

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for inspection at the Douglas County Planning Department, Justice Building, Room 106, Douglas County Courthouse, Roseburg, Oregon.	
Douglas County (Unincorporated Areas) (FEMA Docket No. 7246)	
<i>Newton Creek:</i>	
Just upstream of Stephens Street	*519
Approximately 1,180 feet upstream of Parker Road	*583
<i>South Umpqua River:</i>	
Approximately 5,600 feet downstream of confluence of Newton Creek	*429
At confluence of Newton Creek	*433
Maps are available for inspection at the Douglas County Planning Department, Justice Building, Room 106, Douglas County Courthouse, Roseburg, Oregon.	
Roseburg (City), Douglas County (FEMA Docket No. 7246)	
<i>South Umpqua River:</i>	
Approximately 5,160 feet downstream of confluence with Newton Creek	*428
Approximately 170 feet downstream of confluence with Newton Creek	*437
Just downstream of Interstate Highway 5	*443
<i>Newton Creek:</i>	
At confluence with the South Umpqua River	*433
Just upstream of Edenbower Boulevard	*486
Just upstream of Stephens Street	*520
Maps are available for inspection at the City of Roseburg Community Development Department, 900 Southeast Douglas Avenue, Roseburg, Oregon.	

(Catalog of Federal Domestic Assistance No. 83.100, Flood Insurance)

Dated: November 24, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98-32298 Filed 12-3-98; 8:45 am]

BILLING CODE 6718-04-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54, 64 and 69

[CC Docket Nos. 97-21 and 96-45; FCC 98-206]

Changes to the Board of Directors of the National Exchange Carrier Association, Inc., Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission reconsiders its July 18, 1997 order to the extent that the Universal Service Worksheet (Worksheet) attached to that order required universal service contributors to report as end-user telecommunications revenues those revenues derived from the provision of inside wiring maintenance. The Commission amends its rules to permit the Administrator of the federal universal service support mechanisms to utilize Telecommunications Relay Services Fund data to verify the accuracy of revenue information provided on the Worksheet. The Commission also amends its rules to clarify that a telecommunications carrier seeking reimbursement from the Administrator may request that the amount of the discount afforded to that school or library be applied either as an offset to the carrier's universal service contribution obligation or reimbursed to the carrier from the universal service support mechanisms.

EFFECTIVE DATE: January 4, 1999.

FOR FURTHER INFORMATION CONTACT: Lisa Boehley, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418-7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document released on November 17, 1998. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554.

Summary of Second Report and Order in CC Docket No. 97-21, Third Order on Reconsideration in CC Docket No. 97-21 and Sixth Order on Reconsideration in CC Docket No. 96-45

I. Introduction

1. In this Order, we reconsider the Commission's July 18, 1997 order to the extent that the Universal Service Worksheet attached as an appendix to that order required universal service

contributors to report as end-user telecommunications revenues those revenues derived from the provision of inside wiring maintenance. We also adopt amendments to the Commission's Part 54 and Part 64 rules to permit the Administrator of the federal universal service support mechanisms to utilize Telecommunications Relay Services (TRS) Fund data to verify the accuracy of revenue information provided on the Universal Service Worksheet by contributors to the universal service support mechanisms. In addition, we amend §§ 54.515 of our rules to clarify that a telecommunications carrier seeking reimbursement from the Administrator for the provision of services to a school or library may request that the amount of the discount afforded to that school or library be applied either as an offset to the carrier's universal service contribution obligation or reimbursed to the carrier from the universal service support mechanisms. We find, however, that a carrier that fails to remit its monthly universal service obligation is not entitled to choose direct reimbursement under the universal service support mechanism for schools and libraries. Rather, any support amounts owed to such a carrier under the support mechanism for schools and libraries must first be applied as an offset to the carrier's contribution obligation.

II. Inside Wiring Maintenance

2. We reconsider the *NECA Order*, 62 FR 41294 (August 1, 1997), to the extent that the Worksheet attached as an appendix to that order required universal service contributors to include as end-user telecommunications revenues those revenues derived from the provision of inside wiring maintenance. We are persuaded by petitioners that the provision of inside wiring maintenance does not constitute "telecommunications" or a "telecommunications service" and we therefore conclude that revenues derived from this activity should not be included as end-user telecommunications revenues on the Worksheet. As the Commission stated in the *Inside Wiring Order*, 51 FR 44479 (December 10, 1986), inside wiring is severable from underlying common carrier transmission services and includes all telephone plant located on the customer's side of the demarcation point marking the end of the telephone network.

3. We conclude that inside wiring maintenance—the maintenance of telephone plant—does not constitute telecommunications or a telecommunications service because it

does not involve the "transmission" of information. MCI, the only party asking us to include in the universal service contribution base revenues derived from the provision of inside wiring maintenance, correctly points out that internal connections make possible the transmission of information. Consistent with the rationale set forth in the *Inside Wiring Order*, however, we note that inside wiring maintenance does not itself constitute "telecommunications" as that term is statutorily defined. MCI references language in paragraph 451 of the *Universal Service Order*, 62 FR 32862 (June 17, 1997), as support for its proposition that the Commission has concluded, in the context of defining eligible services for schools and libraries, that the installation and maintenance of internal connections constitute telecommunications services. Paragraph 451 and the surrounding discussion make clear, however, that the Commission determined only that the installation and maintenance of internal connections are among the additional *non-telecommunications* services for which eligible schools and libraries may receive discounts under section 254 of the Act. Neither this paragraph, nor the surrounding discussion, support MCI's assertion that the provision of inside wire maintenance constitutes telecommunications as that term is defined by the statute.

4. This change relieving contributors of their obligation to report as end-user telecommunications revenues those revenues derived from the provision of inside wiring maintenance will become effective 30 days after publication of this Order in the **Federal Register**. We note, however, that contributors are not required to file another Worksheet until March 31, 1999. Accordingly, we direct carriers to adjust the 1998 full-year data that they will report on the March 31, 1999 Worksheet to reflect this change starting from the effective date of this Order.

III. The Use of TRS Data by the Universal Service Administrator

5. We amend § 64.604(c)(4)(iii)(I) as proposed in the *NECA II Further Notice*, 62 FR 47369 (September 9, 1997), to permit the use of TRS data by the Administrator for purposes of verifying the accuracy of information reported by contributors on the Universal Service Worksheet. We conclude that authorizing the Administrator to use TRS data for this purpose may assist the Administrator in monitoring contributors' compliance with the universal service contribution requirements by revealing potential inconsistencies between revenue data

reported on the TRS Fund Worksheet and revenue data reported on the Universal Service Worksheet. As noted by NECA, the use of TRS data for this purpose will provide a more efficient method of monitoring contributors' compliance with the contribution requirements than if the universal service Administrator were forced to rely on audits alone. MCI, BellSouth, and NECA support the Commission's proposal to authorize the use of TRS data for this purpose. No parties filed comments opposing the Commission's proposal. We also amend § 54.711(a) to direct the TRS administrator to provide to the Administrator TRS data so that the Administrator may verify the accuracy of information reported by contributors on the Universal Service Worksheet. As an outgrowth of our decision to authorize the Administrator to use TRS data, we also amend § 69.616 to ensure that the Administrator exercises this authority in an equitable and non-discriminatory manner. We direct the Administrator, in comparing the revenue data filed by universal service contributors with that filed by TRS Fund contributors, to undertake company-by-company comparisons for all entities filing Universal Service Worksheets and TRS Fund Worksheets.

6. We also amend § 54.711(b) as proposed in the *NECA II Further Notice* to require the Administrator to keep confidential all TRS data obtained from the Administrator of the TRS Fund, prohibit the Administrator from using TRS data for purposes other than the administration of federal universal service support mechanisms, and prohibit the disclosure of TRS data in company-specific form unless directed to do so by the Commission. We direct the Bureau to make decisions regarding disclosure of company-specific information.

7. We agree with NECA that § 54.711(b)'s prohibition on the disclosure of company-specific information does not prohibit the Administrator from releasing aggregate, non-company specific data. In order to ensure that any report or document containing aggregate, non-company-specific data does not, by virtue of the manner in which particular data are organized, inadvertently reveal company-specific information, we require the Administrator to obtain the approval of the Bureau prior to release of such a report or document to persons outside of the Commission.

8. BellSouth requests that the Commission declare all commercial mobile radio service (CMRS) subscriber and financial data reported on TRS and Universal Service Worksheets

confidential data subject to Exemption 4 of the Freedom of Information Act (FOIA). BellSouth asserts that requiring each CMRS provider to request confidential treatment for such data creates unnecessary paperwork for contributors and the Commission. On March 4, 1998 and July 31, 1998, the Bureau announced revisions to the Universal Service Worksheet. The revised Worksheet provides a space for contributors to indicate that they wish to request confidential treatment of the data contained on the Worksheet. Contributors making such an election must certify that the information contained on the Worksheet is privileged or confidential commercial or financial information and that disclosure of such information would likely cause substantial harm to the competitive position of the company filing the Worksheet. If the Commission receives a request for, or proposes disclosure of, the information contained on the Worksheet, the carrier will be required to make the full showing required by our rules. We anticipate that this revision will ease significantly the paperwork burden on all contributors, not just CMRS providers. Contributors to the TRS Fund shall continue to comply with §§ 0.459 and 0.461 of the Commission's rules in order to request confidential treatment of the revenue data reported on the TRS Worksheet. We do not believe that this poses a substantial burden on TRS contributors, because the TRS Worksheet, unlike the Universal Service Worksheet, is filed only annually, rather than semi-annually.

9. The Bureau will make the initial decision regarding disclosure of company-specific information derived from the Universal Service Worksheet or from the TRS Administrator. In the event that it directs disclosure of data for which confidential treatment was requested by the contributor, the Bureau will follow the procedures specified in §§ 0.459 and 0.461 of the Commission's rules. Accordingly, the company will be given an opportunity to file an application for review by the Commission of any decision to release assertedly confidential data and, if it is denied, to seek a judicial stay before any assertedly confidential information is released. Consequently, we do not find it necessary to conclude that all CMRS subscriber and financial data reported on the Worksheets are confidential.

10. BellSouth also asserts that the release of company-specific CMRS subscriber and revenue data should be prohibited under any circumstances and maintains that the Commission should be precluded from releasing such

information. Although we recognize the competitively sensitive nature of the CMRS data in question, we decline to foreclose altogether the Commission's or the Bureau's ability to disclose or direct the disclosure of company-specific subscriber or revenue data reported for purposes of determining TRS or universal service contributions. The Commission has no present intention to disclose company-specific subscriber or revenue data and, absent substantial justification, does not anticipate disclosing or directing the disclosure of such data. In view of the possibility, however, that an occasion may arise in which the Commission or the Bureau determines that disclosure would be in the public interest (e.g., in the context of an action brought against a contributor to enforce the contribution requirements, or after a long delay so that financial information would no longer be competitively sensitive), and the safeguards provided by §§ 0.459 and 0.461 of our rules, we decline to amend our rules to preclude the disclosure of company-specific subscriber or revenue data under any circumstances.

IV. Offset Versus Reimbursement

11. In light of the inconsistency that USAC has brought to our attention between paragraph 586 of the *Universal Service Order* and § 54.515 of the Commission's rules, we conform § 54.515 to the text of paragraph 586 of the *Universal Service Order* by adopting the amendments reflected below. As amended, a telecommunications carrier applying for support under § 54.515 for services provided to an eligible school or library either may apply the amount of the discount afforded to a school or library as an offset to its universal service contribution obligation or be reimbursed for that amount from the universal service support mechanisms. We further find, however, that the statute does not provide carriers participating in the support mechanism for schools and libraries with an unconditional right to select between offset and direct reimbursement. As USAC explains in its September 16, 1998 letter, it may be costly and administratively burdensome if USAC is asked to alter on a frequent basis the method by which a carrier is reimbursed. We therefore require carriers that are owed support under the universal service support mechanism for schools and libraries to elect on an annual basis the method by which they will receive payment. Such carriers shall elect a payment method in January of each year and shall remain subject to that method for the duration of the calendar year.

12. Additionally, consistent with USAC's July 31, 1998 letter, we find that any support amount that is owed to a carrier participating in the support mechanism for schools and libraries that fails to remit its monthly universal service obligation must first be applied as an offset to that carrier's contribution obligation. Thus, a carrier participating in the support mechanism for schools and libraries that has failed to make its required contribution to universal service in a given month is entitled to receive direct reimbursement from the universal service support mechanisms only to the extent that the amount owed the carrier under the schools and libraries support mechanism exceeds the amount of the carrier's total universal service obligation. We find that this decision is reasonable because, to the extent that a carrier is in arrears on its universal service obligations, it has already effectively chosen an offset method of compensation. We are persuaded that requiring the use of an offsetting procedure as described above for a carrier that fails to make timely contributions serves the public interest by ensuring an appropriate universal service fund and minimizing the need for costly and time-consuming enforcement actions. Consistent with USAC's recommendation in its September 16, 1998 letter, carriers that are in arrears on their universal service contribution obligations will remain subject to the offsetting method for the remainder of the calendar year in which they failed to remit their monthly universal service obligation. A carrier with an outstanding balance at the end of a calendar year shall remain subject to the offsetting method for the next calendar year. A carrier that has been subject to this mandatory offsetting procedure by USAC but that disputes its contribution obligation may bring this matter to the attention of the Commission through a request for declaratory ruling.

V. Final Regulatory Flexibility Certification

13. The Regulatory Flexibility Act (RFA) requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern"

under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

14. In the *NECA II Further Notice*, the Commission certified, pursuant to § 605(b) of the RFA, that the proposed rule amendments attached thereto, which would permit the Administrator to use TRS data to verify the accuracy of data provided on the Universal Service Worksheet, would not have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments on this tentative conclusion. The rules adopted in this order permit the Administrator to use TRS data to verify the accuracy of data provided by universal service contributors on the Worksheet. This Order therefore permits the transfer of already collected data. This exchange of information will enable the Administrator to verify the accuracy of universal service data, thus ensuring the sufficiency of the universal service support mechanisms. We conclude that the rules adopted in this order regarding the use of TRS data will not have a significant economic impact on small entities.

15. We find that our amendment to § 54.515, which clarifies that telecommunications carriers seeking reimbursement for the provision of services to a school or library may request either that the reimbursement amount be applied as an offset to the carrier's universal service contribution obligation or that it receive direct reimbursement from the universal service support mechanisms, will not have a significant economic impact on small entities. This amendment will provide telecommunications carriers providing services to schools and libraries with flexibility in structuring the manner in which they will be reimbursed. Additionally, we do not believe that small entities will experience a significant economic impact due to our determination that any support amount owed to a carrier that fails to remit its monthly universal service obligation should first be applied as an offset against that carrier's contribution obligation. We find that, to the extent that a carrier is in arrears on its universal service obligations, it has already effectively chosen an offset method of compensation. We also find that requiring carriers to select a reimbursement method on an annual basis, or be subject to mandatory offset for the remainder of the year during which they failed to pay their universal

service contribution obligation, will not have a significant economic impact on small entities. Rather, we find that allowing carriers to elect annually the method by which they will be reimbursed provides carriers with a reasonable degree of flexibility in structuring their operations. Furthermore, we find that requiring nonpaying carriers to accept the offsetting procedure for the remainder of the calendar year in which they failed to pay their universal service contributions is reasonable in light of the need to establish a reliable payment history on the part of such carriers and to maintain the certainty and sufficiency of the universal service support mechanisms.

16. We also conclude that our determination in this Order to eliminate the requirement that contributors report as end-user telecommunications revenues those revenues derived from the provision of inside wiring maintenance will not have a significant economic impact on small entities. In fact, this determination will lessen contributors' reporting requirements and may lessen the contribution amount of some contributors.

VI. Ordering Clauses

17. Accordingly, it is ordered that, pursuant to the authority contained in § 1-4, 201-205, 254, and 405 of the Communications Act of 1934, as amended, 47 U.S.C. 151-154, 201-205, 254, and 405 and § 553 of the Administrative Procedure Act, 5 U.S.C. 553, the adoption of this Second Report and Order, Third Order on Reconsideration, and Sixth Order on Reconsideration is effective January 4, 1999.

18. It is further ordered that the amendments to parts 54, 64, and 69 of the Commission's rules are effective January 4, 1999.

List of Subjects

47 CFR Part 54

Healthcare providers, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

47 CFR Part 64

Communications common carriers.

47 CFR Part 69

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Changes

Parts 54, 64, and 69 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(i), 201, 205, 214, and 254 unless otherwise noted.

2. Section 54.515 is amended by revising paragraphs (a) and (b) and removing paragraphs (c) and (d).

§ 54.515 Distributing support.

(a) A telecommunications carrier providing services eligible for support under this subpart to eligible schools and libraries may, at the election of the carrier, treat the amount eligible for support under this subpart as an offset against the carrier's universal service contribution obligation for the year in which the costs for providing eligible services were incurred or receive a direct reimbursement from the Administrator for that amount. Carriers shall elect in January of each year the method by which they will be reimbursed and shall remain subject to that method for the duration of the calendar year. Any support amount that is owed a carrier that fails to remit its monthly universal service contribution obligation, however, shall first be applied as an offset to that carrier's contribution obligation. Such a carrier shall remain subject to the offsetting method for the remainder of the calendar year in which it failed to remit their monthly universal service obligation. A carrier that continues to be in arrears on its universal service contribution obligations at the end of a calendar year shall remain subject to the offsetting method for the next calendar year.

(b) If a telecommunications carrier elects to treat the amount eligible for support under this subpart as an offset against the carrier's universal service contribution obligation and the total amount of support owed to the carrier exceeds its universal service obligation, calculated on an annual basis, the carrier shall receive a direct reimbursement in the amount of the difference. Any such reimbursement due a carrier shall be submitted to that carrier no later than the end of the first quarter of the calendar year following the year in which the costs were incurred and the offset against the

carrier's universal service obligation was applied.

3. Section 54.711 is amended by revising paragraphs (a) and (b) to read as follows:

§ 54.711 Contributor reporting requirements.

(a) Contributions shall be calculated and filed in accordance with the Universal Service Worksheet. The Universal Service Worksheet sets forth information that the contributor must submit to the Administrator on a semi-annual basis. The Commission shall announce by Public Notice published in the **Federal Register** and on its website the manner of payment and dates by which payments must be made. An officer of the contributor must certify to the truth and accuracy of the Universal Service Worksheet, and the Commission or the Administrator may verify any information contained in the Universal Service Worksheet at the discretion of the Commission. The administrator of the Telecommunications Relay Service Fund shall provide data reported on the Telecommunications Relay Service Worksheet to the Administrator so that the Administrator may verify information contained in the Universal Service Worksheet. Inaccurate or untruthful information contained in the Universal Service Worksheet may lead to prosecution under the criminal provisions of Title 18 of the United States Code. The Administrator shall advise the Commission of any enforcement issues that arise and provide any suggested response.

(b) The Commission shall have access to all data reported to the Administrator, Rural Health Care Corporation, and Schools and Libraries Corporation. Contributors may make requests for Commission nondisclosure of company-specific information by so indicating on the Universal Service Worksheet. The Commission shall make all decisions regarding nondisclosure of company-specific information. The Administrator, Rural Health Care Corporation, and Schools and Libraries Corporation shall keep confidential all data obtained from contributors, including all data obtained from the administrator of the Telecommunications Relay Service Fund, shall not use such data except for purposes of administering the universal service support programs, and shall not disclose such data in company-specific form unless directed to do so by the Commission.

* * * * *

PART 64—MISCELLANEOUS RULES
RELATING TO COMMON CARRIERS

4. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, and 403 unless otherwise noted.

5. Section 64.604 is amended by revising paragraph (c)(4)(iii)(I) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(c) * * *

(4) * * *

(iii) * * *

(I) *Information filed with the administrator.* The administrator shall keep all data obtained from contributors and TRS providers confidential and shall not disclose such data in company-specific form unless directed

to do so by the Commission. The administrator shall not use such data except for purposes of administering the TRS Fund, enabling the universal service Administrator to verify revenue information provided by contributors to those mechanisms, calculating the regulatory fees of interstate common carriers, and aggregating such fee payments for submission to the Commission. The Commission shall have access to all data reported to the administrator, and shall have the authority to audit TRS providers.

* * * * *

PART 69—ACCESS CHARGES

6. Section 69.616 is amended by adding paragraph (e) as follows:

§ 69.616 Independent subsidiary functions.

* * * * *

(e) Pursuant to its responsibility for billing and collecting contributions, the independent subsidiary shall compare periodically information collected by the Administrator of the TRS Fund from TRS Fund Worksheets with information submitted by contributors on Universal Service Worksheets in order to verify the accuracy of information submitted on Universal Service Worksheets. When performing a comparison of contributor information as provided by this subsection, the independent subsidiary must undertake company-by-company comparisons for all entities filing Universal Service and TRS Fund Worksheets.

[FR Doc. 98–32303 Filed 12–3–98; 8:45 am]
BILLING CODE 6712–01–P