

as if the indexed cap calculated pursuant to § 36.601(c) and the corporate operations expense limitation calculated pursuant to § 36.621 had not been in effect for the calendar year 2000. For the period July 1, 2001, to December 31, 2001, the annualized amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the non-capped amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the calendar year 2000, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604. Beginning January 1, 2002, the annual amount of the rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment calculated pursuant to this subpart F shall not exceed the amount of the total rural incumbent local exchange carrier loop cost expense adjustment for the immediately preceding calendar year, multiplied times one plus the Rural Growth Factor calculated pursuant to § 36.604.

(b) The annual rural incumbent local exchange carrier portion of the nationwide loop cost expense adjustment shall be reduced to reflect the transfer of rural incumbent local exchange carrier access lines that are eligible for expense adjustments pursuant to § 36.631. The reduction shall equal the amount of the § 36.631 expense adjustment available to the transferred access lines at the time of the transfer and shall be effective in the next calendar quarter after the access lines are transferred.

(c) Safety net additive support calculated pursuant to § 36.605, and transferred high-cost support and safety valve support calculated pursuant to § 54.305 of this chapter shall not be included in the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment.

#### **§ 36.604 Calculation of the rural growth factor.**

The Rural Growth Factor (RGF) is equal to the sum of the annual percentage change in the United States Department of Commerce's Gross Domestic Product—Chained Price Index (GPD—CPI) plus the percentage change in the total number of rural incumbent local exchange carrier working loops during the calendar year preceding the July 31st filing submitted pursuant to § 36.611. The percentage change in total rural incumbent local exchange carrier working loops shall be based upon the difference between the total number of

rural incumbent local exchange carrier working loops on December 31 of the calendar year preceding the July 31st filing and the total number of rural incumbent local exchange carrier working loops on December 31 of the second calendar year preceding that filing, both determined by the company's submissions pursuant to § 36.611. Loops acquired by rural incumbent local exchange carriers shall not be included in the RGF calculation.

**§ 36.605 Calculation of safety net additive.**

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

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

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

(2) If paragraph (c)(1) of this section is met, the rural incumbent local exchange carrier must notify the Administrator; failure to properly notify the Administrator of eligibility shall result in disqualification of that study

area for safety net additive, requiring the rural incumbent local exchange carrier to again meet the eligibility requirements in paragraph (c)(1) of this section for that study area in a subsequent period.

(3) Upon completion of verification by the Administrator that the study area meets the stated criterion in paragraphs (a), (b), (c) of this section, the Administrator shall:

(i) Pay to any qualifying rural telephone company, safety net additive support for the qualifying study area in accordance with the calculation set forth in paragraph (b) of this section; and

(ii) Continue to pay safety net additive support for the succeeding four years. Support in the four succeeding years shall be the lesser of:

(A) The amount of support paid in the qualifying year; or

(B) The amount of support based on recalculation of support pursuant to paragraph (b) in this section.

4. Amend § 36.611 by revising the introductory text to read as follows:

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

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

\* \* \* \* \*

5. Amend § 36.612 by revising paragraph (a) introductory text to read as follows:

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

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

\* \* \* \* \*

6. Amend § 36.621 by revising the last sentence of paragraph (a)(4) introductory text, by revising paragraph (a)(4)(i), and the first sentence of paragraph (a)(4)(ii), by revising paragraphs (a)(4)(ii)(A) through (a)(4)(ii)(C), and adding paragraph (a)(4)(ii)(D) to read as follows:

**§ 36.621 Study area total unseparated loop cost.**

(a) \* \* \*

(4) \* \* \* Total Corporate Operations Expense, for purposes of calculating universal service support payments beginning July 1, 2001, shall be limited to the lesser of:

(i) The actual average monthly per-loop Corporate Operations Expense; or

(ii) A monthly per-loop amount computed according to paragraphs (a)(4)(ii)(A), (a)(4)(ii)(B), (a)(4)(ii)(C), and (a)(4)(ii)(D) of this section.\* \* \*

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

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

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

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



(D) Beginning January 1, 2002, the monthly per-loop amount computed according to paragraphs (a)(4)(ii)(A), (a)(4)(ii)(B), and (a)(4)(ii)(C) of this section shall be adjusted each year to reflect the annual percentage change in the United States Department of Commerce's Gross Domestic Product-Chained Price Index (GDP-CPI).

\* \* \* \* \*

7. Amend § 36.622 by adding a sentence at the end of paragraph (a) introductory text to read as follows:

**§ 36.622 National and study area average unseparated loop costs.**

(a) \* \* \* Effective July 1, 2001, the national average unseparated loop cost for purposes of calculating expense adjustments for rural incumbent local exchange carriers, as that term is defined in § 54.5 of this chapter, is frozen at \$240.00.

\* \* \* \* \*

**PART 54—UNIVERSAL SERVICE**

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

**Authority:** 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

9. Amend § 54.5 by adding the following definition in alphabetical order:

**§ 54.5 Terms and definitions.**

\* \* \* \* \*

*Rural Incumbent Local Exchange Carrier.* "Rural incumbent local exchange carrier" is a carrier that meets the definitions of "rural telephone company" and "incumbent local exchange carrier," as those terms are defined in § 51.5 of this chapter.

10. Amend § 54.305 by designating the undesignated text as paragraph (a) and by adding paragraphs (b), (c), (d), (e), and (f) to read as follows:

**§ 54.305 Sale or transfer of exchanges.**

\* \* \* \* \*

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

support in § 54.305(a), would qualify for high-cost loop support for acquired exchanges under § 36.631 of this chapter.

(c) The index year expense adjustment for acquired exchange(s) shall be equal to the rural incumbent local exchange carrier's high-cost loop cost expense adjustment for acquired exchanges calculated at the end of the company's first year operating the acquired exchange(s). The index year expense adjustment for the acquired exchange(s) shall be established through cost data submitted in accordance with §§ 36.611 and 36.612 of this chapter and shall be calculated in accordance with § 36.631 of this chapter. For carriers establishing an index year for acquired exchanges pursuant to § 36.611 of this chapter, the index year for the acquired exchange(s) shall commence at the beginning of the next calendar year after the transfer of said exchanges. For carriers establishing an index year for acquired exchanges pursuant to § 36.612 of this chapter, the index year for the acquired exchange(s) shall commence at the beginning of the next calendar quarter after the transfer of said exchanges. The index year expense adjustment for rural telephone companies that have operated exchanges subject to this section for more than a full year on the effective date of this paragraph shall be based on loop cost data submitted in accordance with § 36.612 of this chapter for the year ending on the nearest calendar quarter following the effective date of this paragraph. At the end of each subsequent year, a loop cost expense adjustment for the acquired exchanges will be calculated pursuant to § 36.631 of this chapter and will be compared to the index year expense adjustment. A rural incumbent local exchange carrier's subsequent year expense adjustments shall end on the same calendar quarter as its index year expense adjustment. If acquired exchanges are incorporated into an existing rural incumbent local exchange carrier study area, the rural incumbent local exchange carrier shall exclude costs associated with the acquired exchanges from the costs associated with its pre-acquisition study area in its universal service data submissions filed in accordance with §§ 36.611 and 36.612 of this chapter. Such excluded costs shall be used to calculate the rural incumbent local exchange carrier's safety valve loop cost expense adjustment.

(d) Up to fifty (50) percent of any positive difference between the subsequent year loop cost expense adjustment and the index year expense adjustment will be designated as the

study area's safety valve loop cost expense adjustment and will be available in addition to the amounts available to the study area under § 54.305. In no event shall a study area's safety valve loop cost expense adjustment exceed the difference between the carrier's uncapped study area loop cost expense adjustment calculated pursuant to § 36.631 of this chapter and transferred support amounts available to the acquired exchange(s) under paragraph (a) of this section. Safety valve support shall not transfer with acquired exchanges.

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

(f) Once an acquisition is complete, the acquiring rural incumbent local exchange carrier shall provide written notice to the Administrator that it has acquired access lines that may be eligible for safety valve support. Rural telephone companies also shall provide written notice to the Administrator of when their index year has been established for purposes of calculating the safety valve loop cost expense adjustment.

11. Amend § 54.307 by revising paragraph (a)(1), and by revising the second sentence in paragraph (b), by adding a sentence at the end of paragraph (b), and by revising the first sentence in paragraph (c) introductory text to read as follows:



**§ 54.307 Support to a competitive eligible telecommunications carrier.**

(a) \* \* \*

(1) A competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5 of this chapter, shall receive support for each line it serves in a particular service area based on the support the incumbent LEC would receive for each such line, disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart. A competitive eligible telecommunications carrier serving loops in the service area of a non-rural incumbent local exchange carrier shall receive support for each line it serves in a particular wire center based on the support the incumbent LEC would receive for each such line.

\* \* \* \* \*

(b) \* \* \* For a competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5 of this chapter, the carrier must report the number of working loops it serves in the service area disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart. \* \* \* Competitive eligible telecommunications carriers providing mobile wireless service in an incumbent LEC's service area shall use the customer's billing address for purposes of identifying the service location of a mobile wireless customer in a service area.

(c) A competitive eligible telecommunications carrier must submit the data required pursuant to paragraph (b) of this section according to the schedule. \* \* \*

\* \* \* \* \*

12. Amend § 54.313 as follows:

- a. Revise the section heading.
- b. Redesignate paragraphs (b) and (c) as paragraphs (c) and (d).
- c. Add a new paragraph (b).
- d. Revise newly designated paragraph (c).
- e. In newly redesignated paragraph (d), the reference to "paragraph (b)" is revised to read "paragraph (c)".

The addition and revisions read as follows:

**§ 54.313 State certification of support for non-rural carriers.**

\* \* \* \* \*

(b) *Carriers not subject to State jurisdiction.* A non-rural incumbent

local exchange carrier not subject to the jurisdiction of a state or an eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a non-rural incumbent local exchange carrier that desires to receive support pursuant to §§ 54.309 and/or 54.311 of this subpart must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.309 and/or 54.311 of this subpart shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.

(c) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. If provided by the appropriate regulatory authority for the state, the annual certification must identify which carriers in the State are eligible to receive federal support during the applicable 12-month period, and must certify that those carriers will only use support for the provision, maintenance, and upgrading of facilities and services for which support is intended. A State may file a supplemental certification for carriers not subject to the State's annual certification. All certificates filed by a State pursuant to this section shall become part of the public record maintained by the Commission. Non-rural incumbent local exchange carriers not subject to the jurisdiction of a state or eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a non-rural incumbent local exchange carrier, shall file a sworn affidavit executed by a corporate officer attesting to the use of the support for the provision, maintenance, and upgrading of facilities and services for which support is intended. The affidavit must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. All affidavits filed pursuant to this section

shall become part of the public record maintained by the Commission.

\* \* \* \* \*

13. Add § 54.314 to subpart D to read as follows:

**§ 54.314 State certification of support for rural carriers.**

(a) *State certification.* States that desire rural incumbent local exchange carriers and/or eligible telecommunications carriers serving lines in the service area of a rural incumbent local exchange carrier within their jurisdiction to receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.

(b) *Carriers not subject to State jurisdiction.* A rural incumbent local exchange carrier not subject to the jurisdiction of a state or an eligible telecommunications carrier not subject to the jurisdiction of a state serving lines in the service area of a rural incumbent local exchange carrier that desires to receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.

(c) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and shall be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96–45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. If provided by the appropriate regulatory authority for the state, the annual certification must identify which carriers in the State

are eligible to receive federal support during the applicable 12-month period, and must certify that those carriers will only use support for the provision, maintenance, and upgrading of facilities and services for which support is intended. A State may file a supplemental certification for carriers not subject to the State's annual certification. All certificates filed by a State pursuant to this section shall become part of the public record maintained by the Commission. Rural incumbent local exchange carriers not subject to the jurisdiction of a state or eligible telecommunications carriers not subject to the jurisdiction of a state serving lines in the service area of a rural incumbent local exchange carrier, shall file a sworn affidavit executed by a corporate officer attesting to the use of the support for the provision, maintenance, and upgrading of facilities and services for which support is intended. The affidavit must be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96-45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth in paragraph (d) of this section. All affidavits filed pursuant to this section shall become part of the public record maintained by the Commission.

(d) *Filing Deadlines.* Upon the filing of the certification described in paragraph (c) of this section, support shall be provided pursuant to the following schedule:

(1) *Certifications filed on or before October 1.* Carriers for which certifications are filed on or before October 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the first, second, third, and fourth quarters of the succeeding year.

(2) *Certifications filed on or before January 1.* Carriers for which certifications are filed on or before January 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the second, third, and fourth quarters of that year. Such carriers shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter in the first quarter of that year.

(3) *Certifications filed on or before April 1.* Carriers for which certifications are filed on or before April 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the third and fourth quarters of that year. Such carriers shall not receive support pursuant to §§ 54.301, 54.305, and/or

54.307 and/or part 36, subpart F of this chapter in the first and second quarters of that year.

(4) *Certifications filed on or before July 1.* Carriers for which certifications are filed on or before July 1 shall receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in the fourth quarter of that year. Such carriers shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter in the first, second, or third quarters of that year.

(5) *Certifications filed after July 1.* Carriers for which certifications are filed after July 1 shall not receive support pursuant to §§ 54.301, 54.305, and/or 54.307 and/or part 36, subpart F of this chapter, in that year.

14. Add § 54.315 to subpart D as follows:

**§ 54.315 Disaggregation and targeting of support by rural incumbent local exchange carriers.**

(a) Within 270 days of the effective date of this rule, all rural incumbent local exchange carriers for which high-cost universal service support pursuant to §§ 54.301, 54.303, and/or 54.305 and/or part 36, subpart F of this chapter is available must select a disaggregation path as described in paragraphs (b), (c), or (d) of this section. In study areas in which a competitive carrier has been designated as a competitive eligible telecommunications carrier prior to the effective date of this rule, the rural incumbent local exchange carrier may only disaggregate support pursuant to paragraph (b), (c), or (d)(1)(iii) of this section. A rural incumbent local exchange carrier failing to select a disaggregation path as described in paragraphs (b), (c), or (d) of this section within 270 days of the effective date of this rule will not be permitted to disaggregate and target federal high-cost support unless ordered to do so by the state commission as that term is defined in § 54.5.

(b) Path 1: Carriers Not Disaggregating and Targeting High-Cost Support:

(1) A carrier may certify to the state commission that it will not disaggregate and target high-cost universal service support.

(2) A carrier's election of this path becomes effective upon certification by the carrier to the state commission.

(3) This path shall remain in place for such carrier for at least four years from the date of certification to the state commission except as provided in paragraph (b)(4) of this section.

(4) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the

rural incumbent local exchange carrier, the disaggregation and targeting of support under paragraphs (c) or (d) of this section.

(5) A carrier not subject to the jurisdiction of a state, e.g., certain tribally owned carriers, may select Path 1, but must certify to the Federal Communications Commission as described in paragraphs (1) through (4) of this section.

(c) Path 2: Carriers Seeking Prior Regulatory Approval for the Disaggregation and Targeting of Support:

(1) A carrier electing to disaggregate and target support under this paragraph must file a disaggregation and targeting plan with the state commission.

(2) Under this paragraph a carrier may propose any method of disaggregation and targeting of support consistent with the general requirements detailed in paragraph (e) of this section.

(3) A disaggregation and targeting plan under this paragraph becomes effective upon approval by the state commission.

(4) A carrier shall disaggregate and target support under this path for at least four years from the date of approval by the state commission except as provided in paragraph (c)(5) of this section.

(5) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier, the disaggregation and targeting of support in a different manner.

(6) A carrier not subject to the jurisdiction of a state, e.g., certain tribally owned carriers, may select Path 2, but must seek approval from the Federal Communications Commission as described in paragraphs (c)(1) through (5) of this section.

(d) Path 3: Self-Certification of the Disaggregation and Targeting of Support:

(1) A carrier may file a disaggregation and targeting plan with the state commission along with a statement certifying each of the following:

(i) It has disaggregated support to the wire center level; or

(ii) It has disaggregated support into no more than two cost zones per wire center; or

(iii) That the carrier's disaggregation plan complies with a prior regulatory determination made by the state commission.

(2) Any disaggregation plan submitted pursuant to this paragraph must meet the following requirements:

(i) The plan must be supported by a description of the rationale used, including the methods and data relied

upon to develop the disaggregation zones, and a discussion of how the plan complies with the requirements of this paragraph. Such filing must provide information sufficient for interested parties to make a meaningful analysis of how the carrier derived its disaggregation plan.

(ii) The plan must be reasonably related to the cost of providing service for each disaggregation zone within each disaggregated category of support.

(iii) The plan must clearly specify the per-line level of support for each category of high-cost universal service support provided pursuant to §§ 54.301, 54.303, and/or 54.305 and/or part 36, subpart F of this chapter in each disaggregation zone.

(iv) If the plan uses a benchmark, the carrier must provide detailed information explaining what the benchmark is and how it was determined. The benchmark must be generally consistent with how the total study area level of support for each category of costs is derived to enable a competitive eligible telecommunications carrier to compare the disaggregated costs used to determine support for each cost zone.

(3) A carrier's election of this path becomes effective upon certification by the carrier to the state commission.

(4) A carrier shall disaggregate and target support under this path for at least four years from the date of certification to the state commission except as provided in paragraph (d)(5) of this section.

(5) A state commission may require, on its own motion, upon petition by an interested party, or upon petition by the rural incumbent local exchange carrier, modification to the disaggregation and targeting of support selected under this path.

(6) A carrier not subject to the jurisdiction of a state, *e.g.*, certain tribally owned carriers, may select Path 3, but must certify to the Federal Communications Commission as described in paragraphs (d)(1) through (5) of this section.

(e) Additional Procedures Governing the Operation of Path 2 and Path 3: Disaggregation and targeting plan adopted under paragraphs (c) or (d) of this section shall be subject to the following general requirements:

(1) Support available to the rural incumbent local exchange carrier's study area under its disaggregation plan shall equal the total support available to the study area without disaggregation.

(2) The ratio of per-line support between disaggregation zones for each disaggregated category of support shall remain fixed over time, except as

changes are allowed pursuant to paragraph (c) and (d) of this section.

(3) The ratio of per-line support shall be publicly available.

(4) Per-line support amounts for each disaggregation zone shall be recalculated whenever the rural incumbent local exchange carrier's total annual support amount changes using the changed support amount and lines at that point in time.

(5) Per-line support for each category of support in each disaggregation zone shall be determined such that the ratio of support between disaggregation zones is maintained and that the product of all of the rural incumbent local exchange carrier's lines for each disaggregation zone multiplied by the per-line support for those zones when added together equals the sum of the rural incumbent local exchange carrier's total support.

(6) Until a competitive eligible telecommunications carrier is certified in a study area, monthly payments to the rural incumbent local exchange carrier will be made based on total annual amounts for its study area divided by 12.

(7) When a competitive eligible telecommunications carrier is certified in a study area, per-line amounts used to determine the competitive eligible telecommunications carrier's disaggregated support shall be based on the rural incumbent local exchange carrier's then-current total support levels, lines, and disaggregated support relationships.

(f) Submission of Information to the Administrator:

(1) A rural incumbent local exchange carrier certifying under paragraph (b) of this section that it will not disaggregate and target high-cost universal service support shall submit to the Administrator a copy of the certification submitted to the state commission, or the Federal Communications Commission, when not subject to state jurisdiction.

(2) A rural incumbent local exchange carrier electing to disaggregate and target support under paragraph (c) of this section shall submit to the Administrator a copy of the order approving the disaggregation and targeting plan submitted by the carrier to the state commission, or the Federal Communications Commission, when not subject to state jurisdiction, and a copy of the disaggregation and targeting plan approved by the state commission or the Federal Communications Commission.

(3) A rural incumbent local exchange carrier electing to disaggregate and target support under paragraph (d) of this section shall submit to the

Administrator a copy of the self-certification plan including the information submitted to the state commission pursuant to (d)(2)(i) and (d)(2)(iv) of this section or the Federal Communications Commission.

(4) A rural incumbent local exchange carrier electing to disaggregate and target support under paragraph (c) or (d) of this section must submit to the Administrator maps which precisely identify the boundaries of the designated disaggregation zones of support within the carrier's study area.

[FR Doc. 01-14008 Filed 6-4-01; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 01-1237; MM Docket No. 01-64; RM-10074]

### Radio Broadcasting Services; Monticello, Maine

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 234A to Monticello, Maine, in response to a petition filed by Allan H. Wiener. See 66 FR 14873, March 14, 2001. The coordinates for Channel 234A at Monticello, Maine, are 46-24-20 NL and 67-50-45 WL. Although Canadian concurrence has been requested for the allotment of Channel 234A at Monticello, notification has not been received. Therefore, operation with the facilities specified for Monticello herein is subject to modification, suspension, or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1991 Canada-USA FM Broadcast Agreement or if specifically objected to by Canada. A filing window for Channel 234A at Monticello, Maine, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

**DATES:** Effective July 3, 2001.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 01-24, adopted May 9, 2001, and released May 18, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's