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SPECIAL BULLETIN

RoR USF Reform Order Clarifications

The Wireline Competition Bureau released an order last week clarifying several items in the FCC's *RoR USF Reform Order* (see April 5, 2016 Special Bulletin).

Clarification Issues

- ⇒ **Transfer of Exchanges**
- ⇒ **Application of Monthly Per-Line Limit on Universal Service Support**
- ⇒ **Additional ACAM and Transitional Support Budget**
- ⇒ **Timing of Operating Expense Limitation and Reductions in Authorized Rate of Return**
- ⇒ **Additional Guidance Regarding Operating Expense Limitation**
- ⇒ **Timing of the Capital Investment Allowance**
- ⇒ **Additional Guidance Regarding the Capital Investment Allowance**
- ⇒ **Average Schedule Carrier Participation in the NECA traffic sensitive pool**
- ⇒ **Determining the Consumer Broadband-only Loop Investment and Expenses**
- ⇒ **Calculation of Budget Control**
- ⇒ **Contributions Treatment of Non-Tariffed Services**

Transfer of Exchanges

The Bureau clarified that the rule adopted in the *RoR USF Reform Order* to limit the amount of CAF BLS support to exchanges acquired from a price cap carrier applies only to acquisitions taking place after May 24, 2016 (the effective date of the rule). For other acquisitions, the BLS is calculated as otherwise provided for in the rules. In large part, this clarification maintains the status quo as to the FCC's policies on the so-called parent trap rule.

Application of Per-line limit on Universal Service Support

There was some question as to when/how the per-line limit on universal service support (i.e., $250 monthly per line or $3,000 annually) would apply. The Bureau clarifies that the limitation is applied prior to the application of the budgetary constraint adopted in the *RoR USF Reform Order*, meaning any reduction in the overall budget (and associated allocation of the reduction) will not affect the per-line limitation. It is also worth noting that in a May 4, 2016 *Erratum* Order, the

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FCC adopted a rule that, in essence, adds data only broadband lines to the calculation of the monthly per-line cap.

Additional ACAM and Transitional Support
The FCC adopted an additional amount of support for the ACAM path of up to $150m annually, or $1.5b over the ten-year term (includes both ACAM and transitional support). The Bureau now states that it will consider the annualized amount of support that will be disbursed over ten years, so that the annual additional support payments could exceed $150m in the early years.

Timing of Expense Limitation and Reductions in Rate of Return
In general, the operating expense limitations adopted in the RoR USF Reform Order will be effective 1/1/2017, for support payments disbursed in February 2017.

The first reduction in the rate of return (to 11%) will occur in July 2016. For HCLS, the new RoR will be applied to 2014 data that results in support payments beginning on July 1, 2016. For ICLS, "each carrier will file a revised Form 508 (forecasting interstate common line revenue requirement and revenues) on June 30 reflecting the July 1, 2016 effective date of the new authorized rate of return, and will incorporate the new authorized rate of return in its Form 509 (reporting actual interstate common line revenue requirement and revenues) when it is due on December 31, 2017."

Additional Guidance Regarding the Operating Expense Limitation
* Study areas that are not in the operating expense limitation regression are still subject to the operating expense limitation. This mostly affects average schedule companies, acquired exchanges subject to section 54.305 of the FCC rules, and companies converting from average schedule to cost.
* Study areas with acquired exchanges subject to 54.305 will be included in the regression using the operating costs, housing units and density associated with the remainder of their study area. There will be two operating expense limitations calculated for these study areas: (1) a limitation on operating expenses that may be recovered through HCLS using the data of the exchanges not subject to 54.305, and (2) a limitation for CAF-BLS using data for the entire study area.
* Also, the portion of operating expenses associated with acquired exchanges, and thus excluded from the regression analysis, is determined by applying the ratio of study area acquired operating expenses and the total study area operating expenses (both from NECA HCLS data) to the cost study operating expenses.
* The Bureau clarifies that no further action is necessary to make the corporate operations expense limitation operational for consumer broadband-only loops. Some parties argued that an additional calculation is necessary in order to apply the limitation to broadband-only costs and loops. The Bureau disagreed and stated "such modification is not necessary due to the manner in which the Consumer Broadband-only Loop Revenue Requirement is calculated. Pursuant to section 69.416, the Consumer Broadband-only Loop Revenue Requirement is calculated using common line expenses as a surrogate."

Timing of the Capital Investment Allowance
The capital investment allowance as adopted in the *RoR USF Reform Order* subject to several adjustments (e.g., broadband deployment allowance; geographic areas within the study area where there are currently no existing wireline loop facilities; geographic areas within the study area where grant funds are used for loop plant investment). Since the broadband deployment allowance is a percentage adjustment, and the other adjustments are flat amounts, the broadband deployment adjustment

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must be applied first.

Average Schedule Carrier Participation in the NECA Traffic-sensitive pool
In the *RoR USF Reform Order*, the Commission decided that carriers electing the ACAM path can no longer participate in the NECA Common Line pool. The Bureau now clarifies that average schedule companies that select the ACAM path can still participate in the NECA traffic-sensitive pool and tariff.

Determining the Consumer Broadband-only Loop Investment and Expenses
For broadband-only loop investment, the Commission adopted a methodology for determining the amount of investment and expenses to remove from the special access category. The methodology adopted consists, in part, of determining the average per-line investment and expense. The Bureau now clarifies that an average number of lines should be used when making this calculation.

Calculation of Budget Control
The total RoR carrier USF requirement budget has officially been set at $2 billion since the 2011 *Transformation Order*. The *RoR USF Reform Order* , with addition of two new mechanisms (ACAM and BLS), adopted a budget control mechanism that results in an amount available for legacy RoR mechanisms (e.g., HCLS) once all other programs are accounted for. The Bureau clarifies the "total demand" for RoR funds includes *forecasted* disbursements for RoR carriers, including HCLS (including safety net and safety valve), CAF BLS or ICLS, CAFF ICC, and ACAM support.

USAC is to assume that the HCLS cap for the next calendar year will be adjusted based on the most recent rural growth factor.

Contributions Treatment of Non-Tariffed Services
The Bureau clarified that RoR carriers may still (as has been the case since the FCC's 2005 Wireline Broadband Internet Order) offer DSL on a de-tariffed basis, and thus not be subject to the Federal Universal Service Charge (FUSC) on the non-tariffed, or Title I, services. As of now, it is unclear how DSL services provided on a de-tariffed basis would be treated in light of the *RoR USF Reform Order* and the new CAF BLS mechanism.

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