

Administrator, the Commission, and the relevant state commissions and the payment by the Administrator to those carriers of CAF ICC support amounts that the rate-of-return carrier is eligible to receive pursuant to §51.917 of this chapter.

(1) A Rate-of-Return Carrier seeking CAF ICC support 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 filing with the Commission, in subsequent years, establishing the Rate-of-Return Carrier's projected eligibility for CAF ICC funding during the upcoming funding period pursuant to §51.917 of this chapter. The projected amount shall include any true-ups, pursuant to §51.917 of this chapter, associated with an earlier funding period.

(2) The Administrator shall monthly pay each rate-of-return carrier one-twelfth (1/12) of the amount the carrier is to be eligible to receive during that funding period.

[76 FR 73871, Nov. 29, 2011, as amended at 78 FR 26268, May 6, 2013]

#### § 54.305 Sale or transfer of exchanges.

(a) The provisions of this section shall not be used to determine support for any price cap incumbent local exchange carrier or a rate-of-return carrier, as that term is defined in §54.5, that is affiliated with a price cap incumbent local exchange carrier.

(b) Beginning January 1, 2012, any carrier subject to the provisions of this paragraph shall receive support pursuant to this paragraph or support based on the actual costs of the acquired exchanges, whichever is less. Except as provided in paragraph (c) of this section, a carrier that acquires telephone exchanges from an unaffiliated carrier shall receive universal service support for the acquired exchanges at the same per-line support levels for which those exchanges were eligible prior to the transfer of the exchanges. If the acquired exchanges are incorporated into an existing rural incumbent local exchange carrier study area, the rural incumbent local exchange carrier shall maintain the costs associated with the acquired exchanges separate from the costs associated with its pre-acquisi-

tion study area. The transferred exchanges may be eligible for safety valve support for loop related costs pursuant to paragraph (d) of this section.

(c) A carrier that has entered into a binding agreement to buy or acquire exchanges from an unaffiliated carrier prior to May 7, 1997 will receive universal service support for the newly acquired lines based upon the average cost of all of its lines, both those newly acquired and those it had prior to execution of the sales agreement.

(d) Transferred exchanges in study areas operated by rural telephone companies that are subject to the limitations on loop-related universal service support in paragraph (b) of this section may be eligible for a safety valve loop cost expense adjustment based on the difference between the rural incumbent local exchange carrier's index year expense adjustment and subsequent year loop cost expense adjustments for the acquired exchanges. Safety valve loop cost expense adjustments shall only be available to rural incumbent local exchange carriers that, in the absence of restrictions on high-cost loop support in paragraph (b) of this section, would qualify for high-cost loop support for the acquired exchanges under §54.1310.

(1) For carriers that buy or acquire telephone exchanges on or after January 10, 2005, from an unaffiliated carrier, the index year expense adjustment for the acquiring carrier's first year of operation shall equal the selling carrier's loop-related expense adjustment for the transferred exchanges for the 12-month period prior to the transfer of the exchanges. At the acquiring carrier's option, the first year of operation for the transferred exchanges, for purposes of calculating safety valve support, shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. For the first year of operation, a loop cost expense adjustment, using the costs of the acquired exchanges submitted in accordance with §§ 54.1305 and 54.1306, shall be calculated pursuant to §54.1310 and then compared to the index year expense adjustment. Safety valve support for the first period of operation will

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then be calculated pursuant to paragraph (d)(3) of this section. The index year expense adjustment for years after the first year of operation shall be determined using cost data for the first year of operation of the transferred exchanges. Such cost data for the first year of operation shall be calculated in accordance with §§ 54.1305, 54.1306, and 54.1310. For each year, ending on the same calendar quarter as the first year of operation, a loop cost expense adjustment, using the loop costs of the acquired exchanges, shall be submitted and calculated pursuant to §§ 54.1305, 54.1306, and 54.1310 and will be compared to the index year expense adjustment. Safety valve support for the second year of operation and thereafter will then be calculated pursuant to paragraph (d)(3) of this section.

(2) For carriers that bought or acquired exchanges from an unaffiliated carrier before January 10, 2005, and are not subject to the exception in paragraph (c) of this section, the index year expense adjustment for acquired exchange(s) shall be equal to the rural incumbent local exchange carrier's high-cost loop expense adjustment for the acquired exchanges calculated for the carrier's first year of operation of the acquired exchange(s). At the carrier's option, the first year of operation of the transferred exchanges shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. The index year expense adjustment shall be determined using cost data for the acquired exchange(s) submitted in accordance with §§ 54.1305 and 54.1306 and shall be calculated in accordance with § 54.1310. The index year expense adjustment for rural telephone companies that have operated exchanges subject to this section for more than a full year on August 8, 2014 shall be based on loop cost data submitted in accordance with § 54.1306 for the year ending on the nearest calendar quarter following August 8, 2014. For each subsequent year, ending on the same calendar quarter as the index year, a loop cost expense adjustment, using the costs of the acquired exchanges, will be calculated pursuant to § 54.1310 and will be compared to the index year expense adjustment. Safety

valve support is calculated pursuant to paragraph (d)(3) of this section.

(3) Up to fifty (50) percent of any positive difference between the transferred exchanges loop cost expense adjustment and the index year expense adjustment will be designated as the transferred exchange's safety valve loop cost expense adjustment and will be available in addition to the per-line loop-related support transferred from the selling carrier to the acquiring carrier pursuant to paragraph (b) of this section. In no event shall a study area's safety valve loop cost expense adjustment exceed the difference between the carrier's study area loop cost expense adjustment calculated pursuant to § 54.1310 and transferred support amounts available to the acquired exchange(s) under paragraph (b) of this section. Safety valve support shall not transfer with acquired exchanges.

(e) The sum of the safety valve loop cost expense adjustment for all eligible study areas operated by rural telephone companies shall not exceed five (5) percent of the total rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment calculated pursuant to § 54.1302. The five (5) percent cap on the safety valve mechanism shall be based on the lesser of the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment calculated pursuant to § 54.1302 or the sum of rural incumbent local exchange carrier expense adjustments calculated pursuant to § 54.1310. The percentage multiplier used to derive study area safety valve loop cost expense adjustments for rural telephone companies shall be the lesser of fifty (50) percent or a percentage calculated to produce the maximum total safety valve loop cost expense adjustment for all eligible study areas pursuant to this paragraph. The safety valve loop cost expense adjustment of an individual rural incumbent local exchange carrier also may be further reduced as described in paragraph (d)(3) of this section.

(f) Once an acquisition is complete, the acquiring rural incumbent local exchange carrier shall provide written notice to the Administrator that it has

acquired access lines that may be eligible for safety valve support. Rural telephone companies also shall provide written notice to the Administrator defining their index year for those years after the first year of operation for purposes of calculating the safety valve loop cost expense adjustment.

[70 FR 10060, Mar. 2, 2005, as amended at 76 FR 73871, Nov. 29, 2011; 79 FR 39188, July 9, 2014; 81 FR 24339, Apr. 25, 2016]

**§ 54.306 Alaska Plan for Rate-of-Return Carriers Serving Alaska.**

(a) *Election of support.* For purposes of subparts A, B, C, D, H, I, J, K and M of this part, rate-of-return carriers (as that term is defined in § 54.5) serving Alaska have a one-time option to elect to participate in the Alaska Plan on a state-wide basis. Carriers exercising this option shall receive the lesser of;

(1) Support as described in paragraph (c) of this section or

(2) \$3,000 annually for each line for which the carrier is receiving support as of the effective date of this rule.

(b) *Performance plans.* In order to receive support pursuant to this section, a rate-of-return carrier must be subject to a performance plan approved by the Wireline Competition Bureau. The performance plan must indicate specific deployment obligations and performance requirements sufficient to demonstrate that support is being used in the public interest and in accordance with the requirements adopted by the Commission for the Alaska Plan. Performance plans must commit to offer specified minimum speeds to a set number of locations by the end of the fifth year of support and by the end of the tenth year of support, or in the alternative commit to maintaining voice and Internet service at a specified minimum speeds for the 10-year term. The Bureau may reassess performance plans at the end of the fifth year of support. If the specific deployment obligations and performance requirements in the approved performance plan are not achieved, the carrier shall be subject to § 54.320(c) and (d).

(c) *Support amounts and support term.* For a period of 10 years beginning on or after January 1, 2017, at a date set by the Wireline Competition Bureau, each Alaska Plan participant shall receive

monthly Alaska Plan support in an amount equal to:

(1) One-twelfth (1/12) of the amount of Interstate Common Line Support disbursed to that carrier for 2011, less any reduction made to that carrier's support in 2012 pursuant to the corporate operations expense limit in effect in 2012, and without regard to prior period adjustments related to years other than 2011 and as determined by USAC on January 31, 2012; plus

(2) One-twelfth (1/12) of the total expense adjustment (high cost loop support) disbursed to that carrier for 2011, without regard to prior period adjustments related to years other than 2011 and as determined by USAC on January 31, 2012.

(d) *Transfers.* Notwithstanding any provisions of § 54.305 or other sections in this part, to the extent an Alaska Plan participant (as defined in § 54.306 or § 54.317) transfers some or all of its customers in Alaska to another eligible telecommunications carrier, it may also transfer a proportionate amount of its Alaska Plan support and any associated performance obligations as determined by the Wireline Competition Bureau or Wireless Telecommunications Bureau if the acquiring eligible telecommunications carrier certifies it will meet the associated obligations agreed to in the approved performance plan.

[81 FR 69712, Oct. 7, 2016]

**§ 54.307 Support to a competitive eligible telecommunications carrier.**

(a) *Calculation of support.* A competitive eligible telecommunications carrier shall receive universal service support to the extent that the competitive eligible telecommunications carrier captures the subscriber lines of an incumbent local exchange carrier (LEC) or serves new subscriber lines in the incumbent LEC's service area.

(1) A competitive eligible telecommunications carrier serving loops in the service area of a rural incumbent local exchange carrier, as that term is defined in § 54.5 of this chapter, shall receive support for each line it serves in a particular service area based on the support the incumbent LEC would receive for each such line, disaggregated by cost zone if