

§ 54.305

the annual percentage change in the actual nationwide average unseparated loop cost per working loop as filed by the Administrator in the previous calendar year, pursuant to § 36.622 of this chapter.

(3) To calculate Long Term Support for calendar year 1999, the Administrator shall adjust the level of support calculated in paragraph (b)(2) of this section to reflect the annual percentage change in the actual nationwide average unseparated loop cost per working loop as filed by the Administrator in the previous calendar year, pursuant to § 36.622 of this chapter.

(4) Beginning January 1, 2000, the Administrator shall calculate Long Term Support annually by adjusting the previous year's level of support to reflect the annual percentage change in the Department of Commerce's Gross Domestic Product-Chained Price Index (GDP-CPI).

(5)(i) Beginning July 1, 2002, each carrier will be eligible to receive LTS equal to the lesser of:

(A) The LTS for which the carrier would be eligible pursuant to paragraph (b)(4) of this section, or

(B) Its common line revenue requirement as calculated in accordance with part 69 of this chapter, minus:

(1) The study area revenues obtained from end-user common line charges at their allowable maximum as determined by §§ 69.104(n) and 69.104(o) of this chapter;

(2) The carrier common line charge revenues to be phased out pursuant to § 69.105 of this chapter;

(3) The special access surcharges pursuant to § 69.114 of this chapter; and

(4) The line port costs in excess of basic analog service pursuant to § 69.130 of this chapter.

(ii) Under no circumstance shall a carrier have LTS that is less than zero.

(iii) In calculating an LTS amount pursuant to paragraph (b)(5)(i)(B) of this section, the Administrator shall use data filed pursuant to § 54.903 of this chapter.

[63 FR 2128, Jan. 13, 1998; 63 FR 33586, June 19, 1998, as amended at 67 FR 42506, June 24, 2002; 67 FR 70702, Nov. 26, 2002; 69 FR 25336, May 6, 2004]

§ 54.305 Sale or transfer of exchanges.

(a) The provisions of this section are not applicable to the sale or transfer of exchanges between non-rural carriers after the complete phase-down of interim hold-harmless support, pursuant to § 54.311, for the non-rural carriers subject to the transaction.

(b) Except as provided in paragraph (c) of this section, a carrier that acquires telephone exchanges from an unaffiliated carrier shall receive universal service support for the acquired exchanges at the same per-line support levels for which those exchanges were eligible prior to the transfer of the exchanges. If the acquired exchanges are incorporated into an existing rural incumbent local exchange carrier study area, the rural incumbent local exchange carrier shall maintain the costs associated with the acquired exchanges separate from the costs associated with its pre-acquisition study area. The transferred exchanges may be eligible for safety valve support for loop related costs pursuant to paragraph (d) of this section.

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

(d) Transferred exchanges in study areas operated by rural telephone companies that are subject to the limitations on loop-related universal service support in paragraph (b) of this section may be eligible for a safety valve loop cost expense adjustment based on the difference between the rural incumbent local exchange carrier's index year expense adjustment and subsequent year loop cost expense adjustments for the acquired exchanges. Safety valve loop cost expense adjustments shall only be available to rural incumbent local exchange carriers that, in the absence of restrictions on high-cost loop support in § 54.305(b), would qualify for high-cost loop support for the acquired exchanges under § 36.631 of this chapter.

(1) For carriers that buy or acquire telephone exchanges on or after January 10, 2005 from an unaffiliated carrier, the index year expense adjustment for the acquiring carrier's first year of operation shall equal the selling carrier's loop-related expense adjustment for the transferred exchanges for the 12-month period prior to the transfer of the exchanges. At the acquiring carrier's option, the first year of operation for the transferred exchanges, for purposes of calculating safety valve support, shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. For the first year of operation, a loop cost expense adjustment, using the costs of the acquired exchanges submitted in accordance with §§36.611 and 36.612 of this chapter, shall be calculated pursuant to §36.631 of this chapter and then compared to the index year expense adjustment. Safety valve support for the first period of operation will then be calculated pursuant to paragraph (d)(3) of this section. The index year expense adjustment for years after the first year of operation shall be determined using cost data for the first year of operation of the transferred exchanges. Such cost data for the first year of operation shall be calculated in accordance with §§36.611, 36.612 and 36.631 of this chapter. For each year, ending on the same calendar quarter as the first year of operation, a loop cost expense adjustment, using the loop costs of the acquired exchanges, shall be submitted and calculated pursuant to §§36.611, 36.612, and 36.631 of this chapter and will be compared to the index year expense adjustment. Safety valve support for the second year of operation and thereafter will then be calculated pursuant to paragraph (d)(3) of this section.

(2) For carriers that bought or acquired exchanges from an unaffiliated carrier before January 10, 2005, and are not subject to the exception in paragraph (c) of this section, the index year expense adjustment for acquired exchange(s) shall be equal to the rural incumbent local exchange carrier's high-cost loop expense adjustment for the acquired exchanges calculated for the carrier's first year of operation of the

acquired exchange(s). At the carrier's option, the first year of operation of the transferred exchanges shall commence at the beginning of either the first calendar year or the next calendar quarter following the transfer of exchanges. The index year expense adjustment shall be determined using cost data for the acquired exchange(s) submitted in accordance with §§36.611 and 36.612 of this chapter and shall be calculated in accordance with §36.631 of this chapter. The index year expense adjustment for rural telephone companies that have operated exchanges subject to this section for more than a full year on the effective date of this paragraph shall be based on loop cost data submitted in accordance with §36.612 of this chapter for the year ending on the nearest calendar quarter following the effective date of this paragraph. For each subsequent year, ending on the same calendar quarter as the index year, a loop cost expense adjustment, using the costs of the acquired exchanges, will be calculated pursuant to §36.631 of this chapter and will be compared to the index year expense adjustment. Safety valve support is calculated pursuant to paragraph (d)(3) of this section.

(3) Up to fifty (50) percent of any positive difference between the transferred exchanges loop cost expense adjustment and the index year expense adjustment will be designated as the transferred exchange's safety valve loop cost expense adjustment and will be available in addition to the per-line loop-related support transferred from the selling carrier to the acquiring carrier pursuant to §54.305(b). In no event shall a study area's safety valve loop cost expense adjustment exceed the difference between the carrier's study area loop cost expense adjustment calculated pursuant to §36.631 of this chapter and transferred support amounts available to the acquired exchange(s) under paragraph (b) of this section. Safety valve support shall not transfer with acquired exchanges.

(e) The sum of the safety valve loop cost expense adjustment for all eligible study areas operated by rural telephone companies shall not exceed five (5) percent of the total rural incumbent local exchange carrier portion of the

annual nationwide loop cost expense adjustment calculated pursuant to § 54.303 of this chapter. The five (5) percent cap on the safety valve mechanism shall be based on the lesser of the rural incumbent local exchange carrier portion of the annual nationwide loop cost expense adjustment calculated pursuant to § 54.303 of this chapter or the sum of rural incumbent local exchange carrier expense adjustments calculated pursuant to § 54.301 of this chapter. The percentage multiplier used to derive study area safety valve loop cost expense adjustments for rural telephone companies shall be the lesser of fifty (50) percent or a percentage calculated to produce the maximum total safety valve loop cost expense adjustment for all eligible study areas pursuant to this paragraph. The safety valve loop cost expense adjustment of an individual rural incumbent local exchange carrier also may be further reduced as described in paragraph (d)(3) of this section.

(f) Once an acquisition is complete, the acquiring rural incumbent local exchange carrier shall provide written notice to the Administrator that it has acquired access lines that may be eligible for safety valve support. Rural telephone companies also shall provide written notice to the Administrator defining their index year for those years after the first year of operation for purposes of calculating the safety valve loop cost expense adjustment.

[70 FR 10060, Mar. 2, 2005]

§ 54.307 Support to a competitive eligible telecommunications carrier.

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

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

LEC would receive for each such line, disaggregated by cost zone if disaggregation zones have been established within the service area pursuant to § 54.315 of this subpart. A competitive eligible telecommunications carrier serving loops in the service area of a non-rural incumbent local exchange carrier shall receive support for each line it serves in a particular wire center based on the support the incumbent LEC would receive for each such line. A competitive eligible telecommunications carrier serving loops in the service area of a rate-of-return carrier shall be eligible to receive Interstate Common Line Support for each line it serves in the service area in accordance with the formula in § 54.901.

(2) A competitive eligible telecommunications carrier that uses switching purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported services shall receive the lesser of the unbundled network element price for switching or the per-line DEM support of the incumbent LEC, if any. A competitive eligible telecommunications carrier that uses loops purchased as unbundled network elements pursuant to § 51.307 of this chapter to provide the supported services shall receive the lesser of the unbundled network element price for the loop or the incumbent LEC's per-line payment from the high-cost loop support, LTS, and Interstate Common Line Support mechanisms, if any. The incumbent LEC providing nondiscriminatory access to unbundled network elements to such competitive eligible telecommunications carrier shall receive the difference between the level of universal service support provided to the competitive eligible telecommunications carrier and the per-customer level of support that the incumbent LEC would have received.

(3) A competitive eligible telecommunications carrier that provides the supported services using neither unbundled network elements purchased pursuant to § 51.307 of this chapter nor wholesale service purchased pursuant to section 251(c)(4) of the Act will receive the full amount of universal service support that the incumbent LEC would have received for that customer.