

Federal Communications Commission

§ 54.8

Homes Commission Act, 1920, July 9, 1921, 42 Stat 108, *et seq.*, as amended.

Unsubsidized competitor. An “unsubsidized competitor” is a facilities-based provider of residential fixed voice and broadband service that does not receive high-cost support.

Website. The term “website” shall refer to any websites operated by the Administrator in connection with the schools and libraries support mechanism, the rural health care support mechanism, the high cost mechanism, and the low income mechanism.

Wire center. A wire center is the location of a local switching facility containing one or more central offices, as defined in the Appendix to part 36 of this chapter. The wire center boundaries define the area in which all customers served by a given wire center are located.

[62 FR 32948, June 17, 1997, as amended at 62 FR 41303, Aug. 1, 1997; 63 FR 70571, Dec. 21, 1998; 64 FR 67431, Dec. 1, 1999; 66 FR 30087, June 5, 2001; 66 FR 59726, Nov. 30, 2001; 70 FR 6372, Feb. 7, 2005; 71 FR 38796, July 10, 2006; 76 FR 73869, Nov. 29, 2011; 77 FR 12966, Mar. 2, 2012; 77 FR 20553, Apr. 5, 2012; 77 FR 30913, May 24, 2012; 78 FR 13982, Mar. 1, 2013]

§ 54.7 Intended use of federal universal service support.

(a) A carrier that receives federal universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

(b) The use of federal universal service support that is authorized by paragraph (a) of this section shall include investments in plant that can, either as built or with the addition of plant elements, when available, provide access to advanced telecommunications and information services.

[76 FR 73869, Nov. 29, 2011]

§ 54.8 Prohibition on participation: suspension and debarment.

(a) *Definitions*—(1) Activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. Such matters include the receipt of funds or discounted services through

one or more of these support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding one or more of these support mechanisms.

(2) *Civil liability.* The disposition of a civil action by any court of competent jurisdiction, whether entered by verdict, decision, settlement with admission of liability, stipulation, or otherwise creating a civil liability for the wrongful acts complained of, or a final determination of liability under the Program Fraud Civil Remedies Act of 1988 (31 U.S.C. 3801–12).

(3) *Consultant.* A person that for consideration advises or consults a person regarding the schools and libraries support mechanism, but who is not employed by the person receiving the advice or consultation.

(4) *Conviction.* A judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered by verdict or a plea, including a plea of *nolo contendere*.

(5) *Debarment.* Any action taken by the Commission in accordance with these regulations to exclude a person from activities associated with or relating to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. A person so excluded is “debarred.”

(6) *Person.* Any individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.

(7) *Suspension.* An action taken by the Commission in accordance with these regulations that immediately excludes a person from activities associated with or relating to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism for a temporary period, pending completion of the debarment proceedings. A person so excluded is “suspended.”

(b) *Suspension and debarment in general.* The Commission shall suspend and debar a person for any of the causes in paragraph (c) of this section using procedures established in this section, absent extraordinary circumstances.

(c) *Causes for suspension and debarment.* Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism.

(d) *Effect of suspension and debarment.* Unless otherwise ordered, any persons suspended or debarred shall be excluded from activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism. Suspension and debarment of a person other than an individual constitutes suspension and debarment of all divisions and/or other organizational elements from participation in the program for the suspension and debarment period, unless the notice of suspension and proposed debarment is limited by its terms to one or more specifically identified individuals, divisions, or other organizational elements or to specific types of transactions.

(e) *Procedures for suspension and debarment.* The suspension and debarment process shall proceed as follows:

(1) Upon evidence that there exists cause for suspension and debarment, the Commission shall provide prompt notice of suspension and proposed debarment to the person. Suspension shall be effective upon the earlier of receipt of notification or publication in the FEDERAL REGISTER.

(2) The notice shall:

(i) Give the reasons for the proposed debarment in terms sufficient to put a person on notice of the conduct or transaction(s) upon which it is based and the cause relied upon, namely, the entry of a criminal conviction or civil judgment arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural

health care support mechanism, and the low-income support mechanism;

(ii) Explain the applicable debarment procedures;

(iii) Describe the effect of debarment.

(3) A person subject to proposed debarment, or who has an existing contract with a person subject to proposed debarment or intends to contract with such a person to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism may contest debarment or the scope of the proposed debarment. A person contesting debarment or the scope of proposed debarment must file arguments and any relevant documentation within thirty (30) calendar days of receipt of notice or publication in the FEDERAL REGISTER, whichever is earlier.

(4) A person subject to proposed debarment, or who has an existing contract with a person subject to proposed debarment or intends to contract with such a person to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural health care support mechanism, and the low-income support mechanism may also contest suspension or the scope of suspension, but such action will not ordinarily be granted. A person contesting suspension or the scope of suspension must file arguments and any relevant documentation within thirty (30) calendar days of receipt of notice or publication in the FEDERAL REGISTER, whichever is earlier.

(5) Within ninety (90) days of receipt of any information submitted by the respondent, the Commission, in the absence of extraordinary circumstances, shall provide the respondent prompt notice of the decision to debar. Debarment shall be effective upon the earlier of receipt of notice or publication in the FEDERAL REGISTER.

(f) *Reversal or limitation of suspension or debarment.* The Commission may reverse a suspension or debarment, or limit the scope or period of suspension

or debarment, upon a finding of extraordinary circumstances, after due consideration following the filing of a petition by an interested party or upon motion by the Commission. Reversal of the conviction or civil judgment upon which the suspension and debarment was based is an example of extraordinary circumstances.

(g) *Time period for debarment.* A debarred person shall be prohibited from involvement with the schools and libraries support mechanism for three (3) years from the date of debarment. The Commission may, if necessary to protect the public interest, set a longer period of debarment or extend the existing period of debarment. If multiple convictions or judgments have been rendered, the Commission shall determine based on the facts before it whether debarments shall run concurrently or consecutively.

[68 FR 36943, June 20, 2003. Redesignated and amended at 72 FR 54218, Sept. 24, 2007]

Subpart B—Services Designated for Support

§ 54.101 Supported services for rural, insular and high cost areas.

(a) *Services designated for support.* Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

(b) An eligible telecommunications carrier must offer voice telephony service as set forth in paragraph (a) of this section in order to receive federal universal service support.

[76 FR 73870, Nov. 29, 2011, as amended at 77 FR 12966, Mar. 2, 2012]

Subpart C—Carriers Eligible for Universal Service Support

§ 54.201 Definition of eligible telecommunications carriers, generally.

(a) *Carriers eligible to receive support.*

(1) Only eligible telecommunications carriers designated under this subpart shall receive universal service support distributed pursuant to part 36 of this chapter, and subparts D and E of this part.

(2) [Reserved]

(3) This paragraph does not apply to offset or reimbursement support distributed pursuant to subpart G of this part.

(4) This paragraph does not apply to support distributed pursuant to subpart F of this part.

(b) A state commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (d) of this section as an eligible telecommunications carrier for a service area designated by the state commission.

(c) Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

(d) A common carrier designated as an eligible telecommunications carrier under this section shall be eligible to receive universal service support in accordance with section 254 of the Act and shall, throughout the service area for which the designation is received:

(1) Offer the services that are supported by federal universal service support mechanisms under subpart B of this part and section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including