

Federal Communications Commission

§ 54.607

choosing a method of providing the required health care services. The health care provider shall submit to the Administrator paper copies of the responses or bids received in response to the requested services.

(5) The confirmation from the Rural Health Care Division shall include the date after which the requester may sign a contract with its chosen telecommunications carrier(s).

[62 FR 32948, June 17, 1997, as amended at 62 FR 41304, Aug. 1, 1997; 63 FR 2131, Jan. 13, 1998; 68 FR 74502, Dec. 24, 2003]

§ 54.604 Existing contracts.

(a) *Existing contracts.* A signed contract for services eligible for support pursuant to this subpart between an eligible health care provider as defined under § 54.601 and a telecommunications carrier shall be exempt from the competitive bid requirements set forth in § 54.603(a) as follows:

(1) A contract signed on or before July 10, 1997 is exempt from the competitive bid requirement for the life of the contract.

(2) [Reserved]

(b) For rural health care providers that take service under or pursuant to a master contract, as defined in § 54.500(f), the date of execution of that master contract represents the applicable date for purposes of determining whether and to what extent the rural health care provider is exempt from the competitive bid requirements.

(c) The competitive bid system will be deemed to be operational when the Administrator is ready to accept and post FCC Form 465 from rural health care providers on a website and that website is available for use by telecommunications carriers.

[63 FR 2131, Jan. 13, 1998; 63 FR 33586, June 19, 1998, as amended at 63 FR 70572, Dec. 21, 1998; 64 FR 22810, Apr. 28, 1999; 71 FR 65750, Nov. 9, 2006]

§ 54.605 Determining the urban rate.

(a) If a rural health care provider requests an eligible service to be provided over a distance that is less than or equal to the "standard urban distance," as defined in paragraph (c) of this section, for the state in which it is located, the urban rate for that service shall be a rate no higher than the high-

est tariffed or publicly-available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state, calculated as if it were provided between two points within the city.

(b) If a rural health care provider requests an eligible service to be provided over a distance that is greater than the "standard urban distance," as defined in paragraph (c) of this section, for the state in which it is located, the urban rate for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service provided over the standard urban distance in any city with a population of 50,000 or more in that state, calculated as if the service were provided between two points within the city.

(c) The "standard urban distance" for a state is the average of the longest diameters of all cities with a population of 50,000 or more within the state.

(d) The Administrator shall calculate the "standard urban distance" and shall post the "standard urban distance" and the maximum supported distance for each state on its website.

[62 FR 32948, June 17, 1997, as amended at 63 FR 2131, Jan. 13, 1998; 63 FR 70572, Dec. 21, 1998; 68 FR 74502, Dec. 24, 2003]

§ 54.607 Determining the rural rate.

(a) The rural rate shall be the average of the rates actually being charged to commercial customers, other than health care providers, for identical or similar services provided by the telecommunications carrier providing the service in the rural area in which the health care provider is located. The rates included in this average shall be for services provided over the same distance as the eligible service. The rates averaged to calculate the rural rate must not include any rates reduced by universal service support mechanisms. The "rural rate" shall be used as described in this subpart to determine the credit or reimbursement due to a telecommunications carrier that provides eligible telecommunications services to eligible health care providers.

(b) If the telecommunications carrier serving the health care provider is not

providing any identical or similar services in the rural area, then the rural rate shall be the average of the tariffed and other publicly available rates, not including any rates reduced by universal service programs, charged for the same or similar services in that rural area over the same distance as the eligible service by other carriers. If there are no tariffed or publicly available rates for such services in that rural area, or if the carrier reasonably determines that this method for calculating the rural rate is unfair, then the carrier shall submit for the state commission's approval, for intrastate rates, or the Commission's approval, for interstate rates, a cost-based rate for the provision of the service in the most economically efficient, reasonably available manner.

(1) The carrier must provide, to the state commission, or intrastate rates, or to the Commission, for interstate rates, a justification of the proposed rural rate, including an itemization of the costs of providing the requested service.

(2) The carrier must provide such information periodically thereafter as required, by the state commission for intrastate rates or the Commission for interstate rates. In doing so, the carrier must take into account anticipated and actual demand for telecommunications services by all customers who will use the facilities over which services are being provided to eligible health care providers.

§ 54.609 Calculating support.

(a) Except with regard to services provided under § 54.621 and subject to the limitations set forth in this subpart, the amount of universal service support for an eligible service provided to a public or non-profit rural health care provider shall be the difference, if any, between the urban rate and the rural rate charged for the service, as defined herein. In addition, all reasonable charges that are incurred by taking such services, such as state and federal taxes shall be eligible for universal service support. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service sup-

port mechanisms. Rural health care providers may choose one of the following two support options.

(1) *Distance based support.* The Administrator shall consider the base rates for telecommunications services in rural areas to be reasonably comparable to the base rates charged for functionally similar telecommunications service in urban areas in that state, and, therefore, the Administrator shall not include these charges in calculating the support. The Administrator shall include, in the support calculation, all other charges specified, and all actual distance-based charges as follows:

(i) If the requested service distance is less than or equal to the SUD for the state, the distance-based charges for the rural health care provider are reasonably comparable to those in urban areas, so the health care provider will not receive distance-based support.

(ii) If the requested service distance is greater than the SUD for the state, but less than the maximum allowable distance, the distance-based charge actually incurred for that service can be no higher than the distance-based charges for a functionally similar service in any city in that state with a population of 50,000 or more over the SUD.

(iii) "Distance-based charges" are charges based on a unit of distance, such as mileage-based charges.

(iv) Except with regard to services provided under § 54.621, a telecommunications carrier that provides telecommunications service to a rural health care provider participating in an eligible health care consortium, and the consortium must establish the actual distance-based charges for the health care provider's portion of the shared telecommunications services.

(2) *Base rate support.* If a telecommunications carrier, health care provider, and/or consortium of health care providers reasonably determines that the base rates for telecommunications services in rural areas are not reasonably comparable to the base rates charged for functionally similar telecommunications service in urban areas in that state, the telecommunications carrier, health care provider,