



Federal Communications Commission
Washington, D.C. 20554

DA 11-632

April 7, 2011

Richard A. Belden
Chief Operating Officer
Universal Service Administrative Company
2000 L St., N.W., Suite 200
Washington, DC 20036

Dear Mr. Belden:

This letter responds to a request from the Universal Service Administrative Company (USAC) for written guidance regarding the requirement, set forth in section 54.201(d)(2) of the Commission's rules,¹ regarding the scope of eligible telecommunications carriers (ETCs) obligation to advertise services supported by federal universal service support mechanisms.² Specifically, USAC requested guidance regarding whether ETCs "are required to separately list each [of the nine] supported service(s) enumerated in 47 C.F.R. § 54.101,"³ when advertising the availability of such services. The Wireline Competition Bureau sought comment on the question posed in the *USAC Letter*.⁴ After consideration of the filed comments in this proceeding⁵ and Commission precedent, this letter confirms that ETCs are not required to separately list each of the enumerated supported services in their advertisements.⁶

¹ 47 C.F.R. § 54.201(d)(2).

² Letter from Richard A. Belden, Chief Operating Officer, USAC, to Julie Veach, Acting Chief, Wireline Competition Bureau, FCC, WC Docket Nos. 05-337, 06-122 (filed Aug. 21, 2009) (*USAC Letter*).

³ *Id.* There are currently nine such supported services enumerated in section 54.101: (1) voice grade access to the public switched network; (2) local usage; (3) dual-tone multi-frequency signaling or its functional equivalent; (4) single-party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. See 47 C.F.R. § 54.101(a).

⁴ See *Comment Sought on Request for Universal Service Fund Policy Guidance Requested by the Universal Service Administrative Company*, WC Docket Nos. 05-337, 06-122, CC Docket No. 96-45, Public Notice, 24 FCC Rcd 12093 (Wireline Comp. Bur. 2009).

⁵ No commenter suggested that the Commission's rules require ETCs to list separately each of the supported services in their advertisements.

⁶ The Commission recently sought comment on modifying section 54.201(d)(2) in the context of comprehensive universal service reform. See *Connect America Fund*, WC Docket No. 10-90, *A National Broadband Plan for Our Future*, GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers*, WC Docket No. 07-135, *High-Cost Universal Service Support*, WC Docket No. 05-337, *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Federal-State Joint Board on Universal Service*, CC Docket No.

Section 254 of the Communications Act of 1934, as amended, provides that only carriers that have been designated as ETCs are eligible to receive federal universal service support.⁷ Section 214(e)(1)(B) requires ETCs to “advertise the availability of [supported] services and the charges therefore using media of general distribution.”⁸ Section 54.201(d)(1) of the Commission’s rules requires each ETC to “[o]ffer” the services identified in section 54.101 of the Commission’s rules, and section 54.201(d)(2) repeats the statutory requirement that the ETC “[a]dvertise the availability of such services and the charges therefore using media of general distribution.”⁹

Nothing in the Commission’s rules require an ETC to separately identify each supported service in its advertisements. The nine supported services set forth in the Commission’s rules are, from the consumer’s perspective, all components of a single service: voice telephony service. Thus, when an ETC advertises the availability of voice telephony service that includes all of the supported services, the ETC is effectively advertising the availability of the enumerated supported services. Moreover, requiring ETCs to separately identify each supported service, including services like “dual-tone multi-frequency signaling or its functional equivalent” would likely serve little purpose other than to cause confusion for at least some consumers.¹⁰

Please note that while this letter confirms that section 54.201(d)(2) of the Commission’s rules does not require ETCs to separately identify supported services, section 54.405(b) of the Commission’s rules does impose a separate duty to publicize the availability of Lifeline

96-45, *Lifeline and Link-Up*, WC Docket No. 03-109, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, FCC 11-13 (rel. Feb. 9, 2011) (“*USF-ICC Transformation NPRM*”). Because the *USF-ICC Transformation NPRM* remains under consideration, however, this letter clarifies the scope of the rule today to provide USAC with requested guidance. However, nothing in this letter prejudices or impacts how this rule may be modified in the pending proceeding.

⁷ 47 U.S.C. § 254(e) (“only an eligible telecommunications carrier designated under section 214(e) [of the Act] shall be eligible to receive . . . Federal universal service support”). The Act authorizes state commissions to designate telecommunications carriers as ETCs and permits the Commission to designate ETCs where state commissions do not have jurisdiction to do so. 47 U.S.C. § 214(e)(2), (6).

⁸ 47 U.S.C. § 214(e)(1)(B).

⁹ 47 C.F.R. § 54.201(d)(1), (2).

¹⁰ In the *USF-ICC Transformation NPRM*, the Commission noted that “[t]he existing rules, as formulated, suggest that ETCs must advertise specific components of voice service (e.g., operator services, [dual tone multi-frequency signaling]).” See *USF-ICC Transformation NPRM*, FCC 11-13 at 37, para. 96. The guidance provided herein makes clear that even if the rules could be read to “suggest” each service must be advertised, the plain text of the rule does not require such a result. Indeed, in the *USF-ICC Transformation NPRM* the Commission also noted that, notwithstanding the potential for confusion on this point, “carriers likely advertise the supported services using much more generic language,” a practice the Commission did not question. *Id.* As the Commission observed, the separately identified supported services, all of which are components of voice telephony, “may not be familiar to the average American consumer.” *Id.*

services.¹¹ Nothing in this letter addresses the separate obligations imposed by section 54.405(b) for Lifeline services.

If you have any questions regarding this letter, please do not hesitate to contact me at 202-418-1500.

Sincerely,

Sharon E. Gillett
Chief
Wireline Competition Bureau

¹¹ See 47 C.F.R. § 54.405(b).