

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51
	)	
Establishing Just and Reasonable Rates for Local Exchange Carriers	)	WC Docket No. 07-135
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Developing an Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Universal Service Reform – Mobility Fund	)	WT Docket No. 10-208

**REPORT AND ORDER AND FURTHER NOTICE OF PROPOSED RULEMAKING**

**Adopted: October 27, 2011**

**Released: November 18, 2011**

**Comment Date on Sections XVII.A-K: January 18, 2012**

**Reply Comment Date on Sections XVII.A-K: February 17, 2012**

**Comment Date on Sections XVII.L-R: February 24, 2012**

**Reply Comment Date on Sections XVII.L-R: March 30, 2012**

By the Commission: Chairman Genachowski and Commissioners Copps and Clyburn issuing separate statements; Commissioner McDowell approving in part, concurring in part and issuing a statement.

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*Appendix A*

areas, the Bureau may maintain existing support levels, as modified in this Order, to any affected price cap carrier, without exceeding the overall budget of \$1.8 billion per year for price cap areas.

#### **D. Universal Service Support for Rate-of-Return Carriers**

##### **1. Overview**

194. As we transition to the CAF, many carriers will still, for some time period, receive support under our existing support mechanisms, subject to specific modifications to improve the efficiency and effectiveness of such universal service support pending full transition to the CAF. Here, we discuss the immediate steps we are taking that affect rate-of-return carriers. Some of our current rules are not meeting their intended purposes, while others simply no longer make sense in a broadband world. Reforming these rules will help further the statutory goals of ensuring (1) quality services at “just, reasonable, and affordable rates,” and (2) “equitable and non-discriminatory” contributions such that support is “sufficient” to meet the purposes of section 254 of the Act,<sup>315</sup> and will advance the Commission’s goals of ensuring fiscal responsibility in all USF expenditures, increasing the accountability for Fund recipients, and extending modern broadband-capable networks

195. In particular, we implement a number of reforms to eliminate waste and inefficiency and improve incentives for rational investment and operation by rate-of-return LECs. Consistent with the competitive bidding approach we adopt for the Mobility Fund Phase I and the framework we establish for support in price cap territories that combines a new forward-looking cost model and competitive bidding, we also lay the foundation for subsequent Commission action that will set rate-of-return companies on a path toward a more incentive-based form of regulation. These reforms, summarized below, will ensure that the overall size of the Fund is kept within budget by maintaining total funding for rate-of-return companies at approximately \$2 billion per year—approximately equal to current levels—while transitioning from a system that supports only telephone service to a system that will enable the deployment of modern high-speed networks capable of delivering 21<sup>st</sup> century broadband services and applications, including voice. We believe that keeping rate-of-return carriers at approximately current support levels in the aggregate during this transition appropriately balances the competing demands on universal service funding and the desire to sustain service to consumers and provide continued incentives for broadband expansion as we improve the efficiency of rate-of-return mechanisms.

196. First, we establish benchmarks that, for the first time, will establish parameters for what actual unseparated loop and common line costs carriers may seek recovery for under the federal universal service program. Specifically, we adopt a rule to limit reimbursable capital and operations expenses for purposes of determining HCLS support, which we expect will be implemented no later than July 1, 2012 after further public comment on a proposed methodology.<sup>316</sup> As suggested by the Rural Associations,<sup>317</sup>

<sup>315</sup> 47 USC §§ 254(b)(1), (b)(4)-(5), (d), (e). The Commission’s interpretation of the term “sufficient” to mean that support should not be excessive has been upheld by the Fifth, Tenth, and District of Columbia Circuit Courts of Appeal. See *Alenco Communications, Inc. v. FCC*, 201 F.3d 608, 620-21 (5th Cir. 2000) (“The agency’s broad discretion to provide sufficient universal service funding includes the decision to impose cost controls to avoid excessive expenditures that will detract from universal service.”); *Qwest Communications Int’l, Inc. v. FCC*, 398 F.3d 1222, 1234 (10th Cir. 2005) (“excessive subsidization arguably may affect the affordability of telecommunications services, thus violating the principle in § 254(b)(1)”) (citing *Qwest Corp. v. FCC*, 258 F.3d 1191, 1200 (10th Cir. 2001)); *Rural Cellular Assn. v. FCC*, 588 F.3d 1095, 1102 (D.C. Cir. 2009) (explaining that, in assessing whether universal service subsidies are excessive, the Commission “must consider not only the possibility of pricing some customers out of the market altogether, but the need to limit the burden on customers who continue to maintain telephone service”).

<sup>316</sup> See *infra* Section VII.D.3.

<sup>317</sup> See Rural Associations *USF/ICC Transformation NPRM* Comments at 11.

we also extend the limit on recovery of corporate operations expenses, currently only applicable to HCLS, to ICLS effective January 1, 2012. In so doing, we update the formula formerly applicable only to HCLS, which has not been modified since 2001, and apply the updated formula to the two programs.<sup>318</sup>

197. Second, we take immediate steps to ensure that carriers in rural areas are not unfairly burdening consumers across the nation by using excess universal service support to subsidize artificially low end-user rates. Specifically, effective July 1, 2012, we will reduce, on a dollar-for-dollar basis, high-cost loop support to the extent that a carrier's local rates are below a specified urban local rate floor. This rule will be phased in gradually before full implementation in 2014.

198. Third, we eliminate a program that is no longer meeting its intended purpose. Safety net additive support was put in place more than a decade ago to encourage new investment, but is not effectively performing that function. Two-thirds of such support today rewards companies because they are losing access lines, rather than because they are investing. In addition, the program fails to target new investment to areas of need and, in particular, may be rewarding investment in areas where there are unsubsidized competitors, contrary to our principle of fiscal responsibility. Accordingly, safety net additive support received as a result of line loss will be phased out during 2012. The remaining current recipients of safety net additive support will continue to receive such support pursuant to the existing rules; however, no new carriers will receive safety net additive support.

199. Fourth, we eliminate local switching support effective July 1, 2012; thereafter, any allowable recovery for switching investment will occur through the recovery mechanism adopted as part of ICC reform.<sup>319</sup>

200. Fifth, we adopt a rule to eliminate support for rate-of-return companies in any study area that is completely overlapped by an unsubsidized competitor, as defined above,<sup>320</sup> as there is no need for universal service subsidies to flow to such areas to ensure that consumers are served.

201. Sixth, we adopt a rule that support in excess of \$250 per line per month will no longer be provided to any carrier. Support reductions will be phased in over three years for carriers currently above the cap, beginning July 1, 2012.

202. We recognize that the aggregate impact of the foregoing rule changes will affect different individual companies to a greater or lesser degree. To the extent that any individual company can demonstrate that it needs temporary and/or partial relief from one or more of these reforms in order for its customers to continue receiving voice service in areas where there is no terrestrial alternative, the Commission is prepared to review a waiver request for additional support.<sup>321</sup> However, we do not expect to routinely grant requests for additional support, and any company that seeks additional funding will be subject to a thorough total company earnings review.

203. We also make certain technical corrections and improvements to our rules in light of other rule changes adopted today. We rebase the 2012 annual high cost loop cap to reflect the fact that support for price cap companies, including their rate-of-return study areas, will be distributed through a transitional method in the first phase of the CAF. Because price cap companies and their rate-of-return

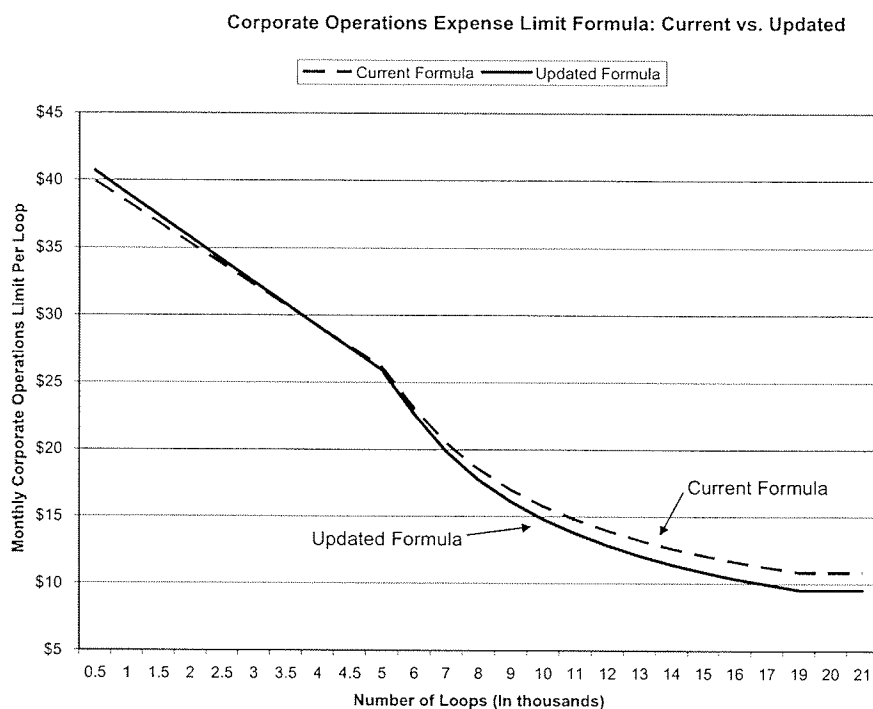
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<sup>318</sup> These two steps are consistent with the recommendations of the Rural Associations who proposed taking the immediate steps of (1) capping the recovery of corporate operations expenses by applying the current HCLS corporate operations expense cap formula to ICLS and LSS, and (2) imposing a limitation on federal USF recovery of certain RLEC capital expenditures. *See id.* at 8-11.

<sup>319</sup> *See infra* para. 872.

<sup>320</sup> *See supra* para. 103.

<sup>321</sup> *See infra* Section VII.G.



## 5. Reducing High Cost Loop Support for Artificially Low End-User Rates

234. *Background.* Section 254(b) of the Act requires that “[c]onsumers in all regions of the Nation . . . should have access to telecommunications and information services . . . that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”<sup>374</sup> In the *USF/ICC Transformation NPRM*, we sought comment on tools, such as rate benchmarks and imputation of revenues, that might be used both today and as the marketplace fully transitions to broadband networks to meet this statutory mandate.<sup>375</sup> Among other things, we sought comment on using a rate benchmark, or floor, based on local rates for voice service at the outset of any transition for high-cost support reform.<sup>376</sup> One commenter, in response to the *USF/ICC Transformation NPRM*, suggested we develop a benchmark for voice service and reduce a carrier’s high-cost support by the amount that its rate falls below the benchmark.<sup>377</sup>

235. *Discussion.* We now adopt a rule to limit high-cost support where end-user rates do not meet a specified local rate floor. This rule will apply to both rate-of-return carriers and price cap companies.

<sup>374</sup> 47 U.S.C. § 254(b)(3).

<sup>375</sup> *USF/ICC Transformation NPRM*, 26 FCC Red at 4733-34, para. 573. Under a benchmark approach, the benchmarked rate is imputed to the carrier for purposes of determining support, but carriers typically are not required to raise their rates to the benchmark level.

<sup>376</sup> *Id.* See also *id.* at 4603, para. 139 and n. 223 (seeking comment on developing a rate benchmark for voice [and broadband] services to satisfy Congress’s requirement that universal service ensure that services are available to all regions, “including rural, insular, and high cost areas,” at rates that are “affordable” and “reasonably comparable” to those in urban areas).

<sup>377</sup> Ad Hoc *USF/ICC Transformation NPRM* Comments at 26. We sought comment specifically on this approach in a subsequent Public Notice addressing specific aspects of additional proposals and issues. *August 3 PN*, 26 FCC Red at 11118.

Section 254 obligates states to share in the responsibility of ensuring universal service. We recognize some state commissions may not have examined local rates in many years, and carriers may lack incentives to pursue a rate increase when federal universal service support is available. Based on evidence in the record, however, there are a number of carriers with local rates that are significantly lower than rates that urban consumers pay.<sup>378</sup> Indeed, as noted in Figure 5 below, there are local rates paid by customers of universal service recipients as low as \$5 in some areas of the country. For example, we note that two carriers in Iowa and one carrier in Minnesota offer local residential rates below \$5 per month.<sup>379</sup> We do not believe that Congress intended to create a regime in which universal service subsidizes artificially low local rates in rural areas when it adopted the reasonably comparable principle in section 254(b); rather, it is clear from the overall context and structure of the statute that its purpose is to ensure that rates in rural areas not be significantly higher than in urban areas.

236. We focus here on the impact of such a rule on rate-of-return companies.<sup>380</sup> Data submitted by NECA summarizing residential R-1 rates for over 600 companies — a broad cross-section of carriers that typically receive universal service support — show that approximately 60 percent of those study areas have local residential rates that are below the 2008 national average local rate of \$15.62. This distribution plot shows that most rates fall within a five-dollar range of the national average, but more than one hundred companies, collectively representing hundreds of thousands of access lines, have a basic R-1 rate that is significantly lower. This appears consistent with rate data filed by other commenters.<sup>381</sup>

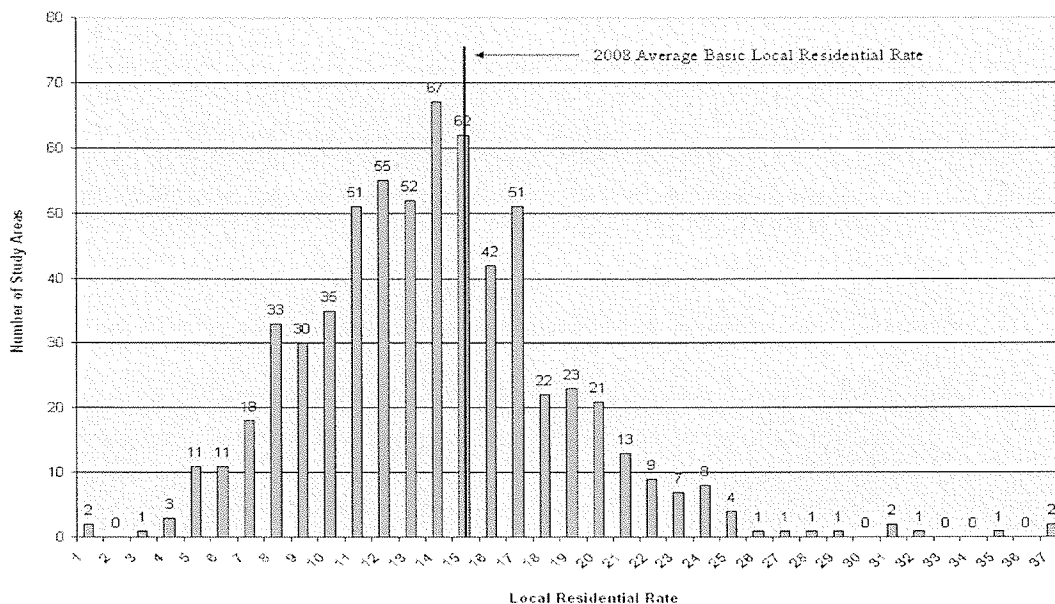
Figure 5  
Sample of Local Residential Service Monthly Rates  
NECA Survey of 641 Respondents

<sup>378</sup> In the *August 3 PN*, we stated that our high-cost universal service rules may subsidize excessively low rates for consumers served by rural and rate-of-return carriers. *August 3 PN*, 26 FCC Rcd at 4614-15, para. 172. We noted that one commenter stated that roughly 20 percent of the residential lines of small rate-of-return companies have monthly rates of \$12 or less and another 22 percent have local rates between \$12 and \$15 per month, while the nationwide average urban rate, it contends, was approximately \$15.47 based on the most recent published reference book of rates by the FCC. *Id.* While individual consumers in those areas may benefit from such low rates, when a carrier uses universal service support to subsidize local rates well below those required by the Act, the carrier is spending universal service funds that could potentially be better deployed to the benefit of consumers elsewhere. *Id.*

<sup>379</sup> Local residential rates, or flat rates for residential service, are more commonly referred to as the “R-1” rate. *See, e.g.,* Letter from the Supporters of the Missoula Plan to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92 at 3 (filed February 5, 2007) (referencing “the basic residential local rate (1FR or equivalent)”).

<sup>380</sup> While price cap companies on average tend to have higher R-1 rates than rate-of-return companies, we note that data in the record indicates that a number of price cap companies also have local R-1 rates below the most recently available national average local rate, \$15.62, in a number of states. *See* Letter from Malena F. Barzilai, Regulatory Counsel & Director, Windstream Communications, to Marlene H. Dortch, Secretary, FCC, Confidential Information Subject to Protective Order in CC Docket No. 01-92, WC Docket Nos. 05-337, 07-135, 10-90, and GN Docket No. 09-51 (filed Oct. 15, 2011) (*NECA Survey*); Letter from Michael D. Saperstein, Jr., Director of Federal Regulatory Affairs, Frontier Communications, to Marlene H. Dortch, Secretary, FCC, Confidential Information Subject to Protective Order in CC Docket No. 01-92, WC Docket Nos. 05-337, 07-135, 10-90, and GN Docket No. 09-51 (filed Dec. 16, 2010). In fact, price cap companies have some R-1 rates lower than \$9.

<sup>381</sup> The data for this distribution comes from the *NECA Survey*. *See also* Oregon Telecommunications Association and the Washington Independent Telecommunications Association Comments, Table 7 (filed July 12, 2010) (providing existing monthly local residential rates ranging from \$10.00 to \$27.39 not including subscriber line charges of \$6.50 per month); Oregon Telecommunications Association and the Washington Independent Telecommunications Association Reply Comments, Table 3 (filed August 11, 2010) (providing existing monthly local residential rates ranging from \$12.25 to \$30.50 not including subscriber line charges of \$6.50 per month).



237. It is inappropriate to provide federal high-cost support to subsidize local rates beyond what is necessary to ensure reasonable comparability. Doing so places an undue burden on the Fund and consumers that pay into it. Specifically, we do not believe it is equitable for consumers across the country to subsidize the cost of service for some consumers that pay local service rates that are significantly lower than the national urban average.

238. Based on the foregoing, and as described below, we will limit high-cost support where local end-user rates plus state regulated fees (specifically, state SLCs, state universal service fees, and mandatory extended area service charges) do not meet an urban rate floor representing the national average of local rates plus such state regulated fees. Our calculation of this urban rate floor does not include federal SLCs, as the purposes of this rule change are to ensure that states are contributing to support and advance universal service and that consumers are not contributing to the Fund to support customers whose rates are below a reasonable level.<sup>382</sup>

239. We will phase in this rate floor in three steps, beginning with an initial rate floor of \$10 for the period July 1, 2012 through June 30, 2013 and \$14 for the period July 1, 2013 through June 30, 2014. Beginning July 1, 2014, and in each subsequent calendar year, the rate floor will be established after the Wireline Competition Bureau completes an updated annual survey of voice rates. Under this approach, the Commission will reduce, on a dollar-for-dollar basis, HCLS and CAF Phase I support to the extent that a carrier's local rates (plus state regulated fees) do not meet the urban rate floor.

240. To the extent end-user rates do not meet the rate floor, USAC will make appropriate reductions in HCLS support. This calculation will be pursuant to a rule that is separate from our existing rules for calculation of HCLS, which is subject to an annual cap. As a consequence, any calculated

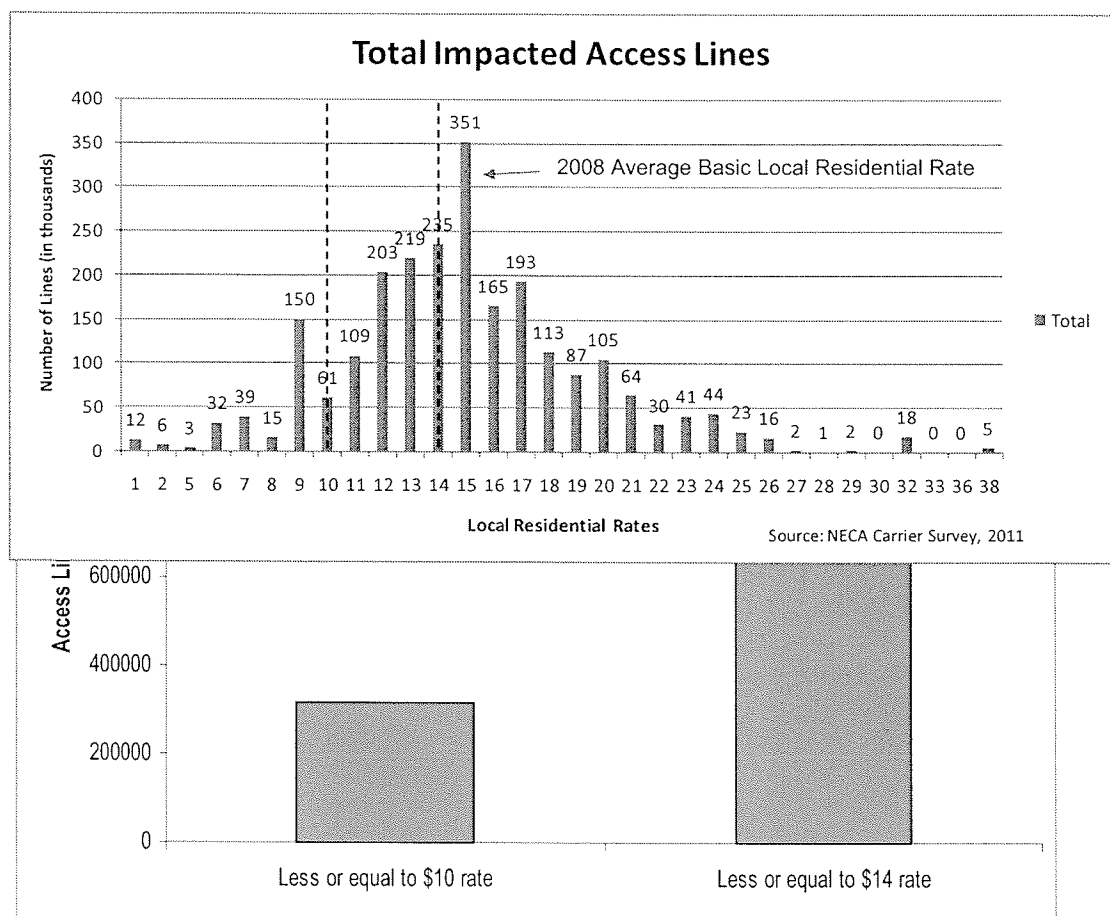
<sup>382</sup> See 47 U.S.C. §§ 254(b)(5), 254(f), 254(k); *Federal-State Joint Board on Universal Service*, Order on Remand, CC Docket No. 96-45, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order, 18 FCC Rcd 22559, 22568 para. 17 (2003) ("The Act makes clear that preserving and advancing universal service is a shared federal and state responsibility.").

reductions will not flow to other carriers that receive HCLS, but rather will be used to fund other aspects of the CAF pursuant to the reforms we adopt today.<sup>383</sup>

241. This offset does not apply to ICLS because that mechanism provides support for interstate rates, not intrastate end-user rates. Accordingly, we will revise our rules to limit a carrier's high-cost loop support when its rates do not meet the specified local urban rate floor.<sup>384</sup>

242. As shown in Figures 6 and 7 below, phasing in this requirement in three steps will appropriately limit the impact of the new requirement in a measured way. Based on the NECA data, we estimate that there are only 257,000 access lines in study areas having local rates less than \$10 – which would be affected by the rule change in the second half of 2012 – and there are 827,000 access lines in study areas that potentially would be affected in 2013.<sup>385</sup> We assume, however, that by 2013 carriers will have taken necessary steps to mitigate the impact of the rule change. By adopting a multi-year transition, we seek to avoid a flash cut that would dramatically affect either carriers or the consumers they serve.

Figure 6



<sup>383</sup> See *supra* Section VII.H.

<sup>384</sup> See *infra* Section 54.318, Appendix A.

<sup>385</sup> The data for this distribution comes from the *NECA Survey*. See *supra* note 381.

243. In addition, because we anticipate that the rate floor for the third year will be set at a figure close to the sum of \$15.62 plus state regulated fees, we are confident that \$10 and \$14 are conservative levels for the rate floors for the first two years. \$15.62 was the average monthly charge for flat-rate service in 2008, the most recent year for which data was available.<sup>386</sup> Under our definition of “reasonably comparable,” rural rates are reasonably comparable to urban rates under section 254(b) if they fall within a reasonable range above the national average.<sup>387</sup> Under this definition, we could set the rate floor *above* the national average urban rate but within a range considered reasonable. In the present case, we are expecting to set the end point rate floor *at* the average rate, and we are setting rate floors well *below* our current best estimate of the average during the multi-year transition period.

244. Although the high-cost program is not the primary universal service program for addressing affordability, we note that some commenters have argued that if rates increase, service could become unaffordable for low-income consumers.<sup>388</sup> However, staff analysis suggests that this rule change should not disproportionately affect low-income consumers, because there is no correlation between local rates and average incomes in rate-of-return study areas—that is, rates are not systematically lower where consumer income is lower and higher where consumer income is higher. We further note that the Commission’s Lifeline and Link Up program remains available to low-income consumers regardless of this rule change.<sup>389</sup>

245. In 2010, 1,048 rate-of-return study areas received HCLS support. Using data from the NECA survey filed pursuant to the Protective Order in this proceeding and U.S. Census data from third-party providers, we analyzed monthly local residential rate data for 641 of these study areas and median income data for 618 of those 641 study areas.<sup>390</sup> Based on the 618 study areas for which we have both local rate data and median income data, when we set one variable dependent upon the other (price as a

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<sup>386</sup> Reference Book of Rates, Price Indices, and Household Expenditures for Telephone Service, Industry Analysis and Technology Division, Wireline Competition Bureau, Residential Rates for Local Service in Urban Areas, Table 1.1 (2008) (*2008 Reference Book of Rates*). We note that some parties have submitted information into the record indicating that the local rates are higher than this \$15.62 figure in a number of states. For example, Kansas has increased its affordable residential rates for rural incumbent LECs to \$16.25 per month, and Nebraska has conditioned state USF eligibility upon carriers increasing local rates to its adopted rate floor of \$17.95 in urban areas and \$19.95 in rural areas. Letter from Mark Sievers, Chairman, Kansas Corporation Commission; Orjiakor Isiogu, Chairman, Michigan Public Service Commission; Tim Schram, Chairman, Nebraska Public Service Commission; Patrick H. Lyons, Chairman, New Mexico Public Regulation Commission; Steve Oxley, Deputy Chair, Wyoming Public Service Commission, to Marlene H. Dortch, Secretary, FCC, re: Universal Service Intercarrier Compensation Transformation Proceeding, WC Docket Nos. 10-90, 07-135, 05-337 and 03-109; CC Docket Nos. 01-92 and 96-45; GN Docket No. 09-51 (filed September 15, 2011).

<sup>387</sup> *Federal-State Joint Board on Universal Service, High-Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45, Order on Remand and Memorandum Opinion and Order, 25 FCC Rcd 4072, 4101, para. 53 (2010) (*Qwest II Remand Order*).

<sup>388</sup> See, e.g., Comments of the Asian American Justice Center at 2 (filed August 24, 2011); see also Comments of the National Association of State Utility Consumer Advocates at 51 (filed April 18, 2011); see generally Reply Comments of the National Association of State Utility Consumer Advocates at 50-51 (filed May 23, 2011).

<sup>389</sup> For more than two decades, the Lifeline and Link Up Program has helped tens of millions of Americans afford basic phone service, providing a “lifeline” for essential daily communications as well as emergencies. See generally *Lifeline and Link Up Reform and Modernization, Federal-State Joint Board on Universal Service, Lifeline and Link Up*, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking, 26 FCC Rcd 2770 (2011).

<sup>390</sup> See NECA Survey. Median income data was based on data from the U.S. Census Bureau.



function of income), we do not observe prices correlating at all with median income levels in the given study areas. We observe a wide range of prices — many are higher than expected and just as many are lower than expected. In fact, some areas with extremely low residential rates exhibit higher than average consumer income.

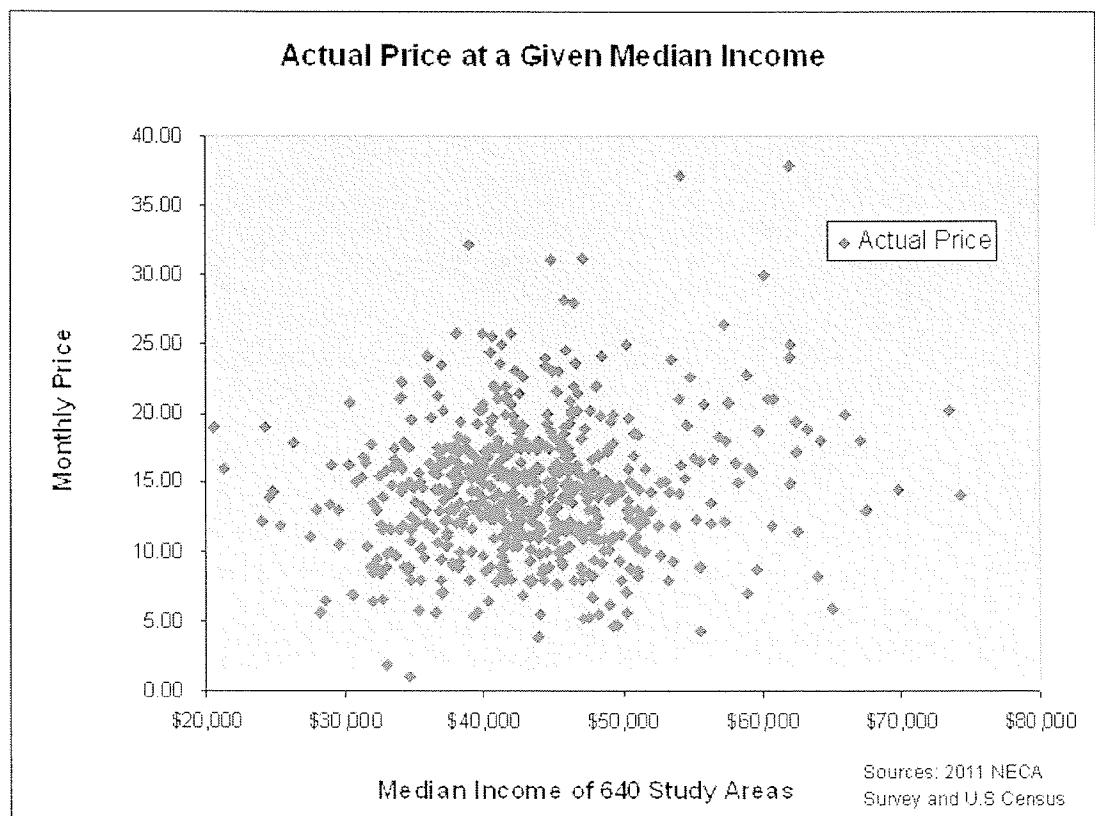


Figure 8

246. To implement these rule changes, we direct that all carriers receiving HCLS must report their basic voice rates and state regulated fees on an annual basis, so that necessary support adjustments can be calculated.<sup>391</sup> In addition, all carriers receiving frozen high-cost support will be required to report their basic voice rates and state regulated fees on an annual basis.<sup>392</sup> Carriers will be required to report their rates to USAC, as set forth more fully below [cross reference to reporting section: (*See* Section XX, *infra*)]. As noted above, we have delegated authority to the Wireline Competition Bureau and the Wireless Telecommunications Bureau to take all necessary steps to develop an annual rate survey for voice services.<sup>393</sup> We expect this annual survey to be implemented as part of the annual survey described above in the section discussing public interest obligations for voice telephony. We expect the initial annual rate survey will be completed prior to the implementation of the third step of the transition.<sup>394</sup>

247. Finally, we note that the Joint RLECs contend that a benchmark approach for voice services fails to address rate comparability for broadband services.<sup>395</sup> Although we address only voice services here, elsewhere in this Order we address reasonable comparability in rates for broadband services.<sup>396</sup> We believe that it is critical to reduce support for voice — the supported service — where rates are artificially low. Doing so will relieve strain on the USF and, thus, greatly assist our efforts in bringing about the overall transformation of the high-cost program into the CAF.<sup>397</sup>

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<sup>391</sup> Similarly, companies that receive HCMS (or any interim model support) will also be required to report their basic voice rates and state-regulated fees, so that USAC can determine any reductions in support that are required.

<sup>392</sup> *See supra* Section VII.C.1.

<sup>393</sup> *See supra* Section VI.A.

<sup>394</sup> *See Modernizing the FCC Form 477 Data Program, Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership, Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering, Review of Wireline Competition Bureau Data Practices*, Notice of Proposed Rulemaking, WC Docket Nos. 11-10, 07-38, 08-90 and 10-132, 26 FCC Rcd 1508 (2011). The Bureau may elect to develop the relevant rate benchmark using data from Form 477 if changes in that collection provide access to relevant pricing information. Even if the Commission does decide to collect pricing information on Form 477, and even if that information will allow the development of a rate benchmark, we recognize that PRA requirements and other timing constraints may limit the availability of such data, particularly in the near future. Therefore, an additional separate survey to implement this rule may be necessary.

<sup>395</sup> Rural Associations *August 3 PN* Comments at 31.

<sup>396</sup> *See supra* Section VI.B.3.

<sup>397</sup> The Rural Associations contend that if the Commission were to adopt the RLEC Plan and also the Ad Hoc Telecommunications Users Committee benchmark approach, it would create the potential for a “double whammy” for rural carriers and their customers; *i.e.*, that there would be two benchmarks – one for USF and one for ICC – with separate and distinct revenue reductions tied to a single rate charged to each customer, dramatically upsetting the careful balance of revenue reductions and support mechanisms. Rural Associations *August 3 PN* Comments at 32. Our benchmark mechanism in the universal service context is a floor for eligibility for support that complements the ICC residential rate ceiling by adding an incentive for local rate rebalancing. If a carrier’s rate is below the benchmark in the USF context, then its payments are reduced by the difference between its rates and the benchmark; *i.e.*, the benchmark rate is imputed to the carrier as the minimum amount a customer is expected to pay and of which USF will not cover. Once a carrier’s rates reach or exceed the benchmark, no reduction would be applied to the high-cost support the carrier would otherwise be eligible for.

(3) Certifications filed on or before April 1. Carriers subject to certifications filed on or before April 1 shall receive support in the third and fourth quarters of that year. Such carriers shall not receive support in the first or second quarters of that year.

(4) Certifications filed on or before July 1. Carriers subject to certifications filed on or before July 1 shall receive support beginning in the fourth quarter of that year. Such carriers shall not receive support in the first, second, or third quarters of that year.

(5) Certifications filed after July 1. Carriers subject to certifications filed after July 1 shall not receive support in that year.

(6) Newly designated eligible telecommunications carriers. Notwithstanding the deadlines in paragraph (d) of this section, a carrier shall be eligible to receive support as of the effective date of its designation as an eligible telecommunications carrier under section 214(e)(2) or (e)(6) of the Act, provided that it files the certification described in paragraph (b) of this section or the state commission files the certification described in paragraph (a) of this section within 60 days of the effective date of the carrier's designation as an eligible telecommunications carrier. Thereafter, the certification required by paragraphs (a) or (b) of this section must be submitted pursuant to the schedule in paragraph (d) of this section.

#### **§54.316 [Removed]**

47. Section 54.316 is removed.

48. Add §54.318 to subpart D to read as follows:

#### **§ 54.318 High-cost support; limitations on high-cost support.**

(a) Beginning July 1, 2012, each carrier receiving high-cost support in a study area under this subpart will receive the full amount of high-cost support it otherwise would be entitled to receive if its flat rate for residential local service plus state regulated fees as defined in paragraph (e) of this section exceeds a local urban rate floor representing the national average of local urban rates plus state regulated fees under the schedule specified in paragraph (f) of this section..

(b) Carriers whose flat rate for residential local service plus state regulated fees offered for voice service are below the specified local urban rate floor under the schedule below plus state regulated fees shall have high-cost support reduced by an amount equal to the extent to which its flat rate for residential local service plus state regulated fees are below the local urban rate floor, multiplied by the number of lines for which it is receiving support.

(c) This rule will apply to rate-of-return carriers as defined in §54.5 and carriers subject to price cap regulation as that term is defined in §61.3 of this chapter.

(d) For purposes of this section, high-cost support is defined as the support available pursuant to § 36.631 of this chapter and support provided to carriers that formerly received support pursuant to § 54.309.

(e) State regulated fees. (1) Beginning on July 1, 2012, for purposes of calculating limitations on high-cost support under this section, state regulated fees shall be limited to state subscriber line charges, state universal service fees and mandatory extended area service charges, which shall be determined as part of a local rate survey, the results of which shall be published annually.

(2) Federal subscriber line charges shall not be included in calculating limitations on high-cost support under this section.

(f) Schedule. High-cost support will be limited where the flat rate for residential local service plus state regulated fees are below the local urban rate floor representing the national average of local urban rates plus state regulated fees under the schedule specified in this paragraph. To the extent end user rates plus state regulated fees are below local urban rate floors plus state regulated fees, appropriate reductions in high-cost support will be made by the Universal Service Administrative Company.

(1) Beginning on July 1, 2012, and ending June 30, 2013, the local urban rate floor shall be \$10.

(2) Beginning on July 1, 2013, and ending June 30, 2014, the local urban rate floor shall be \$14.

(3) Beginning July 1, 2014, and thereafter, the local urban rate floor will be announced annually by the Wireline Competition Bureau.

(h) Any reductions in high-cost support under this section will not be redistributed to other carriers that receive support pursuant to § 36.631 of this chapter.

49. Add §54.320 to subpart D to read as follows:

**§ 54.320 Compliance and recordkeeping for the high-cost program.**

- (a) Eligible telecommunications carriers authorized to receive universal service high-cost support are subject to random compliance audits and other investigations to ensure compliance with program rules and orders.
- (b) All eligible telecommunications carriers shall retain all records required to demonstrate to auditors that the support received was consistent with the universal service high-cost program rules. This documentation must be maintained for at least ten years from the receipt of funding. All such documents shall be made available upon request to the Commission and any of its Bureaus or Offices, the Administrator, and their respective auditors.
- (c) Eligible telecommunications carriers authorized to receive high-cost support that fail to comply with the public interest obligations in this section or any other terms and conditions may be subject to further action, including the Commission's existing enforcement procedures and penalties, reductions in support amounts, potential revocation of ETC designation, and suspension or debarment pursuant to § 54.8.

**Subpart H—Administration**

50. Amend §54.702 by revising paragraphs (a), (b), (c), and (h) to read as follows:

**§ 54.702 Administrator's functions and responsibilities.**