

(b) *Telecommunications services.* Any telecommunications service that is the subject of a properly completed bona fide request by a rural health care provider shall be eligible for universal service support. Upon submitting a bona fide request to a telecommunications carrier, each eligible rural health care provider is entitled to receive the most cost-effective, commercially-available telecommunications service, and a telecommunications service carrier that is eligible for support under the Telecommunications Program shall provide such service at the urban rate, as defined in § 54.604.

(c) *Existing contracts.* A signed contract for services eligible for Telecommunications Program support pursuant to this subpart between an eligible health care provider, as defined under § 54.600, and a service provider shall be exempt from the competitive bid requirements as set forth in § 54.622(i).

§ 54.604 Determining the urban rate.

(a) *Urban rate.* An applicant shall use the applicable urban rate currently available in the Administrator's database when requesting funding. The "urban rate" shall be the median of all available rates identified by the Administrator for functionally similar services in all urbanized areas of the state where the health care provider is located to the extent that urbanized area falls within the state.

(b) *Database.* The Administrator shall create and maintain on its website a database that lists, by state, the eligible Telecommunications Program services and the related urban rate.

§ 54.605 Determining the rural rate.

(a) *Rural rate.* An applicant shall use the lower of the applicable "rural rate" currently available in the Administrator's database or the rural rate included in the service agreement that the health care provider enters into with the service provider when requesting funding.

(1) For purposes of paragraph (a) of this section, The rural rate will be determined using the following tiers in which a health care provider is located:

(i) *Extremely Rural.* Areas entirely outside of a Core Based Statistical Area.

(ii) *Rural.* Areas within a Core Based Statistical Area that does not have an Urban Area with a population of 25,000 or greater.

(iii) *Less rural.* Areas in a Core Based Statistical Area that contains an Urban Area with a population of 25,000 or greater, but are within a specific census tract that itself does not contain any part of a Place or Urban Area with a population of greater than 25,000.

(iv) *Frontier.* For health care providers located in Alaska only, areas outside of a Core Based Statistical Area that are inaccessible by road as determined by the Alaska Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs. The "rural rate" shall be the median of all available rates for the same or functionally similar service offered within the rural tier, applicable to the health care provider's location within the state. The Administrator shall not include any rates reduced by universal service support mechanisms. The "rural rate" shall be used as described in this subpart to determine the credit or reimbursement due to a telecommunications carrier that provides eligible telecommunications services to eligible health care providers.

(b) *Database.* The Administrator shall create and maintain on its website a database that lists, by state, the eligible Telecommunications Program services and the related rural rate for each such service and for each rural tier.

(c) *Request for waiver.* A petition for a waiver of the "rural rate," as described in paragraph (a) in this section, may be granted if the service provider demonstrates that application of the rural rate published by the Administrator would result in a projected rate of return on the net investment in the assets used to provide the rural health care service that is less than the Commission-prescribed rate of return for incumbent rate of return local exchange carriers (LECs). All waiver requests must articulate specific facts that demonstrate that "good cause" exists to grant the requested waiver

and that granting the requested waiver would be in the public interest. To satisfy this standard, the waiver request must be substantiated through documentary evidence as stated in the following. A waiver request will not be entertained if it does not also set forth a rural rate that the service provider demonstrates will permit it to obtain no more than the current Commission prescribed rate of return authorized for incumbent rate of return local exchange carriers.

(1) For purposes of paragraph (c), petitions seeking a waiver must include all financial data and other information to verify the service provider's assertions, including, at a minimum, the following information:

(i) Company-wide and rural health care service gross investment, accumulated depreciation, deferred state and federal income taxes, and net investment; capital costs by category expressed as annual figures (*e.g.*, depreciation expense, state and federal income tax expense, return on net investment); operating expenses by category (*e.g.*, maintenance expense, administrative and other overhead expenses, and tax expense other than income tax expense); the applicable state and federal income tax rates; fixed charges (*e.g.*, interest expense); and any income tax adjustments;

(ii) An explanation and a set of detailed spreadsheets showing the direct assignment of costs to the rural health care service and how company-wide common costs are allocated among the company's services, including the rural health care service, and the result of these direct assignments and allocations as necessary to develop a rate for the rural health care service;

(iii) The company-wide and rural health care service costs for the most recent calendar year for which full-time actual, historical cost data are available;

(iv) Projections of the company-wide and rural health care service costs for the funding year in question and an explanation of those projections;

(v) Actual monthly demand data for the rural health care service for the most recent three calendar years (if applicable);

(vi) Projections of the monthly demand for the rural health care service for the funding year in question, and the data and details on the methodology used to make those projections;

(vii) The annual revenue requirement (capital costs and operating expenses expressed as an annual number plus a return on net investment) and the rate for the funded service (annual revenue requirement divided by annual demand divided by twelve equals the monthly rate for the service), assuming one rate element for the service, based on the projected rural health care service costs and demands;

(viii) Audited financial statements and notes to the financial statements, if available, and otherwise unaudited financial statements for the most recent three fiscal years, specifically, the cash flow statement, income statement, and balance sheets. Such statements shall include information regarding costs and revenues associated with, or used as a starting point to develop, the rural health care service rate; and

(ix) Density characteristics of the rural area or other relevant geographical areas including square miles, road miles, mountains, bodies of water, lack of roads, remoteness, challenges and costs associated with transporting fuel, satellite and backhaul availability, extreme weather conditions, challenging topography, short construction season or any other characteristics that contribute to the high cost of servicing the health care providers.

§ 54.606 Calculating support.

(a) The amount of universal service support provided for an eligible service to be funded from the Telecommunications program shall be the difference, if any, between the urban rate and the rural rate charged for the services, as defined in this section. In addition, all reasonable charges that are incurred by taking such services, such as state and federal taxes, shall be eligible for universal service support. Charges for termination liability, penalty surcharges, and other charges not included in the cost of taking such service shall not be covered by the universal service support mechanisms.