

become hospitalized at an institution that has engaged in these practices. Extending the duration of these payment inequities would be contrary to the public interest and could adversely affect the provision of services to Medicare beneficiaries.

We believe that providing a 30-day comment period for the proposed policies in this document allows hospitals and the general public sufficient opportunity to address any concerns or issues that they may have, and at the same time, allows CMS to address the issue of excessive outlier payments within the current fiscal year (FY 2003). Hospitals are already familiar with the existing outlier payment policies and should be able to readily assess the impact that the proposed changes may have on their programs and respond to the proposed changes in the outlier payment methodology.

#### List of Subjects in 42 CFR Part 412

Administrative practice and procedure, Health facilities, Medicare, Puerto Rico, Reporting and recordkeeping requirements.

For the reasons stated in the preamble of this proposed rule, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR part 412 as follows:

#### PART 412—PROSPECTIVE PAYMENT SYSTEMS FOR INPATIENT HOSPITAL SERVICES

1. The authority citation for part 412 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. Section 412.84 is amended by—

- A. Revising paragraph (h).
  - B. Redesignating paragraphs (i), (j), and (k) as paragraphs (j), (k), and (l), respectively.
  - C. Adding a new paragraph (i).
  - D. In redesignated paragraph (k), removing the phrase “paragraph (k) of this section” and adding in its place “paragraph (l) of this section.”
  - E. In redesignated paragraph (l), removing the phrase “paragraph (j) of this section” and adding in its place “paragraph (k) of this section.”
  - F. Adding a new paragraph (m).
- The revisions read as follows:

#### § 412.84 Payment for extraordinarily high-cost cases (cost outliers).

\* \* \* \* \*

(h) For discharges occurring before the effective date of the final rule, the operating and capital cost-to-charge ratios used to adjust covered charges are computed annually by the intermediary for each hospital based on the latest

available settled cost report for that hospital and charge data for the same time period as that covered by the cost report. Statewide cost-to-charge ratios are used in those instances in which a hospital's operating or capital cost-to-charge ratios fall outside reasonable parameters. CMS sets forth the reasonable parameters and the statewide cost-to-charge ratios in each year's annual notice of prospective payment rates published under § 412.8(b).

(i)(1) For discharges occurring on or after the effective date of the final rule, the operating and capital cost-to-charge ratios applied at the time a claim is processed are based on either the most recent settled or the most recent tentative settled cost report, whichever is from the latest cost reporting period (unless otherwise specified by CMS based on later available data). A hospital may also request that its fiscal intermediary use a different (higher or lower) cost-to-charge ratio based on substantial evidence presented by the hospital. Such a request must be approved by the CMS Regional Office. If a fiscal intermediary is unable to determine an accurate operating or capital cost-to-charge ratio for a hospital in one of the following circumstances, it may use a statewide average cost-to-charge ratio:

(i) New hospitals that have not yet submitted their first Medicare cost report. (For this purpose, a new hospital is defined as an entity that has not accepted assignment of an existing hospital's provider agreement in accordance with § 489.18 of this chapter.)

(ii) Hospitals whose operating or capital cost-to-charge ratio is in excess of three standard deviations above the corresponding national geometric mean. This mean is recalculated annually by CMS and published in the annual notice of prospective payment rates published under § 412.8(b).

(iii) Other hospitals for whom the fiscal intermediary determines accurate data upon which to calculate either an operating or capital cost-to-charge ratio (or both) are not available.

(2) For discharges occurring on or after the effective date of the final rule, any reconciliation of outlier payments will be based on operating and capital cost-to-charge ratios calculated based on a ratio of costs to charges computed from the relevant cost report and charge data determined at the time the cost report coinciding with the discharge is settled.

\* \* \* \* \*

(m) Effective for discharges occurring on or after the effective date of the final

rule, at the time the cost report is settled, outlier payments may be adjusted to account for the time value of any underpayments or overpayments. Any adjustment will be based upon a widely available index to be established in advance by the Secretary, and will be applied from the midpoint of the cost reporting period to the date of reconciliation.

#### § 412.116 [Amended]

3. In § 412.116(e), the second sentence is removed.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: January 24, 2003.

**Thomas A. Scully,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: February 6, 2003.

**Tommy G. Thompson,**

*Secretary.*

[FR Doc. 03–5121 Filed 2–28–03; 12:03 pm]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[CC Docket No. 96–45; FCC 03J–1]

#### Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support and the ETC Designation Process

**AGENCY:** Federal Communications Commission.

**ACTION:** Solicitation of comments.

**SUMMARY:** On November 8, 2002, the Federal Communications Commission requested that the Federal-State Joint Board on Universal Service “review certain of the Commission's rules relating to the high-cost universal service support mechanisms to ensure that the dual goals of preserving universal service and fostering competition continue to be fulfilled.” In particular, the Commission asked the Joint Board to review the Commission's rules relating to high-cost universal service support in study areas in which a competitive eligible telecommunications carrier is providing services, as well as the Commission's rules regarding support for second lines. The Commission also asked the Joint Board to examine the process for designating ETCs. In this document, the Joint Board invite public comment on whether these rules continue to fulfill their intended purposes, whether

modifications are warranted, and if so, how the rules should be modified.

**DATES:** Comments are due on or before May 5, 2003. Reply comments are due on or before June 3, 2003.

**ADDRESSES:** Send comments to 445 12th Street, SW., Washington DC 20554. See **SUPPLEMENTARY INFORMATION** section for more information on where and how to file comments.

**FOR FURTHER INFORMATION CONTACT:** Katherine Tofigh, Attorney, Telecommunication Access Policy Division, Wireline Competition Bureau or Paul Garnett, Attorney, Telecommunications Access Policy Division, Wireline Competition Bureau, (202) 418-7400, TTY: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** On November 8, 2002, the Federal Communications Commission (Commission) requested that the Federal-State Joint Board on Universal Service (Joint Board) "review certain of the Commission's rules relating to the high-cost universal service support mechanisms to ensure that the dual goals of preserving universal service and fostering competition continue to be fulfilled." In particular, the Commission asked the Joint Board to review the Commission's rules relating to high-cost universal service support in study areas in which a competitive eligible telecommunications carrier (ETC) is providing services, as well as the Commission's rules regarding support for second lines. The Commission also asked the Joint Board to examine the process for designating ETCs. By this Public Notice, the Joint Board initiates its review. As set forth below, we invite public comment on whether these rules continue to fulfill their intended purposes, whether modifications are warranted, and if so, how the rules should be modified.

#### Issues for Comment

1. We seek comment on whether changes to the Commission's rules relating to high-cost universal service support in study areas in which a competitive ETC is providing services and the Commission's rules regarding support for second lines are warranted, and if so, how those rules should be modified. We also seek comment regarding the process for designating ETCs. With respect to each of these issues, we ask that commenters specifically address how any proposed modifications will further, or impede, the Act's goals of maintaining universal service and fostering competition. We also ask commenters to address the effect of any rule changes on incentives to invest in and upgrade the network

and on incentives to provide supported services in high-cost areas. In addition, commenters should address how any proposed modifications to the high-cost loop support mechanism for rural carriers would affect the specific conclusions adopted in the *Rural Task Force Order*, 66 FR 34603 (June 29, 2001), as well as its five-year time frame.

#### A. State of the Marketplace and Universal Service Fund

2. We seek to establish a complete record on the development of competition in high-cost areas, the effect of the Commission's current policies on such development, and how line growth in high-cost areas may impact the universal service fund. To the extent possible, we request that commenters provide detailed data on competition and line growth in high-cost areas. The more specific data that we receive, the better able we will be to tailor our recommendations to meet the Act's goals of maintaining universal service and fostering competition.

3. Based on Universal Service Administrative Company (USAC) data, a total of approximately 1,400 ETCs received approximately \$803 million in high-cost support disbursed in the third quarter of 2002 for service to approximately 31 million lines. Of these ETCs, 45 were competitive ETCs, of which 15 were mobile wireless providers, and 30 were competitive LECs. The competitive ETCs received approximately \$14 million for service to 1.2 million lines for the same time period, representing approximately 1.8 percent of the total amount of high-cost support provided to ETCs. In contrast, in the first quarter of 2001, competitive ETCs received approximately \$2 million out of approximately \$638 million in high-cost support, or approximately 0.4 percent of total high-cost support.

4. To what extent will support for competitive ETCs likely grow over time? Is the growth rate of support for competitive ETCs over the last eighteen months indicative of what one would expect to see in the future? How does the growth in support for competitive ETCs compare to the growth in support for other ETCs (i.e., incumbent LECs)?

5. According to the Commission's most recent *Local Telephone Competition* report, 93 percent of United States households are located in zip codes where there is at least one competitive local exchange carrier. In some states, however, entry is occurring in only a limited number of zip codes. According to the Commission's most recent *CMRS Competition* report, 94 percent of the total United States

population lives in counties with access to three or more different mobile telephone service operators (including cellular, broadband Personal Communications Services, and/or digital Specialized Mobile Radio providers). What percentage of consumers in rural and high-cost areas have access to competitive alternatives for services provided by incumbent LECs? What economic and business factors affect competitive entry in rural and high-cost areas? To what extent, if any, is there a relationship between competitive entry and receipt of high-cost support by competitive ETCs?

6. In addition, we encourage commenters to provide the Joint Board with data on the number of telephone connections in high-cost areas, and to also indicate the type of technological platform providing the telephone connections. Is there line growth in high cost areas, and if so, how much of the line growth is due to services being provided by wireline, wireless, and other technology platforms? To what extent does such growth represent secondary lines, and to what extent does it represent new end users? Where are such lines located? To what extent are such lines eligible for high-cost support, i.e., provided by ETCs? How many currently receive support?

7. To what extent does wireless or other technology represent the addition of complementary service rather than substitution for traditional wireline in rural and high-cost areas? We note that, according to the Commission's most recent *Telephone Subscribership in the United States* report, as of November 2001, 1.2 percent of households in the United States indicated that they had only wireless phones. Is it reasonable to assume that this statistic on household wireless substitution nationwide is indicative of the degree of substitution occurring in high-cost areas? To what extent have customers of mobile wireless competitive ETCs substituted wireless for wireline service?

#### B. Methodology for Calculating Support in Competitive Study Areas

8. We seek comment regarding the methodology for calculating support for ETCs in competitive study areas. Under the Commission's current rules, per-line support for all ETCs is based on the support that the incumbent LEC would receive for the same line. This means that support to the competitive ETC is based on a variety of factors directly related to the incumbent's operations.

9. We seek comment on the policy goals of portable support. Does providing universal service support for multiple ETCs in high-cost areas result

in inefficient competition and impose greater costs on the universal service fund? Do the current rules promote competitive neutrality and properly balance the statutory goals of competition and universal service? Do the current rules promote efficient competition in high-cost areas? Do they operate in a competitively neutral manner? Do they remove or create barriers to entry? Do the current rules have the effect of supporting the costs of two or more networks serving the same area concurrently? If so, is that consistent with the purpose of section 254 of the Act?

10. To what extent do the costs of competitive ETCs differ from the costs of incumbents? Do the Commission's rules create an unfair advantage for ETCs with lower costs? Should support vary depending on an ETC's technology platform? What is the effect of competitive entry in rural and non-rural study areas on the amount of support that an incumbent ETC receives?

11. We also seek comment on alternative methodologies for calculating support for competitive ETCs. For example, should the Commission calculate support for a competitive ETC based on its own costs? What would be the competitive effects of paying different amounts per "customer" or per "line" to each ETC? To the extent competitive ETCs were to receive support based on their own costs, what costs would be appropriately included in determining support? Under such an approach, should support be based on competitive ETCs' forward-looking economic costs or embedded costs? Should the methodology used to calculate competitive ETC support be the same as the methodology used to calculate support for the incumbent? We note that the Commission's forward-looking cost model is designed to model the costs of a wireline network, and that competitive ETCs are not subject to the same regulatory and reporting requirements as incumbent LECs. Also, several ETCs now provide service using wireless technology. What reporting requirements would be necessary in order to implement a requirement that support for each competitive ETC be based on its own costs? Under such an approach, would it be appropriate to calculate support for competitive ETCs on a per-line basis? If so, should per-line support amounts reflect solely the competitive ETC's line count, or some combination of the line counts reported by all area ETCs? What are the alternatives to calculating support on a per-line basis?

12. In addition, we seek comment on other methods of determining high-cost support for ETCs in competitive study areas. For example, should support in competitive areas be based on the lowest-cost provider's costs, in order to promote efficiency? For example, if a fixed wireless carrier can serve an area at lower cost, should support to all carriers serving that area be based on the cost of the fixed wireless service? How should the Commission determine the lowest cost of service and to what extent should quality of service be considered when making such a determination? To the extent the costs of competitive ETCs are lower than the costs of incumbent LECs, what effect would such rules have on incumbent providers?

13. We also seek comment on whether and how auctions might be utilized to award support. For example, should high-cost support be awarded to the ETC with the lowest bid for support in a designated service area for a set period of time? Under such a system, how would the geographic units of the auction be determined, what criteria should determine when an ETC or ETCs receive support, what regulatory authority should administer the process, and how frequently should auctions be conducted? What responsibilities should be imposed on the ETC that receives high-cost support? Should such an ETC be required to assume quality of service obligations? How would auctions be implemented in light of section 214(e)(2) of the Act, which requires states to determine through the ETC process whether designation of a competitive ETC in a given service area would serve the public interest? What other laws should be considered when determining the suitability of auctions as a mechanism for directing support to rural or non-rural service areas? What would be the effect of auctions on the objective of fostering competition and the principle of competitive neutrality in high-cost areas? Specifically, what impact would auctions have on investment by incumbents and competitors in high-cost areas? What sort of measures could be adopted to encourage auction winners, as well as losers, to continue investing in high-cost areas? What level of competition should be present prior to auctions being conducted in a given service area? Under an auction system, would adequate incentives exist to ensure each carrier would provide its lowest bid?

14. In addition, we seek comment on the Commission's rules governing calculation of high-cost support for competitive ETCs utilizing UNEs. Currently, a competitive ETC that provides supported services utilizing

UNEs receives the lesser of the UNE price or the per-line support amount available to the incumbent LEC. Some competitive UNE-based ETCs serving high-cost areas may receive support equal to the full price of the UNEs they purchase from the incumbent LEC. As a result, these competitive ETCs have no net UNE cost, and may pay only non-UNE costs such as customer service support, administrative costs, and network costs ancillary to the UNE costs. Also, the geographic area for which support is calculated for competitive ETCs may be different from the area for which UNE prices are calculated by the state commission. Should the Commission revise its rules? If so, how? For example, should the Commission require a competitive ETC to qualify for high-cost support based on its cost associated with the purchase of UNEs? What costs do competitive ETCs have in addition to the cost of purchasing UNEs? Under such an approach, how should these additional costs be considered in determining whether to provide support to a competitive ETC that utilizes UNEs? How should such costs be determined? Are modifications to the Commission's rules warranted in order to clarify how incumbents report loops sold as UNEs to competitive ETCs?

15. With respect to any proposed alternative methodologies, commenters should provide a detailed explanation as to how support should be calculated and the administrative burdens entailed. In particular, we seek a comprehensive assessment of the reporting obligations and the frequency of such reporting, and the necessity for either regular Commission review of embedded costs or development and update of models. Commenters should quantify the burden of any proposed reporting obligations and any necessary embedded cost or model review. Commenters should also address how any proposed alternative methodologies would affect competition and competitive neutrality, and how they would serve the principles of section 254 of the Act. In addition, commenters should address the relationship between carrier of last resort obligations and the proposed alternative methodology. To the extent a commenter's proposal would result in a change in the amount of support paid to an ETC, that commenter should also explain whether the change should occur as soon as possible, be phased in, or be deferred to hold existing ETCs harmless from the change.

16. Furthermore, we seek comment on whether the support available to competitive ETCs in high-cost areas should be subject to limitations similar

to those imposed on support for incumbent LECs. Under the Commission's current rules, high-cost loop support for competitive ETCs is not capped, whereas the Commission's rules limit the overall amount of rural high-cost loop support available to incumbent LECs. Should the maximum amount of support available to a single competitive ETC have some relation to the total amount of high-cost support available to the incumbent in the same area? Should the total amount of funding available to all ETCs in a geographic area be capped in some manner? Commenters should address the potential benefits and costs of modifying these rules on the stability, predictability, and sufficiency of the fund, as well as their potential effects on competition.

17. In addition, we seek comment regarding the specific concerns raised by the Rural Task Force relating to excessive growth in the fund if incumbent rural carriers lose a significant number of lines to competitive ETCs. The Rural Task Force stated, for example, that as a rural incumbent LEC "loses" lines to a competitive ETC, the rural incumbent LEC must recover its fixed costs from fewer lines, thus increasing its average per-line costs. With higher average per-line costs, the rural incumbent LEC could receive greater per-line support, which would also be available to the competitive ETC for each of the lines that it serves. In response to these concerns, the Commission sought comment on whether to freeze per-line support amounts available to the rural incumbent LEC and any competitive ETC in competitive study areas served by rural carriers. We invite commenters to update the record and provide alternative proposals that may be appropriate to address this issue. Commenters should support their responses with data or other empirical information regarding loss of lines by rural carriers to competitive ETCs. We request that such empirical information be categorized by customer class or service, including residential and business, single and multi-line business, special access, etc.

18. We also seek comment regarding the methodology for determining the location of a line served by a mobile wireless provider, and whether modifications are warranted. Currently, competitive ETCs providing mobile wireless service use the customer's billing address for purposes of identifying the service location of a mobile wireless customer in a service area. In the Rural Task Force Order, the Commission concluded that this

approach was reasonable and the most administratively simple solution to the problem of determining the location of a wireless customer for universal service purposes, although it could be subject to abuse. The Commission also stated that it might revisit this approach "[a]s more mobile wireless carriers are designated as eligible to receive support[.]" We invite commenters to address the reasonableness of the Commission's current approach and whether it should be reevaluated. To the extent commenters assert this approach has led to unintended consequences, they should describe such situations with specificity. We ask commenters to provide suggestions regarding alternative methods of determining the location of lines served by a mobile wireless service provider. Commenters should specifically address the administrative burdens entailed by any proposed approaches.

### C. Scope of Support

19. Under the Commission's current rules, all residential and business connections provided by ETCs are eligible for high-cost support. In its 1996 recommendations to the Commission regarding universal service, the Joint Board recommended that support be limited to the provision of a single connection to a subscriber's primary residence and to businesses with only a single connection. The Joint Board also recommended that support not be provided to second residences. In declining to adopt this recommendation, the Commission stated that it shared the Joint Board's concern regarding this matter, but it would continue to evaluate this recommendation as it further developed a support mechanism based on forward-looking economic costs.

20. As noted above, currently incumbent LECs and competitive ETCs collectively serve a total of 32.2 million lines in high-cost areas. What percentage of these lines, or lines in any particular geographic area, are second lines? To the extent possible, commenters should provide detailed empirical information and should address whether the percentage of lines that should be deemed "second lines" varies in any way between incumbent LECs and competitive ETCs.

21. We seek comment regarding whether the goals of section 254 would be better served if support were limited to a single connection to the residential or single-line business end-user—whether provided by the incumbent or a competitive ETC. Would limiting support to primary lines be consistent with the universal service principle

stating that access in rural and high-cost areas should be "reasonably comparable" to urban areas? How would a primary line restriction affect the implementation of federal support mechanisms based on embedded or forward-looking costs? How would such a restriction affect the implementation of the Commission's interstate access reform goals adopted in the *CALLS Order*, 65 FR 57739, September 26, 2000 and *MAG Order*, 66 FR 59719, November 30, 2001? Commenters also should address the significance of carrier of last resort obligations to these issues. What would be the impact of primary line restrictions on consumers, ETCs, and an ETC's ability to provide universal service?

22. If support were limited to a single connection, how would it be determined which line receives support? Is it administratively feasible to distinguish primary from second lines? Commenters should address whether and how primary lines should be defined. Should the end user be defined as a household, or a single individual? How would a rule limiting support to a single residential end user affect households in which two or more unrelated individuals reside? The Commission previously acknowledged the administrative difficulties associated with applying different primary and non-primary residential SLC rates. Would similar problems arise if the Commission were to limit high-cost support to primary lines? Would such problems be magnified in a multi-carrier environment? Would limiting support to primary lines reduce incentives to construct second lines in high-cost areas or create a negative financial effect on the incumbent? If the Commission limited support to primary lines, would the Commission also need to revise how it determined the amount of support per line? If so, how should the level of support be determined?

23. If support were limited to a single connection, should the end user designate the line to be supported, and if so, how would this rule be administered? How would consumers be affected by such action? How would this affect the price of services for single line subscribers and multi-line subscribers? Under such an approach, should support depend on the type of line designated by the end user?

24. Should support be provided to second residences, and if not, how would second residences be defined? Alternatively, should the number of connections eligible for high-cost support be limited in some manner other than a primary line restriction?

25. We also ask commenters to discuss whether any proposed rule modifications would advance the goals of section 254, would be competitively neutral, and would promote more efficient competition in competitive study areas. How would a limit on the number of lines that receive support affect incumbent LECs' and competitive ETCs' incentives to compete for all lines? Would a limit on the number of lines that receive support be a barrier to entry? In addition, to what extent would any proposed modifications affect the size of the universal service fund?

#### D. Process for Designating ETCs

26. In order to receive universal service support, carriers must obtain ETC designation from the relevant state commission, or the Commission in cases where the state commission lacks jurisdiction. Before designating an additional ETC for an area served by a rural telephone company, the state commission or the Commission must find that the designation is in the public interest. We seek comment regarding the system for resolving requests for ETC designations under sections 214(e)(2) and 214 (e)(6) of the Act. Is there a need to clarify the standards for ETC designations under the Act? What factors should the Commission consider when it performs ETC designations pursuant to section 214(e)(6)? In particular, what factors should the Commission consider in determining whether designation of more than one ETC is consistent with the public interest, convenience, and necessity? What additional factors, if any, should be considered when considering whether to designate an ETC in a rural carrier study area?

27. We also seek specific comment on ETC designations performed by states pursuant to section 214(e)(2) of the Act. Is it advisable to establish permissive federal guidelines for states to use in designating ETCs pursuant to section 214(e)(2), and if so, what should be included in such guidelines? Should the Commission encourage states to have similar standards for the designation of ETCs? In considering this issue, commenters should also address the impact of the Fifth Circuit's decision regarding the Commission's ability to prohibit states from imposing additional eligibility criteria on ETCs. In addition, what effect, if any, does the current ETC designation system have on the emergence of competition? We also seek comment on the public interest finding that must be made before any competitive carrier can be designated as an ETC in a rural telephone company's

study area. What sort of factors do state commissions currently consider when evaluating whether the designation is in the public interest? If greater consistency among the states in performing the public interest evaluation is desirable, should the Commission provide guidance regarding the factors a state commission's public interest analysis should consider? To what extent are similar universal service obligations or quality of service obligations not imposed on incumbent LECs and competitive ETCs? Should any Commission guidelines differ depending upon whether or not the rural exemption has been lifted in the area for which ETC status is sought?

28. In the *Rural Task Force Order*, the Commission determined that rural carriers should be permitted to disaggregate and target per-line high-cost universal service support into geographic areas below the study area level. The Commission concluded that such action would ensure that support is "distributed in a manner that ensures that the per-line level of support is more closely associated with the cost of providing service." The Commission also determined that rural incumbent LECs must submit maps that clearly specify the boundaries of the designated disaggregation zones of support. Do the Commission's reporting requirements adequately ensure that competitors have sufficient information about the geographic scope of incumbent disaggregation zones? We invite commenters to address whether the Commission should clarify its requirements. Further, the Commission concluded in the *Rural Task Force Order* that the level of disaggregation of support should be considered in determining whether to certify new ETCs for a service area other than a rural carrier's entire study area. In light of the Commission's finding that disaggregation zones encourage efficient market entry, what weight should states and the Commission place on the presence of such zones when determining whether the designation of a competitive ETC below the study area level is in the public interest?

29. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before May 5, 2003, and reply comments on or before June 3, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Only one copy of an electronic submission must

be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and CC Docket No. 96-45. Parties also may submit electronic comments by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing.

30. All paper filings must be sent to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties who choose to file by paper also should send three copies of their filings to Sheryl Todd, Telecommunications Access Policy Division, 445 12th Street, SW., Room 5-B540, Washington, DC 20554. In addition, parties who choose to file by paper must send copies of their comments on diskette to the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Such submissions should be on a 3.5-inch diskette formatted in an IBM-compatible format using Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, CC Docket No. 96-45, the type of pleading (comment or reply comment), the date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file.

31. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

Federal Communications Commission.

**William F. Caton,**  
Deputy Secretary.

BILLING CODE 6712-01-P

**APPENDIX A**  
**Percentage of Zip Codes with Competitive Local Exchange Carriers**  
**(As of June 30, 2002)**

State	Number of CLECs								
	Zero	One - Three	Four	Five	Six	Seven	Eight	Nine	Ten or More
Alabama	39 %	46 %	12 %	2 %	2 %	0 %	0 %	0 %	0 %
Alaska	76	24	0	0	0	0	0	0	0
Arizona	28	33	7	10	9	9	4	1	0
Arkansas	69	31	0	0	0	0	0	0	0
California	15	42	7	7	7	6	6	4	6
Colorado	26	52	4	2	7	9	0	0	0
Connecticut	1	42	34	16	6	0	0	0	0
Delaware	0	100	0	0	0	0	0	0	0
Dist. of Columbia	15	19	26	22	19	0	0	0	0
Florida	9	28	8	6	5	5	6	5	27
Georgia	26	29	4	6	7	6	5	3	15
Hawaii	60	40	0	0	0	0	0	0	0
Idaho	45	55	0	0	0	0	0	0	0
Illinois	35	36	4	4	4	2	3	5	8
Indiana	45	46	5	3	0	0	0	0	0
Iowa	38	62	1	0	0	0	0	0	0
Kansas	60	33	6	1	0	0	0	0	0
Kentucky	79	21	0	0	0	0	0	0	0
Louisiana	26	45	7	4	4	7	7	0	0
Maine	34	66	0	0	0	0	0	0	0
Maryland	0	49	12	14	13	11	0	0	0
Massachusetts	1	40	23	11	11	5	5	3	0
Michigan	1	31	18	15	8	6	6	6	10
Minnesota	34	46	7	5	4	4	1	0	0
Mississippi	10	88	2	0	0	0	0	0	0
Missouri	49	30	6	6	3	3	3	0	0
Montana	93	7	0	0	0	0	0	0	0
Nebraska	67	28	5	0	0	0	0	0	0
Nevada	54	46	0	0	0	0	0	0	0
New Hampshire	3	82	14	0	0	0	0	0	0
New Jersey	2	40	18	16	11	8	4	0	0
New Mexico	85	15	0	0	0	0	0	0	0
New York	6	23	8	8	9	8	7	7	25
North Carolina	18	55	6	4	3	2	2	2	7
North Dakota	67	33	0	0	0	0	0	0	0
Ohio	37	39	7	5	4	2	3	3	0
Oklahoma	44	31	7	8	6	3	0	0	0
Oregon	51	30	10	7	3	0	0	0	0
Pennsylvania	19	35	8	7	5	5	4	4	13
Puerto Rico	81	19	0	0	0	0	0	0	0
Rhode Island	1	43	36	19	0	0	0	0	0
South Carolina	31	40	6	6	5	7	5	0	0
South Dakota	68	32	0	0	0	0	0	0	0
Tennessee	42	32	8	10	6	2	0	0	0
Texas	17	23	5	3	3	3	5	5	36
Utah	36	53	11	0	0	0	0	0	0
Vermont	14	86	0	0	0	0	0	0	0
Virginia	28	48	6	6	6	4	1	0	0
Washington	42	38	6	3	4	4	4	0	0
West Virginia	99	1	0	0	0	0	0	0	0
Wisconsin	32	54	6	5	3	0	0	0	0
Wyoming	45	55	0	0	0	0	0	0	0
Nationwide	33 %	38 %	7 %	5 %	4 %	3 %	2 %	2 %	6 %