

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Parts 54 and 69**

[CC Docket No. 96-45; DA 98-1581]

**Federal-State Joint Board on Universal Service****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission clarifies the application of the Commission's "lowest corresponding price" requirement set forth in the *Universal Service Order*, 62 FR 32862 (June 17, 1997). The Commission clarifies that this requirement was not intended to preempt state law, and does not obligate carriers to offer rates that would violate state laws.

**EFFECTIVE DATE:** September 11, 1998.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's document released on August 7, 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. This document is also available from the Commission's copy contractor, International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20036.

**I. Background**

1. In the *Universal Service Order*, 62 FR 32862 (June 17, 1997), the Commission provided that schools and libraries should be eligible to apply for discounted telecommunications services, Internet access, and internal connections, subject to certain limitations and conditions. The *Universal Service Order* concluded that, to ensure that their lack of experience in dealing with telecommunications providers does not prevent schools and libraries from receiving competitive prices, service providers must offer services to eligible schools and libraries at prices no higher than the lowest price the provider charges to similarly situated non-residential customers for similar services. The Commission clarified that, for purposes of determining the lowest corresponding price, similar services would include those provided under contract as well as those provided under tariff. The

Commission established a rebuttable presumption that rates offered within the previous three years are compensatory.

2. In the *Fourth Reconsideration*, 63 FR 2093 (January 13, 1998), the Commission concluded that earlier versions of tariffs that have been modified should be included in the comparable rates upon which the lowest corresponding rate is determined, "[u]nless a regulatory agency has found that the tariffed rate should be changed, and affirmatively ordered such change, or absent a showing that the rate is not compensatory." A question has been raised whether the lowest corresponding rate can be based on rates not lawfully offered under state law.

**II. Discussion**

3. Although the Commission disagreed with the general assertion that the lowest corresponding price should not reflect expired tariffs, the Commission did not expressly preempt state laws governing what rates may lawfully be offered to eligible schools and libraries. In the absence of such an expressly stated intention to preempt, we conclude that the Commission did not intend to require carriers to base the lowest corresponding rate on rates that may not lawfully be offered under state law. Thus, we interpret the *Fourth Reconsideration* as requiring only that rates that may be offered consistent with state law must be made available as the lowest corresponding price.

**III. Ordering Clause**

4. Accordingly, it is ordered that, pursuant to section 4(i) and section 254 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 254, and sections 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291, the lowest corresponding price requirement is clarified.

**List of Subjects***47 CFR Part 54*

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

*47 CFR Part 69*

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communication Commission.

**Kathryn C. Brown,**

Chief, Common Carrier Bureau.

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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AB10

**Captive-bred Wildlife Regulation****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Final rule.

**SUMMARY:** The final rule amends the definition of "harass" in § 17.3 applied to captive wildlife to exclude generally accepted animal husbandry practices, breeding procedures, and provisions of veterinary care that are not likely to result in injury to the animal. The final rule deletes the requirement to obtain a CBW registration for eight species of pheasants, parakeets of the species *Neophema splendida* and *N. pulchella*, the Laysan duck, and the "generic" or inter-subspecific crossed tiger. This final rule will be followed in the future by a new proposed rule that will set forth proposed criteria for addition to, or deletion from, the list of taxa exempted from registration requirements, and will further consider the subject of education.

**DATES:** This rule is effective October 13, 1998.

**ADDRESSES:** The complete file for this rule is available for inspection by appointment at the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 700, Arlington, VA 22203.

**FOR FURTHER INFORMATION CONTACT:** Teiko Saito, Chief, [see **ADDRESSES** section] telephone 703/358-2093; fax 703/358-2281.

**SUPPLEMENTARY INFORMATION:** On January 7, 1992, the Service initiated a review of the Captive-bred Wildlife (CBW) regulation (50 CFR 17.21(g)). On June 11, 1993, the Service followed with a proposed rule (58 FR 32632) that included several proposed changes to the CBW regulation, including elimination of CBW registrations for several species that are present in the United States in large numbers and/or that are genetically unsuitable for scientifically based breeding programs; amendment of the definition of "harass" in 50 CFR 17.3 to exclude normal animal husbandry practices such as humane and healthful care when applied to captive wildlife; and deletion of education from the definition of "enhance" in § 17.3. On December 27, 1993, the Service published a final rule (58 FR 68323) that eliminated public education through exhibition of living