

research into arthritis and musculoskeletal diseases; and orthopedic procedures, training, and information programs for the health community and the general public;

(i) For purposes of grants authorized by section 445 of the Act, a public or private nonprofit entity (including university medical centers) which conducts basic and clinical research (including multidisciplinary research) into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods for Alzheimer's disease;

(j) For purposes of grants authorized by section 445A of the Act, a single public or private nonprofit institution or entity or a consortium of cooperating institutions or entities which conducts research into the aging processes and into the diagnosis and treatment of diseases, disorders, and complications related to aging, including menopause, which research includes research on such treatments, and on medical devices and other medical interventions regarding such diseases, disorders, and complications, that can assist individuals in avoiding institutionalization and prolonged hospitalization and in otherwise increasing the independence of the individuals.

(k) For the purposes of section 445I of the Act, a single institution or consortium of cooperating institutions which conducts basic and clinical research on Alzheimer's disease.

(l) For purposes of grants authorized by section 447 of the Act, a single institution or consortium of cooperating institutions which conducts basic and clinical research on chronic fatigue syndrome;

(m) For purposes of grants authorized by section 452A of the Act, a single institution or consortium of cooperating institutions which conducts clinical and other applied research, training programs, continuing education programs, and information programs with respect to methods of contraception, and infertility;

(n) For purposes of grants authorized by section 452C of the Act, an agency or institution which conducts research with respect to child health, and gives priority to the expeditious transfer of advances from basic science to clinical applications and improving the care of infants and children;

(o) For purposes of grants authorized by section 452E of the Act, a single institution or a consortium of cooperating institutions which conducts research for the purposes of improving the diagnosis and treatment of, and finding the cure for, fragile X;

(p) For purposes of grants authorized by section 464C of the Act, a single institution or a consortium of cooperating institutions which conducts basic and clinical research into, training in, information and continuing education programs for the health community and the general public about, and demonstration of, advanced diagnostic, prevention, and treatment methods for disorders of hearing and other communication processes and complications resulting from these disorders;

(q) For purposes of grants authorized by section 464N of the Act, institutions designated as National Drug Abuse Research Centers for interdisciplinary research relating to drug abuse and other biomedical, behavioral, and social issues related to drug abuse;

(r) For purposes of grants authorized by section 485F of the Act, a biomedical or behavioral research institution or consortia that:

(1) Have a significant number of members of minority health disparity populations or other health disparity populations enrolled as students in the institution (including individuals accepted for enrollment in the institution);

(2) Have been effective in assisting such students of the institution to complete the program of education or training and receive the degree involved;

(3) Have made significant efforts to recruit minority students to enroll in and graduate from the institution, which may include providing means-tested scholarships and other financial assistance as appropriate; and

(4) Have made significant recruitment efforts to increase the number of minority or other members of health disparity populations serving in faculty or administrative positions at the institution; or

(s) For the purposes of grants authorized in section 2316 of the Act, an entity for basic and clinical research into, and training in, advanced diagnostic, prevention, and treatment methods for acquired immunodeficiency syndrome (AIDS).

■ 4. Section 52a.3 is amended by revising paragraphs (a) and (b) to read as follows:

§ 52a.3 Who is eligible to apply?

(a) Any public or private nonprofit agency, institution, or consortium of agencies is eligible to apply for a grant under sections 409C, 414, 417, 417A, 422, 445, 445A, 445I, 447, 452A, and 2316 of the Act.

(b) Any public or private nonprofit or for-profit agency, institution, or

consortium of agencies is eligible to apply for a grant under sections 428, 431, 434, 441, 452C, 452E, 464C, 464J, 464N, and 485F of the Act.

* * * * *

■ 5. Section 52a.8 is amended by revising unnumbered paragraphs 21 and 22 to read as follows:

§ 52a.8 Other HHS regulations and policies that apply.

* * * * *

Public Health Service Policy on Humane Care and Use of Laboratory Animals, Office of Laboratory Animal Welfare, Office of Extramural Research, NIH (Revised September 1986).

Note: This policy is subject to change, and interested persons should contact the Office of Laboratory Animal Welfare, Office of Extramural Research, NIH, Rockledge 1, 6705 Rockledge Drive, Bethesda, Maryland 20817, telephone 301-594-2382 (not a toll-free number) to obtain references to the current version and any amendments.

[FR Doc. 03-30757 Filed 12-12-03; 8:45 am]

BILLING CODE 4140-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96-45; FCC 03-249]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, in response to the decision of the United States Court of Appeals for the Tenth Circuit and the recommendations of the Federal-State Joint Board on Universal Service, the Commission modifies the high-cost universal service support mechanism for non-rural carriers and adopts measures to induce states to ensure reasonable comparability of rural and urban rates in areas served by non-rural carriers.

DATES: Effective January 14, 2004, except for §§ 54.316(a) and 54.316(c) which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the Federal Register announcing the effective date of those sections.

FOR FURTHER INFORMATION CONTACT: Jennifer Schneider, Attorney, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Remand and Memorandum Opinion and Order in CC Docket No. 96-45 released on October 27, 2003. There was also a Companion Further Notice of Proposed Rulemaking released in CC Docket No. 96-45 on October 27, 2003. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC, 20554 or at www.fcc.gov/wcb/universal_service/highestcost.html.

I. Introduction

1. In this Order, in response to the decision of the United States Court of Appeals for the Tenth Circuit and the recommendations of the Federal-State Joint Board on Universal Service (Joint Board), we modify the high-cost universal service support mechanism for non-rural carriers and adopt measures to induce States to ensure reasonable comparability of rural and urban rates in areas served by non-rural carriers. We will continue to determine non-rural support by comparing statewide average costs to a national cost benchmark, but we establish a new cost benchmark at two standard deviations above the national average cost. Our action today ties the cost benchmark more closely to the data in the record, consistent with the court's directive, but does not substantially alter the level of non-rural support. Based on analysis of the relevant data, we explain why the modified non-rural mechanism will be sufficient to achieve the statutory principle of making rural and urban rates for non-rural carrier customers reasonably comparable.

2. In addition, we will implement a rate review, through an expanded annual certification process, to induce States to achieve reasonably comparable rates and to assess how successfully the non-rural high-cost support mechanism ensures reasonably comparable rural and urban rates. Consistent with the Joint Board recommendation, States will be required to certify that the basic service rates in their rural, high-cost areas served by non-rural carriers are reasonably comparable to a national urban rate benchmark or explain why they are not. This process will add a dynamic element to the non-rural high-cost support mechanism. By requiring States to review their rates in rural, high-cost areas served by non-rural carriers annually in comparison to a national urban rate benchmark, the Commission will be able to determine whether Federal and State universal service mechanisms are resulting in

reasonably comparable rural and urban rates as competition develops and erodes implicit support mechanisms.

II. Executive Summary

1. In this Order, we take the following actions to modify the non-rural high-cost support mechanism and to induce States to ensure reasonably comparable rural and urban rates in areas served by non-rural carriers:

- Consistent with the Joint Board's recommendations, we reaffirm that comparing statewide average costs to a nationwide cost benchmark reflects the appropriate Federal and State roles in determining Federal non-rural high-cost support. We find no evidence in the record either for radically altering the current non-rural mechanism or for establishing a substantially larger Federal subsidy to lower local telephone service rates, as some commenters advocate.

- In response to the Tenth Circuit's remand, we define the relevant statutory terms "sufficient" and "reasonably comparable" more precisely for purposes of the non-rural mechanism. As recommended by the Joint Board, we define "sufficient" in terms of the statutory principle in section 254(b)(3), as enough Federal support to enable States to achieve reasonable comparability of rural and urban rates in high-cost areas served by non-rural carriers. We also agree with the Joint Board that the principle of sufficiency means that non-rural support should be only as large as necessary to achieve the statutory goal. We define "reasonably comparable" in terms of a national urban rate benchmark recommended by the Joint Board. As part of the rate review process discussed below, the rate benchmark will be used in determining whether a State's local rates in rural, high-cost areas served by non-rural carriers are reasonably comparable to urban rates nationwide.

- We modify the non-rural mechanism by basing the cost benchmark, which is used to determine the amount of non-rural high-cost support, on two standard deviations above the national average cost per line. Modifying the cost benchmark ties it more directly to the relevant data, consistent with the court's directive, but does not alter the level of non-rural support in a major way. We agree with the Joint Board that the current level of non-rural support is supported by data from a General Accounting Office (GAO) Report indicating that rural and urban rates generally are reasonably comparable today.

- To induce States to achieve reasonably comparable rates, we adopt

with minor changes the rate review and expanded certification process recommended by the Joint Board. Each State will be required to review its rates in rural, high-cost areas served by non-rural carriers annually to assess their comparability to urban rates nationwide, and then to file a certification with the Commission stating whether its rural rates are reasonably comparable to urban rates nationwide or explaining why they are not.

- For purposes of the rate review process, we adopt the Joint Board's recommendation that we establish an annually-adjusted nationwide rate benchmark based on the most recent urban residential rates in the *Reference Book*, the Wireline Competition Bureau's annual rate survey. Specifically, we adopt a rate benchmark of two standard deviations above the average urban rate, which, based on the most recent *Reference Book* survey, is \$32.28 or 138 percent of the average urban rate. The rate benchmark will establish a "safe harbor," that is, a presumption that rates in rural, high-cost areas that are below the rate benchmark are reasonably comparable to urban rates nationwide. States with rural rates below the rate benchmark may certify that their rates are reasonably comparable without providing additional information, or rebut the presumption by demonstrating that factors other than basic service rates affect the comparability of their rates.

- For purposes of the rate review process, we also establish a basic service rate template for states to use in comparing rates in rural, high-cost areas served by non-rural carriers to the nationwide urban rate benchmark. In addition, we adopt, with slight modifications, the definition of "rural area" already contained in § 54.5 of the Commission's rules for purposes of the rate review process.

- We adopt the Joint Board's recommendation to permit States to request further Federal action, if necessary, based on a demonstration that the State's rates in rural, high-cost areas served by non-rural carriers are not reasonably comparable to urban rates nationwide and that the State has taken all reasonable steps to achieve reasonable comparability through State action and existing Federal support.

- In response to the Tenth Circuit's remand, we review and explain our comprehensive plan for supporting universal service in high-cost areas.

III. Procedural Matters

A. Final Regulatory Flexibility Analysis

4. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Remand Notice*, 67 FR 10846, March 11, 2002. The Commission sought written public comment on the proposals in the *Remand Notice*, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the Report and Order

5. This Order is necessary to respond to the remand by the United States Court of Appeals for the Tenth Circuit of the *Ninth Report and Order*, 64 FR 67416, December 12, 1999, and also to respond to the Joint Board's *Recommended Decision*. Along with fulfilling the court's remand requirements, the objectives of this Order are to implement a non-rural high-cost support mechanism that fulfills the relevant principles in section 254(b) of the Act. The rules we adopt in this Order reflect the Commission's careful and considered determination to implement the mechanism consistently with section 254(b) and with the Joint Board's recommendations.

6. In this Order, we take the following actions in response to the Tenth Circuit's remand and the Joint Board's recommendations to modify the non-rural high-cost support mechanism and to induce States to ensure reasonably comparable rural and urban rates in areas served by non-rural carriers:

- Consistent with the Joint Board's recommendations, we reaffirm that comparing statewide average costs to a nationwide cost benchmark reflects the appropriate Federal and State roles in determining Federal non-rural high-cost support. We find no evidence in the record either for radically altering the current non-rural mechanism or for establishing a substantially larger Federal subsidy to lower local telephone service rates, as some commenters advocate.

- In response to the Tenth Circuit's remand, we define the relevant statutory terms "sufficient" and "reasonably comparable" more precisely for purposes of the non-rural mechanism. As recommended by the Joint Board, we define "sufficient" in terms of the statutory principle in section 254(b)(3), as enough Federal support to enable States to achieve reasonable comparability of rural and urban rates in high-cost areas served by non-rural carriers. We also agree with the Joint

Board that the principle of sufficiency means that non-rural support should be only as large as necessary to achieve the statutory goals. We define "reasonably comparable" in terms of a national urban rate benchmark recommended by the Joint Board. As part of the rate review process discussed, the rate benchmark will be used in determining whether a State's local rates in rural, high-cost areas served by non-rural carriers are reasonably comparable to urban rates nationwide.

- We modify the non-rural mechanism by basing the cost benchmark, which is used to determine the amount of non-rural high-cost support, on two standard deviations above the national average cost per line. Modifying the cost benchmark ties it more directly to the relevant data, consistent with the court's directive, but does not alter the level of non-rural support in a major way. We agree with the Joint Board that the current level of non-rural support is supported by data from the GAO Report indicating that rural and urban rates generally are reasonably comparable today.

- To induce States to achieve reasonably comparable rates, we adopt with minor changes the rate review and expanded certification process recommended by the Joint Board. Each State will be required to review its rates in rural, high-cost areas served by non-rural carriers annually to assess their comparability to urban rates nationwide, and then to file a certification with the Commission stating whether its rural rates are reasonably comparable to urban rates nationwide or explaining why they are not.

- For purposes of the rate review process, we adopt the Joint Board's recommendation that we establish an annually-adjusted nationwide rate benchmark based on the most recent urban residential rates in the Reference Book, the Wireline Competition Bureau's annual rate survey. Specifically, we adopt a rate benchmark of two standard deviations above the average urban rate, which, based on the most recent Reference Book survey, is \$32.28 or 138 percent of the average urban rate. The rate benchmark will establish a "safe harbor," that is, a presumption that rates in rural, high-cost areas that are below the rate benchmark are reasonably comparable to urban rates nationwide. States with rural rates below the rate benchmark may certify that their rates are reasonably comparable without providing additional information, or rebut the presumption by demonstrating

that factors other than basic service rates affect the comparability of their rates.

- For purposes of the rate review process, we also establish a basic service rate template for States to use in comparing rates in rural, high-cost areas served by non-rural carriers to the nationwide urban rate benchmark. In addition, we adopt, with slight modifications, the definition of "rural area" already contained in § 54.5 of the Commission's rules for purposes of the rate review process.

- We adopt the Joint Board's recommendation to permit States to request further Federal action, if necessary, based on a demonstration that the State's rates in rural, high-cost areas served by non-rural carriers are not reasonably comparable to urban rates nationwide and that the State has taken all reasonable steps to achieve reasonable comparability through State action and existing Federal support.

- In response to the Tenth Circuit's remand, we review and explain our comprehensive plan for supporting universal service in high-cost areas.

2. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

7. The Commission received no comments specifically addressing the IRFA. Nonetheless, the Commission considered the potential impact of the adopted rules on small entities and, based on analysis of the relevant data, determined that the compliance burden for small entities directly impacted will not be significant.

8. We note that the Commission did receive some general small entity-related comments not specifically addressing the rules and policies presented in the IRFA. Some commenters suggested that eligible communications carriers (ETCs) should be treated differently than the incumbent non-rural carriers. CUSC stated that the certification process should apply only to the incumbent non-rural carriers. RICA stated that ETCs and incumbent non-rural carriers should receive support through separate mechanisms. In making the determination reflected in the Order, we have considered the impact of our actions on these small entities. We have determined that any impact on small entities will be negligible.

9. Other small-entity related comments concerned the rural high-cost support mechanism and were not relevant to this Order, which modifies the non-rural high-cost support mechanism only. The Federal non-rural high-cost support mechanism, revised and implemented by this Order,

calculates and distributes Federal support to non-rural carriers providing service in high-cost areas. For purposes of the mechanism, "non-rural carriers" are those that do not meet the statutory definition of a rural telephone company. As stated, the rural and non-rural high-cost support mechanisms are separate.

3. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

10. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that will be directly affected by the rules adopted herein. The RFA generally defines the term "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, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

11. The Commission has determined that the group of small entities directly affected by the rules adopted in this Order are eligible telecommunications carriers (ETCs) providing service in areas served by non-rural carriers. Within the category of ETCs we find competitive local exchange carriers (CLECs), which are all wired telecommunications carriers, and wireless carriers. Further descriptions of these entities are provided.

12. *Wired Telecommunications Carriers.* The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. According to Census Bureau data for 1997, there were 2,225 firms in this category, total, that operated for the entire year. Of this total, 2,201 firms had employment of 999 or fewer employees, and an additional 24 firms had employment of 1,000 or more. Thus, under this size standard, the great majority of firms can be considered small.

13. *Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs) and "Other Local Exchange Carriers."* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to providers of

competitive exchange services or to competitive access providers or to "Other Local Exchange Carriers." The closest applicable size standard under SBA rules is for Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 532 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 532 companies, an estimated 411 have 1,500 or fewer employees and 121 have more than 1,500 employees. In addition, 55 carriers reported that they were "*Other Local Exchange Carriers.*" Of the 55 "*Other Local Exchange Carriers,*" an estimated 53 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, and "*Other Local Exchange Carriers*" are small entities that may be affected by the rules and policies adopted herein.

14. *Cellular and Other Wireless Telecommunications Carriers.* The SBA has developed a small size standard for Cellular and Other Wireless Telecommunications Carriers which consists of all such companies having 1,500 or fewer employees. According to the Commission's most recent data, 1,761 companies reported that they were engaged in the provision of wireless service. Of these, 1,761 companies, and estimated 1,175 have 1,500 or fewer employees and 586 have more than 1,500 employees. Consequently, the Commission estimates that most wireless service providers are small entities that may be affected by the rules and policies adopted herein.

15. *Eligible Telecommunications Carriers (ETCs) that Provide Service in Areas Served by Non-Rural Carriers.* Neither the SBA nor the Commission has developed a definition of small entities specifically applicable to ETCs. ETC designation allows a carrier to receive universal service support in accordance with section 254 of the Act. An entity is designated as an ETC by a State commission or, if there is no State jurisdiction, by the Commission upon meeting the requirements of section 214(e) of the Act. Any entity offering services supported by Federal universal service mechanisms that uses its own facilities or a combination of its own facilities and resale of another carrier's services and advertises such charges and rates can seek designation as an

ETC. ETCs are competitive carriers that are not dominant in the field. The group of ETCs providing service in areas served by non-rural carriers is composed of mostly competitive local exchange carriers (CLECs) and wireless carriers. We have indicated above that, pursuant to SBA standards, ETCs are CLECs or wireless carriers. In addition, we note that the only ETCs affected by this Order are those that provide service in areas served by non-rural carriers. If we had no further information concerning the specific ETCs affected by this rulemaking, we would estimate that numerous ETCs, which are either CLECs or wireless service providers that provide service in areas served by non-rural carriers, are small businesses that may be affected by the rules adopted herein.

16. At this time, however, the Commission is aware of approximately 30 ETCs providing service in areas served by non-rural carriers. We have determined that at least 9 of these ETCs are subsidiaries of public companies—not independently owned and operated—and, therefore, not small businesses under the Small Business Act. We do not have data specifying whether the remaining ETCs, or other ETCs not accounted for, are independently owned and operated, and therefore we are unable to estimate with greater precision the number of these carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are 20 or fewer small entities that may be affected directly by the proposed rules herein adopted.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

17. This Order does not impose directly any change in projected reporting, record keeping or other compliance requirements on small entities. No changes have been made to the reporting or recordkeeping requirements of carriers receiving Federal non-rural high-cost support.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

18. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): "(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of

compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.”

19. In this Order, in response to the Tenth Circuit’s remand and the Joint Board’s *Recommended Decision*, we modify the high-cost universal service support mechanism for non-rural carriers and adopt measures to induce states to ensure reasonable comparability of rural and urban rates in areas served by non-rural carriers. Our actions may affect the amount of support distributed to non-rural carriers and ETCs providing service in areas served by non-rural carriers. Based on our analysis of the relevant data, the Commission believes that there will be minimal, if any, economic impact on small entities in adopting modifications to the Federal non-rural high-cost support mechanism and rate review and expanded certification process. The modifications to the current Federal non-rural high-cost support mechanism, as adopted in the Order, should maintain or increase the current level of non-rural high-cost support to carriers receiving such support. As such, based on the relevant data, we anticipate little, if any, negative economic effects on any small businesses directly affected by the modifications to the non-rural high-cost mechanism implemented by this Order.

6. Report to Congress

20. The Commission will send a copy of the Order, including the FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

B. Paperwork Reduction Act Analysis

21. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose new or modified reporting and recordkeeping requirements or burdens on the public. Implementation of these new or modified reported and recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB) as prescribed by the Act, and will go into effect upon announcement in the **Federal Register** of OMB approval.

IV. Ordering Clauses

22. Pursuant to the authority contained in sections 1, 4(i), 4(j), 201–205, 214, 218–220, 254, 403 and 405 of the Communications Act of 1934, as amended, this Order on Remand is hereby adopted.

23. Part 54 of the Commission’s rules is amended as set forth attached hereto, effective January 14, 2004, except for §§ 54.316(a) and 54.316(c) which contain information collection requirements that have not been approved by the Office of Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections.

24. Pursuant to § 1.106(j) of the Commission’s rules, the Petitions for Reconsideration of the Ninth Report and Order and Eighteenth Order on Reconsideration filed by AT&T Corp., Personal Communications Industry Association, Puerto Rico Telephone Company, and the Wyoming Public Service Commission on January 3, 2000, are denied, and the Petition for Reconsideration of the Ninth Report and Order and Eighteenth Order on Reconsideration filed by SBC Communications Inc. on January 3, 2000, is denied in part and dismissed as moot in part.

25. Pursuant to section 4(i) of the Communications Act of 1934, as amended, and § 1.3 of the Commission’s rules, the Petition for Waiver of § 36.631 of the Commission’s Rules Governing the Universal Service Fund, filed by the Vermont Department of Public Service and the Vermont Public Service Board, September 21, 1993, AAD 93–103, is dismissed as moot.

26. The Commission’s Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Order on Remand and Memorandum Opinion and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citations continue to read as follows:

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

■ 2. Amend § 54.309 by revising paragraph (a)(3) to read as follows:

§ 54.309 Calculation and distribution of forward-looking support for non-rural carriers.

(a) * * *
(3) The national cost benchmark shall equal two weighted standard deviations above the national average FLEC per line.

* * * * *

■ 3. Add § 54.316 to subpart D to read as follows:

§ 54.316 Rate comparability review and certification for areas served by non-rural carriers.

(a) *Certification.* Each state will be required annually to review the comparability of residential rates in rural areas of the state served by non-rural incumbent local exchange carriers to urban rates nationwide, and to certify to the Commission and the Administrator as to whether the rates are reasonably comparable, for purposes of section 254(b)(3) of the Telecommunications Act of 1996. If a state does not rely on the safe harbor described in paragraph (b) of this section, or certifies that the rates are not reasonably comparable, the state must fully explain its rate comparability analysis and provide data supporting its certification, including but not limited to residential rate data for rural areas within the state served by non-rural incumbent local exchange carriers. If a state certifies that the rates are not reasonably comparable, it must also explain why the rates are not reasonably comparable and explain what action it intends to take to achieve rate comparability.

(b) *Safe harbor.* For the purposes of its certification, a state may presume that the residential rates in rural areas served by non-rural incumbent local exchange carriers are reasonably comparable to urban rates nationwide if the rates are below the nationwide urban rate benchmark. The nationwide urban rate benchmark shall equal the most recent average urban rate plus two weighted standard deviations. The benchmark shall be calculated using the average urban rate and standard deviation shown in the most recent annual *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* published by the Wireline Competition Bureau. To the extent that a state relies

on the safe harbor, the rates that it compares to the nationwide urban rate benchmark shall include the access charges and other mandatory monthly rates included in the rate survey published in the most recent annual *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service*. The *Reference Book of Rates, Price Indices, and Expenditures for Telephone Service* is available for public inspection at the Commission's Reference Center at 445 12th Street, S.W., Washington, D.C. 20554 and on the Commission Web site at www.fcc.gov/wcb/iatd/lec.html.

(c) *Definition of "rural area."* For the purposes of this section, a "rural area" is a non-metropolitan county or county equivalent, as defined in the Office of Management and Budget's (OMB) Revised Standards for Defining Metropolitan Areas in the 1990s and identifiable from the most recent Metropolitan Statistical Area (MSA) list released by OMB. At a state's discretion, a "rural area" may also include any wire center designated by the state as rural for the purposes of this section. In the event that a state designates a wire center as rural, it must provide an explanation supporting such designation in its certification pursuant to paragraph (a) of this section.

(d) *Schedule for certification.* Annual certifications are required on the schedule set forth in § 54.313(d)(3), beginning October 1, 2004. Certifications due on October 1 of each year shall pertain to rates as of the prior July 1. Certifications filed during the remainder of the schedule set forth in § 54.313(d)(3) shall pertain to the same date as if they had been filed on October 1.

(e) *Effect of failure to certify.* In the event that a state fails to certify, no eligible telecommunications carrier in the state shall receive support pursuant to § 54.309.

[FR Doc. 03-30826 Filed 12-12-03; 8:45 am]
BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03-3853, MB Docket No. 03-97, RM-10683]

Digital Television Broadcast Service; Juneau, AK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Capital Community Broadcasting, Inc., substitutes DTV channel *10 for DTV channel *6 at Juneau, Alaska. See 68 FR 19486, April 21, 2003. DTV channel *10 can be allotted to Juneau, Alaska, in compliance with the principle community coverage requirements of section 73.625(a) at reference coordinates 58-18-04 N. and 134-25-21 W. with a power of 0.748, HAAT of -320.3 meters and with a DTV service population of thousand 26. Since the community of Juneau is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government was obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective January 20, 2004.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 03-97, adopted December 2, 2003, and released December 5, 2003. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. 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.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.622 [Amended]

■ 2. Section 73.622(b), the Table of Digital Television Allotments under Alaska, is amended by removing DTV channel *6 and adding DTV channel *10 at Juneau.

Federal Communications Commission.

Barbara A. Kreisman,
Chief, Video Division, Media Bureau.

[FR Doc. 03-30880 Filed 12-12-03; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03-3852, MM Docket No. 00-198, RM-9980]

Digital Television Broadcast Service; Corpus Christi, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of KVOA Communications, Inc., substitutes DTV channel 13 for DTV channel 50 at Corpus Christi, Texas. See 65 FR 61299, October 17, 2000. DTV channel 13 can be allotted to Corpus Christi, Texas, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 27-44-28 N. and 97-36-08 W. with a power of 160, HAAT of 291 meters and with a DTV service population of 501 thousand. Since the community of Corpus Christi is located within 275 kilometers of the U.S.-Mexican border, concurrence from the Mexican government has been obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective January 20, 2004.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418-1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 00-198, adopted December 2, 2003, and released December 5, 2003. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Digital television broadcasting, Television.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

■ 1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.