

of the most recent line counts reported pursuant to § 54.1306(i).

(c) The Administrator, in order to limit support to \$250 for affected carriers, shall reduce safety net additive support, high-cost loop support, safety valve support, and interstate common line support in proportion to the relative amounts of each support the study area would receive absent such limitation.

[76 FR 73870, Nov. 29, 2011, as amended at 79 FR 39188, July 9, 2014]

**§ 54.303 Eligible Capital Investment and Operating Expenses.**

(a) *Eligible Operating Expenses.* Each study area's eligible operating expenses for purposes of calculating universal service support pursuant to subparts K and M of this part shall be adjusted as follows:

(1) Total eligible annual operating expenses per location shall be limited as follows plus one standard deviation:

$$Y = \alpha + \beta_1 X_1 + \beta_2 X_2 + \beta_3 X_3,$$

Where:

Y = is the natural log of the total operating cost per housing unit,

$\alpha$  is the coefficient on the constant

$\beta$  is the regression coefficient for each of the regressions,

$X_1$  is the natural log of the number of housing units in the study area,

$X_2$  is the natural log of the number of density (number of housing units per square mile), and

$X_3$  is the square of the natural log of the density

(2) Eligible operating expenses are the sum of Cable and Wire Facilities Expense, Central Office Equipment Expense, Network Support and General Expense, Network Operations Expense, Limited Corporate Operations Expense, Information Origination/Termination Expense, Other Property Plant and Equipment Expenses, Customer Operations Expense: Marketing, and Customer Operations Expense: Services.

(3) For purposes of this section, the number of housing units will be determined per the most recently available U.S. Census data for each census block in that study area. If a census block is partially within a study area, the number of housing units in that portion of the census block will be determined based upon the percentage geographic

area of the census block within the study area.

(4) Notwithstanding the provisions of paragraph (a) of this section, total eligible annual operating expenses for 2016 will be limited to the total eligible annual operating expenses as defined in this section plus one half of the amount of total eligible annual expense as calculated prior to the application of this section.

(5) For any study area subject to the limitation described in this paragraph, a required percentage reduction will be calculated for that study area's total eligible annual operating expenses. Each category or account used to determine that study area's total eligible annual operating expenses will then be reduced by this required percentage reduction.

(b) *Loop Plant Investment allowances.* Data submitted by rate-of-return carriers for purposes of obtaining high-cost support under subparts K and M of this part may include any Loop Plant Investment as described in paragraph (c)(1) of this section and any Excess Loop Plant Investment as described in paragraph (h) of this section, but may not include amounts in excess of the Annual Allowed Loop Plant Investment (AALPI) as described in paragraph (d) of this section. Amounts in excess of the AALPI will be removed from the categories or accounts described in paragraph (c)(1) of this section either on a direct basis when the amounts of the new loop plant investment can be directly assigned to a category or account, or on a pro-rata basis in accordance with each category or account's proportion to the total amount in each of the categories and accounts described in paragraph (c)(1) of this section when the new loop plant cannot be directly assigned. This limitation shall apply only with respect to Loop Plant Investment incurred after the effective date of this rule. If a carrier's required Loop Plant Investment exceeds the limitations set forth in this section as a result of deployment obligations in § 54.308(a)(2), the carrier's Total Allowed Loop Plant Investment will be increased to the actual Loop Plant Investment required by the carrier's deployment obligations, subject to the limitations of the Construction

Allowance Adjustment in paragraph (f) of this section.

(c) *Definitions.* For purposes of determining loop plant investment allowances, the following definitions apply:

(1) *Loop Plant Investment* includes amounts booked to the accounts used for subparts K and M of this part, loop plant investment.

(2) *Total Loop Plant Investment* equals amounts booked to the categories described in paragraph (b)(1) of this section, adjusted for inflation using the Department of Commerce's Gross Domestic Product Chain-type Price Index (GDP-CPI), as of December 31 of the Reference Year. Inflation adjustments shall be based on vintages where possible or otherwise calculated based on the year plant was put in service.

(3) *Total Allowed Loop Plant Investment* equals Total Loop Plant Investment multiplied by the Loop Depreciation Factor.

(4) *Loop Depreciation Factor* equals the ratio of total loop accumulated depreciation to gross loop plant during the Reference Year.

(5) *Reference Year* is the year prior to the year the AALPI is determined.

(d) *Determination of AALPI.* A carrier subject to this section shall have an AALPI set equal to its Total Loop Plant Investment for each study area multiplied by an AALPI Factor equal to  $(0.15 \text{ times the Loop Depreciation Factor} + 0.05)$ . The Administrator will calculate each rate of return carrier's AALPI for each Reference Year.

(e) *Broadband Deployment AALPI adjustment.* The AALPI calculated in paragraph (c) of this section shall be adjusted by the Administrator based upon the difference between a carrier's broadband availability for each study area as reported on that carrier's most recent Form 477, and the weighted national average broadband availability for all rate-of-return carriers based on Form 477 data, as announced annually by the Wireline Competition Bureau in a Public Notice. For every percentage point that the carrier's broadband availability exceeds the weighted national average broadband availability for the Reference Year, that carrier's AALPI will be reduced by one percentage point. For every percentage point that the carrier's broadband avail-

ability is below the weighted national average broadband availability for the Reference Year, that carrier's AALPI will be increased by one percentage point.

(f) *Construction allowance adjustment.* Notwithstanding any other provision of this section, a rate-of-return carrier may not include in data submitted for purposes of obtaining high-cost support under subpart K or subpart M of this part any Loop Plant Investment associated with new construction projects where the average cost of such project per location passed exceeds a Maximum Average Per Location Construction Project Limitation as determined by the Administrator according to the following formula:

(1) Maximum Average Per Location Construction Project Loop Plant Investment Limitation equals the inflation adjusted equivalent to \$10,000 in the Reference Year calculated by multiplying \$10,000 times the applicable annual GDP-CPI. This inflation adjusted amount will be normalized across all study areas by multiplying the product above by (the Loop Cap Adjustment Factor times the Construction Limit Factor)

Where:

the Loop Cap Adjustment Factor equals the annualized monthly per loop limit described in § 54.302 (*i.e.*, \$3,000) divided by the unadjusted per loop support amount for the study area (the annual HCLS and CAF-BLS support amount per loop in the study not capped by § 54.302)

and

the Construction Limitation Factor equals the study area Total Loop Investment per Location divided by the overall Total Loop Investment per Location for all rate-of-return study areas.

(2) This limitation shall apply only with respect to Loop Plant Investment for which invoices were received by the carrier after the effective date of this rule.

(3) A carrier subject to this section will maintain documentation necessary to demonstrate compliance with the above limitation.

(g) *Study area data.* For each Reference Year, the Administrator will publish the following data for each study area of each rate-of-return carrier:

(1) AALPI  
 (2) The Broadband Deployment AALPI Adjustment

(3) The Maximum Average Per Location Construction Project Loop Plant Investment Limitation

(4) The Loop Cap Adjustment Factor

(5) The Construction Limit Factor

(h) *Excess Loop Plant Investment carry forward.* Loop Plant Investment in a Reference Year in excess of the AALPI may be carried forward to future years and included in AALPI for such subsequent years, but may not cause the AALPI to exceed the Total Allowed Loop Plant Investment.

(i) A carrier subject to this section will maintain subsidiary records of accumulated Excess Loop Plant Investment for accounts referenced in paragraph (c)(1) of this section in addition to the corresponding depreciation accounts. In the event a carrier makes Loop Plant Investment for an account at a level below the AALPI for the account, the carrier may reduce accumulated Excess Loop Plant Investment effective for the Reference Year by an amount up to, but not in excess of the amount by which AALPI for the Reference Year exceeds Loop Plant Investment for the account during the same year.

(j) *Treatment of unused AALPI.* In the event a carrier's Loop Plant Investment is below its AALPI in a given Reference Year, there will be no carry forward to future years of unused AALPI. The Administrator's recalculation of AALPI for each Reference Year will reflect the revised AALPI, Loop Depreciation Factor, Total Loop Plant Investment, and Total Allowed Loop Plant Investment for the Reference Year.

(k) *Special circumstances.* The AALPI for Loop Plant Investment may be adjusted by the Administrator by adding the applicable adjustment below to the amount of AALPI for the year in which additions to plant are booked to the accounts described in paragraph (c)(1) of this section, associated with any of the following:

(1) Geographic areas within the study area where there are currently no existing wireline loop facilities;

(2) Geographic areas within the study area where grant funds are used for Loop Plant Investment;

(3) Geographic areas within the study area for which loan funds were disbursed for the purposes of Loop Plant Investment before the effective date of this rule; and

(4) Construction projects for which the carrier, prior to the effective date of this rule, had awarded a contract to a vendor for a loop plant construction project within the study area.

(l) *Documentation requirements.* The Administrator will not make these adjustments without appropriate documentation from the carrier.

(m) *Minimum AALPI.* If a carrier has an AALPI that is less than \$4 million in any given year, the carrier shall be allowed to increase its AALPI for that year to the lesser of \$4 million or its Total Allowed Loop Plant Investment.

[81 FR 24337, Apr. 25, 2016]

EFFECTIVE DATE NOTE: At 81 FR 24337, Apr. 25, 2016, §54.303 was added. However, paragraph (b) contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

#### **§ 54.304 Administration of Connect America Fund Intercarrier Compensation Replacement.**

(a) The Administrator shall administer CAF ICC support pursuant to §51.915 and §51.917 of this chapter.

(b) The funding period is the period beginning July 1 through June 30 of the following year.

(c) For price cap carriers that are eligible and elect, pursuant to §51.915(f) of this chapter, to receive CAF ICC support, the following provisions govern the filing of data with the Administrator, the Commission, and the relevant state commissions and the payment by the Administrator to those carriers of CAF ICC support amounts that the carrier is eligible to receive pursuant to §51.915 of this chapter.

(1) A Price Cap Carrier seeking CAF ICC support pursuant to §51.915 of this chapter shall file data with the Administrator, the Commission, and the relevant state commissions no later than June 30, 2012, for the first year, and on the date it files its annual access tariff