

## § 54.320

## 47 CFR Ch. I (10–1–15 Edition)

cost support in the immediately preceding calendar year or \$3000 times the number of reported lines as of year-end for the immediately preceding calendar year;

(2) In the second year, one-third of the lesser of the incumbent's total high-cost support in the immediately preceding calendar year or \$3000 times the number of reported lines as of year-end for the immediately preceding calendar year;

(3) In the third year and thereafter, no support shall be paid.

(c) The Wireline Competition Bureau shall update its analysis of where there is a 100 percent overlap on a biennial basis.

[80 FR 4478, Jan. 27, 2015]

### **§ 54.320 Compliance and record-keeping 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 public interest obligations 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.

(d) Eligible telecommunications carriers subject to defined build-out milestones must notify the Commission and USAC, and the relevant state, U.S. Territory, or Tribal government, if applicable, within 10 business days after the

applicable deadline if they have failed to meet a build-out milestone.

(1) *Interim build-out milestones.* Upon notification that an eligible telecommunications carrier has defaulted on an interim build-out milestone after it has begun receiving high-cost support, the Wireline Competition Bureau will issue a letter evidencing the default. The issuance of this letter shall initiate reporting obligations and withholding of a percentage of the eligible telecommunication carrier's total monthly high-cost support, if applicable, starting the month following the issuance of the letter:

(i) *Tier 1.* If an eligible telecommunications carrier has a compliance gap of at least five percent but less than 15 percent of the number of locations that the eligible telecommunications carrier is required to have built out to by the interim milestone, the Wireline Competition Bureau will issue a letter to that effect. Starting three months after the issuance of this letter, the eligible telecommunications carrier will be required to file a report every three months identifying the geocoded locations to which the eligible telecommunications carrier has newly deployed facilities capable of delivering broadband meeting the requisite requirements with Connect America support in the previous quarter. Eligible telecommunications carriers that do not file these quarterly reports on time will be subject to support reductions as specified in § 54.313(j). The eligible telecommunications carrier must continue to file quarterly reports until the eligible telecommunications carrier reports that it has reduced the compliance gap to less than five percent of the required number of locations for that interim milestone and the Wireline Competition Bureau issues a letter to that effect.

(ii) *Tier 2.* If an eligible telecommunications carrier has a compliance gap of at least 15 percent but less than 25 percent of the number of locations that the eligible telecommunications carrier is required to have built out to by

the interim milestone, USAC will withhold 15 percent of the eligible telecommunications carrier's monthly support for that state and the eligible telecommunications carrier will be required to file quarterly reports. Once the eligible telecommunications carrier has reported that it has reduced the compliance gap to less than 15 percent of the required number of locations for that interim milestone for that state, the Wireline Competition Bureau will issue a letter to that effect, USAC will stop withholding support, and the eligible telecommunications carrier will receive all of the support that had been withheld. The eligible telecommunications carrier will then move to Tier 1 status.

(iii) *Tier 3.* If an eligible telecommunications carrier has a compliance gap of at least 25 percent but less than 50 percent of the number of locations that the eligible telecommunications carrier is required to have built out to by the interim milestone, USAC will withhold 25 percent of the eligible telecommunications carrier's monthly support for that state and the eligible telecommunications carrier will be required to file quarterly reports. Once the eligible telecommunications carrier has reported that it has reduced the compliance gap to less than 25 percent of the required number of locations for that interim milestone for that state, the Wireline Competition Bureau will issue a letter to that effect, the eligible telecommunications carrier will move to Tier 2 status.

(iv) *Tier 4.* If an eligible telecommunications carrier has a compliance gap of 50 percent or more of the number of locations that the eligible telecommunications carrier is required to have built out to by the interim milestone:

(A) USAC will withhold 50 percent of the eligible telecommunications carrier's monthly support for that state, and the eligible telecommunications carrier will be required to file quarterly reports. As with the other tiers, as the eligible telecommunications carrier reports that it has lessened the extent of its non-compliance, and the Wireline Competition Bureau issues a letter to that effect, it will move down the tiers until it reaches Tier 1 (or no

longer is out of compliance with the relevant interim milestone).

(B) If after having 50 percent of its support withheld for six months the eligible telecommunications carrier has not reported that it is eligible for Tier 3 status (or one of the other lower tiers), USAC will withhold 100 percent of the eligible telecommunications carrier's monthly support and will commence a recovery action for a percentage of support that is equal to the eligible telecommunications carrier's compliance gap plus 10 percent of the ETC's support that has been disbursed to that date.

(v) If at any point during the support term, the eligible telecommunications carrier reports that it is eligible for Tier 1 status, it will have its support fully restored, USAC will repay any funds that were recovered or withheld, and it will move to Tier 1 status.

(2) *Final build-out milestone.* Upon notification that the eligible telecommunications carrier has not met a final build-out milestone, the eligible telecommunications carrier will have twelve months from the date of the final build-out milestone deadline to come into full compliance with this milestone. If the eligible telecommunications carrier does not report that it has come into full compliance with this milestone within twelve months, the Wireline Competition Bureau will issue a letter to this effect. USAC will then recover the percentage of support that is equal to 1.89 times the average amount of support per location received in the state over the six-year term for the relevant number of locations plus 10 percent of the eligible telecommunications carrier's total Phase II support over the six-year term for that state.

(3) *Compliance reviews.* If subsequent to the eligible telecommunications carrier's support term, USAC determines in the course of a compliance review that the eligible telecommunications carrier does not have sufficient evidence to demonstrate that it has built out to all of the locations required by the final build-out milestone, USAC shall recover a percentage of support from the eligible telecommunications

carrier as specified in paragraph (d)(2) of this section.

[76 FR 73876, Nov. 29, 2011, as amended at 80 FR 4478, Jan. 27, 2015]

EFFECTIVE DATE NOTE: At 80 FR 4478, Jan. 27, 2015, §54.320 was amended by adding paragraph (d). This paragraph contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

### Subpart E—Universal Service Support for Low-Income Consumers

#### 54.400 Terms and definitions.

As used in this subpart, the following terms shall be defined as follows:

(a) *Qualifying low-income consumer.* A “qualifying low-income consumer” is a consumer who meets the qualifications for Lifeline, as specified in §54.409.

(b) *Toll blocking service.* “Toll blocking service” is a service provided by an eligible telecommunications carrier that lets subscribers elect not to allow the completion of outgoing toll calls from their telecommunications channel.

(c) *Toll control service.* “Toll control service” is a service provided by an eligible telecommunications carrier that allows subscribers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month or per billing cycle.

(d) *Toll limitation service.* “Toll limitation service” denotes either toll blocking service or toll control service for eligible telecommunications carriers that are incapable of providing both services. For eligible telecommunications carriers that are capable of providing both services, “toll limitation service” denotes both toll blocking service and toll control service.

(e) *Eligible resident of Tribal lands.* An “eligible resident of Tribal lands” is a “qualifying low-income consumer,” as defined in paragraph (a) of this section, living on Tribal lands. For purposes of this subpart, “Tribal lands” include any federally recognized Indian tribe’s reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688); Indian allot-

ments; Hawaiian Home Lands—areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, *et. seq.*, as amended; and any land designated as such by the Commission for purposes of this subpart pursuant to the designation process in §54.412.

(f) *Income.* “Income” is all income actually received by all members of a household. This includes salary before deductions for taxes, public assistance benefits, social security payments, pensions, unemployment compensation, veteran’s benefits, inheritances, alimony, child support payments, worker’s compensation benefits, gifts, lottery winnings, and the like. The only exceptions are student financial aid, military housing and cost-of-living allowances, irregular income from occasional small jobs such as baby-sitting or lawn mowing, and the like.

(g) *Duplicative support.* “Duplicative support” exists when a Lifeline subscriber is receiving two or more Lifeline services concurrently or two or more subscribers in a household are receiving Lifeline services or Tribal Link Up support concurrently.

(h) *Household.* A “household” is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.

(i) *National Lifeline Accountability Database or Database.* The “National Lifeline Accountability Database” or “Database” is an electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and elimination of duplicative support, as directed by the Commission.