

(d) *Support after December 31, 2011.* Beginning January 1, 2012, no carrier shall receive support under this rule.

[64 FR 67431, Dec. 1, 1999, as amended at 65 FR 26516, May 8, 2000; 68 FR 69626, Dec. 15, 2003; 76 FR 73872, Nov. 29, 2011]

**§ 54.312 Connect America Fund for Price Cap Territories—Phase I.**

(a) *Frozen High-Cost Support.* Beginning January 1, 2012, each price cap local exchange carrier and rate-of-return carrier affiliated with a price cap local exchange carrier will have a “baseline support amount” equal to its total 2011 support in a given study area, or an amount equal to \$3,000 times the number of reported lines for 2011, whichever is lower. For purposes of this section, price cap carriers are defined pursuant to § 61.3(aa) of this chapter and affiliated companies are determined by § 32.9000 of this chapter. Each price cap local exchange carrier and rate-of-return carrier affiliated with a price cap local exchange carrier will have a “monthly baseline support amount” equal to its baseline support amount divided by twelve. Beginning January 1, 2012, on a monthly basis, eligible carriers will receive their monthly baseline support amount.

(1) “Total 2011 support” is the amount of support disbursed to a price cap local exchange carrier or rate-of-return carrier affiliated with a price cap local exchange carrier for 2011, without regard to prior period adjustments related to years other than 2011 and as determined by USAC on January 31, 2012.

(2) For the purpose of calculating the \$3,000 per line limit, the average of lines reported by a price cap local exchange carrier or rate-of-return carrier affiliated with a price cap local exchange carrier pursuant to line count filings required for December 31, 2010, and December 31, 2011 shall be used.

(3) A carrier receiving frozen high cost support under this rule shall be deemed to be receiving Interstate Access Support and Interstate Common Line Support equal to the amount of support the carrier to which the carrier was eligible under those mechanisms in 2011.

(b) *Incremental Support in 2012.* From January 1, 2012, to December 31, 2012,

support in addition to baseline support defined in paragraph (a) of this section will be available for certain price cap local exchange carriers and rate-of-return carriers affiliated with price cap local exchange carriers as follows.

(1) For each carrier for which the Wireline Competition Bureau determines that it has appropriate data or for which it determines that it can make reasonable estimates, the Bureau will determine an average per-location cost for each wire center using a simplified cost-estimation function derived from the Commission’s cost model. Incremental support will be based on the wire centers for which the estimated per-location cost exceeds the funding threshold. The funding threshold will be determined by calculating which funding threshold would allocate all available incremental support, if each carrier that would be offered incremental support were to accept it.

(2) An eligible telecommunications carrier accepting incremental support must deploy broadband to a number of unserved locations, as shown as unserved by fixed broadband on the then-current version of the National Broadband Map, equal to the amount of incremental support it accepts divided by \$775.

(3) A carrier may elect to accept or decline incremental support. A holding company may do so on a holding-company basis on behalf of its operating companies that are eligible telecommunications carriers, whose eligibility for incremental support, for these purposes, shall be considered on an aggregated basis. A carrier must provide notice to the Commission, relevant state commissions, and any affected Tribal government, stating the amount of incremental support it wishes to accept and identifying the areas by wire center and census block in which the designated eligible telecommunications carrier will deploy broadband to meet its deployment obligation, or stating that it declines incremental support. Such notification must be made within 90 days of being notified of any incremental support for which it would be eligible. Along with its notification, a carrier accepting incremental support must also submit a certification that the locations to be

served to satisfy the deployment obligation are not shown as served by fixed broadband provided by any entity other than the certifying entity or its affiliate on the then-current version of the National Broadband Map; that, to the best of the carrier's knowledge, the locations are, in fact, unserved by fixed broadband; that the carrier's current capital improvement plan did not already include plans to complete broadband deployment within the next three years to the locations to be counted to satisfy the deployment obligation; and that incremental support will not be used to satisfy any merger commitment or similar regulatory obligation. If a carrier intends to deploy to census blocks not initially identified at the time of election, it must inform the Commission, the Administrator, relevant state commissions, and any affected Tribal government of the change at least 90 days prior to commencing deployment in the new census blocks. No sooner than 46 days after the Wireline Competition Bureau issues a public notice announcing the updated deployment plans but prior to commencing deployment, the carrier must make the certifications described in this paragraph with respect to the new census blocks. If a carrier no longer intends to deploy to a previously identified census block, it must inform the Commission, the Administrator, relevant state commission, and any affected Tribal government prior to filing its certification pursuant to § 54.313(b)(2).

(c) *Incremental Support in 2013.* From January 1, 2013, to December 31, 2013, support in addition to baseline support defined in paragraph (a) of this section will be available for certain price cap local exchange carriers and rate-of-return carriers affiliated with price cap local exchange carriers as follows:

(1) For each carrier for which the Wireline Competition Bureau determines that it has appropriate data or for which it determines that it can make reasonable estimates, the Bureau will determine an average per-location cost for each wire center using a simplified cost-estimation function derived from the Commission's high-cost proxy model. Incremental support will be based on the wire centers for which the estimated per-location cost exceeds the funding threshold. The funding threshold will be determined by calcu-

lating which funding threshold would allocate all available incremental support, if each carrier that would be offered incremental support were to accept it.

(2) An eligible telecommunications carrier accepting incremental support must deploy broadband to a number of unserved locations, shown as unserved by fixed Internet access with speeds of at least 768 kbps downstream and 200 kbps upstream on the then-current version of the National Broadband Map, equal to the amount of incremental support it accepts divided by \$775.

(3) An eligible telecommunications carrier must accept funding pursuant to paragraph (c)(2) of this section before it may accept funding pursuant to paragraph (c)(3) of this section. If an eligible telecommunications carrier has committed to deploy to all locations eligible for support under paragraph (c)(2) of this section on routes or projects that can economically be built with \$775 in Connect America funding for each location unserved by 768 kbps downstream and 200 kbps upstream plus an equal amount of non-Connect America carrier capital expenditure funding, but the carrier has not fully utilized its allotted funding, it may also count towards its deployment obligation locations shown as unserved by fixed Internet access with speeds of at least 3 Mbps downstream and 768 kbps upstream equal to the amount of remaining incremental support divided by \$550.

(4) A carrier may elect to accept or decline incremental support. A holding company may do so on a holding-company basis on behalf of its operating companies that are eligible telecommunications carriers, whose eligibility for incremental support, for these purposes, shall be considered on an aggregated basis. A carrier must provide notice to the Commission, the Administrator, relevant state commissions, and any affected Tribal government, stating the amount of incremental support it wishes to accept, the number of locations at the \$775 amount, the number of locations at the \$550 amount, and identifying the areas by wire center and census block in which the designated eligible telecommunications carrier will deploy broadband to meet its deployment obligation, or stating that it declines incremental support. Such notification must be made within 75 days of being notified of any incremental support for which it would be eligible. If a carrier intends to deploy to census blocks not initially identified at the time of election, it must inform the Commission, the Administrator, relevant state commissions, and any affected Tribal government of the change at least 90 days prior to commencing deployment in the new census blocks. No sooner than 46 days after the Wireline Competition Bureau issues a public notice announcing the updated deployment plans but prior to commencing deployment, the carrier

must make the certifications described in paragraph (c)(5) of this section with respect to the new census blocks. If a carrier no longer intends to deploy to a previously identified census block, it must inform the Commission, the Administrator, relevant state commission, and any affected Tribal government prior to filing its certification pursuant to § 54.313(b)(2).

(5) Along with its notification, an eligible telecommunications carrier accepting incremental support must submit the following certifications:

(i) The locations to be served to satisfy the deployment obligation are not shown as served by fixed broadband at the speeds specified in paragraph (c)(2) or (c)(3) of this section provided by any entity other than the certifying entity or its affiliate on the then-current version of the National Broadband Map or that it is challenging the National Broadband Map's designation of that census block under the challenge process in paragraph (c)(7) of this section;

(ii) To the best of the carrier's knowledge, the locations are, in fact, unserved by fixed Internet access with speeds of at least 3 Mbps downstream and 768 kbps upstream, or 768 kbps downstream and 200 kbps upstream, as appropriate;

(iii) The carrier's current capital improvement plan did not already include plans to complete broadband deployment within the next three years to the locations to be counted to satisfy the deployment obligation;

(iv) Incremental support will not be used to satisfy any merger commitment or similar regulatory obligation; and

(v) The carrier has undertaken due diligence to determine the locations in question are not within the service area of either Broadband Initiatives Program or the Broadband Technology Opportunities Program projects that will provide Internet access with speeds of at least 3 Mbps downstream and 768 upstream.

(6) An eligible telecommunications carrier deploying to locations unserved by 3 Mbps downstream and 768 kbps upstream under paragraph (c)(3) of this section must also certify that it has prioritized its planned projects or routes so as to maximize the deployment of broadband-capable infrastructure to locations lacking Internet access with speeds of 768 kbps downstream and 200 kbps upstream.

(7) A person may challenge the designation of a census block as served or unserved by a certain speed as shown on the National Broadband Map. When the Wireline Competition Bureau determines that the evidence presented makes it more likely than not that the census block should be designated as served by broadband with speeds of at least 3 Mbps downstream and 768 kbps upstream, that locations in that census block

will be treated as served by broadband and therefore ineligible to be counted for the purposes of paragraph (c)(3) of this section. When the Wireline Competition Bureau determines that the evidence presented makes it more likely than not that the census block should be designated as served by Internet service with speeds of 768 kbps downstream and 200 kbps upstream, but unserved by broadband with speeds of at least 3 Mbps downstream and 768 kbps upstream, locations in that census block will be treated as served by Internet access with speeds of 768 kbps downstream and 200 kbps upstream and therefore eligible to be counted for the purposes of paragraph (c)(3) of this section. When the Wireline Competition Bureau determines that the evidence presented makes it more likely than not that the census block should be designated as unserved by Internet service with speeds of 768 kbps downstream and 200 kbps upstream, locations in that census block will be treated as unserved by Internet access with speeds of 768 kbps downstream and 200 kbps upstream and therefore eligible to be counted for the purposes of paragraph (c)(2) of this section.

(8) If no entity other than the carrier or its affiliate provides Internet service with speeds of 3 Mbps downstream and 768 kbps upstream or greater as shown on the National Broadband Map or as determined by the process described in paragraph (c)(7), the carrier may satisfy its deployment obligations at a location shown by the National Broadband Map as being served by that carrier or its affiliate with such service by certifying that it is the only entity providing such service, that the location does not actually receive speeds of 3 Mbps downstream and 768 kbps upstream, and the location is served through a copper-fed digital subscriber line access multiplexer. The carrier must specifically identify such locations in its election. Such locations will be treated the same as locations under paragraph (c)(3) of this section.

(9) An eligible telecommunications carrier must complete deployment of broadband-capable infrastructure to two-thirds of the required number of locations within two years of providing notification of acceptance of funding, and must complete deployment to all required locations within three years. To satisfy its deployment obligation, the eligible telecommunications carrier must offer broadband service to such locations of at least 4 Mbps downstream and 1 Mbps upstream, with latency sufficiently low to enable the use of real-time communications, including Voice over Internet Protocol, and with usage allowances, if any, associated with a specified price for a service offering

that are reasonably comparable to comparable offerings in urban areas.

[76 FR 73872, Nov. 29, 2011, as amended at 77 FR 31536, May 29, 2012; 78 FR 38233, June 26, 2013; 78 FR 48624, Aug. 9, 2013]

EFFECTIVE DATE NOTE: At 78 FR 48624, Aug. 9, 2013, § 54.312 was amended by revising paragraphs (b)(3) and (c)(4). These paragraphs contain information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

**§ 54.313 Annual reporting requirements for high-cost recipients.**

(a) Any recipient of high-cost support shall provide the following, with the information and data required by paragraphs (a)(1) through (7) of this section separately broken out for both voice service and broadband service:

(1) A progress report on its five-year service quality improvement plan pursuant to § 54.202(a), including maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve service quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled in the prior calendar year. The information shall be submitted at the wire center level or census block as appropriate;

(2) Detailed information on any outage in the prior calendar year, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect

(i) At least ten percent of the end users served in a designated service area; or

(ii) A 911 special facility, as defined in 47 CFR 4.5(e).

(iii) Specifically, the eligible telecommunications carrier's annual report must include information detailing:

(A) The date and time of onset of the outage;

(B) A brief description of the outage and its resolution;

(C) The particular services affected;

(D) The geographic areas affected by the outage;

(E) Steps taken to prevent a similar situation in the future; and

(F) The number of customers affected.

(3) The number of requests for service from potential customers within the recipient's service areas that were unfulfilled during the prior calendar year. The carrier shall also detail how it attempted to provide service to those potential customers;

(4) The number of complaints per 1,000 connections (fixed or mobile) in the prior calendar year;

(5) Certification that it is complying with applicable service quality standards and consumer protection rules;

(6) Certification that the carrier is able to function in emergency situations as set forth in § 54.202(a)(2);

(7) The company's price offerings in a format as specified by the Wireline Competition Bureau;

(8) The recipient's holding company, operating companies, affiliates, and any branding (a "dba," or "doing-business-as company" or brand designation), as well as universal service identifiers for each such entity by Study Area Codes, as that term is used by the Administrator. For purposes of this paragraph, "affiliates" has the meaning set forth in section 3(2) of the Communications Act of 1934, as amended;

(9) *Beginning July 1, 2013.* To the extent the recipient serves Tribal lands, documents or information demonstrating that the ETC had discussions with Tribal governments that, at a minimum, included:

(i) A needs assessment and deployment planning with a focus on Tribal community anchor institutions;

(ii) Feasibility and sustainability planning;

(iii) Marketing services in a culturally sensitive manner;

(iv) Rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and

(v) Compliance with Tribal business and licensing requirements. Tribal business and licensing requirements include business practice licenses that Tribal and non-Tribal business entities, whether located on or off Tribal lands, must obtain upon application to the relevant Tribal government office or