

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337

**ORDER**

**Adopted: May 30, 2013**

**Released: May 30, 2013**

By the Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, we grant the request of South Slope Cooperative Telephone Company (South Slope) for expedited waiver to correct the study area boundary for South Slope's Iowa study area 351298 that was used in the regression analysis that established "benchmarks" for high-cost loop support (HCLS).<sup>1</sup>

**II. BACKGROUND**

2. In the *HCLS Benchmarks Implementation Order*,<sup>2</sup> the Wireline Competition Bureau (Bureau) adopted the methodology for establishing limits on reimbursable capital costs and operating expenses (capex and opex, respectively) to implement the benchmarking rule that the Commission adopted in the *USF/ICC Transformation Order*.<sup>3</sup>

3. The HCLS benchmarking methodology uses quantile regression analyses to generate a capex limit and an opex limit for each rate-of-return cost company study area. The geographic independent variables used in the regressions were rolled up to the study area using Tele Atlas wire center boundaries, which is a widely-used, commercially available, comprehensive source for this information.<sup>4</sup> The *HCLS Benchmarks Implementation Order* recognized that there were concerns regarding inaccuracies in these data.<sup>5</sup> In response, the Bureau created a streamlined, expedited waiver process for carriers affected by the benchmarks to correct any errors in their study area boundaries by providing accurate information in a manner and format that Bureau staff can readily evaluate and process to determine whether there are

<sup>1</sup> See Letter from Larry D. Thompson, Agent for South Slope, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 10-90, 05-337 (filed Apr. 9, 2013) (*South Slope Waiver Request*).

<sup>2</sup> *Connect America Fund; High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Order, 27 FCC Rcd 4235 (Wireline Comp. Bur. 2012) (*HCLS Benchmarks Implementation Order*).

<sup>3</sup> See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC 17663, 17741-47, paras. 210-26 (2011) (*USF/ICC Transformation Order*), *pets. for review pending sub nom. In re: FCC 11-161*, No. 11-9900 (10th Cir. filed Dec. 8, 2011).

<sup>4</sup> TomTom Telecommunications Suite 2011.09 (formerly Tele Atlas North America), Wire Center Premium, for wire center boundary and central office location information.

<sup>5</sup> *HCLS Benchmarks Implementation Order*, 27 FCC Rcd at 4246, para. 27.

special circumstances supporting a waiver.<sup>6</sup> To help potential petitioners file information efficiently, accurately, and in a manner that will permit the Bureau to evaluate and process the information expeditiously, the Bureau set forth a template for filing study area maps.<sup>7</sup>

### III. DISCUSSION

4. In support of its request to correct the study area boundary, on April 9, 2013, South Slope provided the Bureau with wire center boundaries<sup>8</sup> consistent with the data specifications for submitting boundary information set forth in Appendix C of the *HCLS Benchmarks Implementation Order*.<sup>9</sup> The information submitted included a certification by an officer of the company under penalty of perjury that the information provided accurately portrays South Slope's study area.<sup>10</sup>

5. Pursuant to section 1.3 of the Commission's rules, we find that good cause has been shown and special circumstances warrant waiver of the Commission's rules to revise the capex and opex benchmarks for South Slope's study area that were listed in Appendix B of the *HCLS Benchmarks Implementation Order*<sup>11</sup> and in the 2013 benchmarks Public Notice.<sup>12</sup> Using the corrected boundary information, the Bureau staff modified the relevant variables and calculated revised capex and opex benchmarks for South Slope. We direct the National Exchange Carrier Association (NECA) to use the revised benchmarks in Table 1 in place of the original benchmarks for calculating HCLS for South Slope for the period from July 1, 2012 through December 31, 2012, and the benchmarks in Table 2 for the period from January 1, 2013 through March 31, 2013. For the period beginning April 1, 2013, the Commission concluded that "it is appropriate to combine or 'sum' the existing caps as an interim measure."<sup>13</sup> Therefore, for the period from April 1, 2013 through December 31, 2013, we direct NECA to use the revised summed benchmarks in Table 3. Using the revised boundary information, South Slope's capex and opex benchmarks increased for the first two periods and its summed benchmark increased for the third period. South Slope was not limited by the benchmarks during any of the three periods, so it is eligible for redistributed HCLS for all three periods. We also instruct the Universal Service Administrative Company to make any necessary support amount adjustments consistent with the corrected information.

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<sup>6</sup> See *id.* at 4246-47, paras. 27, 29. Generally, the Commission's rules may be waived if good cause is shown. 47 C.F.R. § 1.3. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*). In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166. Waiver of the Commission's rules is appropriate only if both (i) special circumstances warrant a deviation from the general rule, and (ii) such deviation will serve the public interest. *Northeast Cellular*, 897 F.2d at 1166.

<sup>7</sup> *HCLS Benchmarks Implementation Order*, 27 FCC Rcd at 4301-02, App. C.

<sup>8</sup> *South Slope Waiver Request*, CD-ROM Exhibit, file name "South Slope Coop Tel Co\_351298.zip".

<sup>9</sup> *HCLS Benchmarks Implementation Order*, 27 FCC Rcd at 4301-02, App. C.

<sup>10</sup> *South Slope Waiver Request*, CD-ROM Exhibit, file name "ReadMe\_351298.txt".

<sup>11</sup> 47 C.F.R. § 1.3; *HCLS Benchmarks Implementation Order*, 27 FCC Rcd at 4299, App. B.

<sup>12</sup> *Wireline Competition Bureau Releases New High-Cost Loop Support Benchmarks for 2013*, WC Docket Nos. 10-90, 05-337, Public Notice, 28 FCC Rcd 3256 (Wireline Comp. Bur. 2013) (*Mar. 26, 2013 Public Notice*).

<sup>13</sup> *Connect America Fund; High-Cost Universal Service Support*, WC Docket Nos. 10-90, 05-337, Sixth Order on Reconsideration and Memorandum Opinion and Order, 28 FCC Rcd 2572, 2583, para. 29 (2013), *petitions for review filed sub nom., Accipiter Comm., Inc. v. FCC*, Case No. 13-71760 (9<sup>th</sup> Cir. filed May 20, 2013), *Nat'l Telecomm. Coop. Ass'n v. FCC*, Case No. 13-1661 (4<sup>th</sup> Cir. filed May 21, 2013).

<b>Table 1 -- July 1, 2012 through December 31, 2012</b>					
<b>South Slope</b>	<b>90% Capex CPL Estimate</b>	<b>Capex CPL<sup>14</sup></b>	<b>90% Opex CPL Estimate</b>	<b>Opex CPL<sup>15</sup></b>	<b>Capped?</b>
Original	666.47	393.67	475.69	277.32	No
Revised	756.20	393.67	529.68	277.32	No

<b>Table 2 – January 1, 2013 through March 31, 2013</b>					
<b>South Slope</b>	<b>90% Capex CPL Estimate</b>	<b>Capex CPL<sup>16</sup></b>	<b>90% Opex CPL Estimate</b>	<b>Opex CPL<sup>17</sup></b>	<b>Capped?</b>
Original	618.49	478.09	480.65	340.10	No
Revised	821.39	478.09	575.34	340.10	No

<b>Table 3 – April 1, 2013 through December 31, 2013</b>					
<b>South Slope</b>	<b>90% Capex CPL Estimate</b>	<b>90% Opex CPL Estimate</b>	<b>Summed 90% CPL Estimate</b>	<b>Total Cost per Loop<sup>18</sup></b>	<b>Capped?</b>
Original	618.49	480.65	1,099.14	818.19	No
Revised	821.39	575.34	1,396.72	818.19	No

<sup>14</sup> The capex and opex cost per loop (CPL) amounts are the same as those published in Appendix B of the *HCLS Benchmarks Implementation Order*, which were based on the annual cost data NECA filed in 2011. NECA filed a schedule of HCLS for all carriers for the six-month period of July 1, 2012 through December 31, 2012, which reflects voluntary quarterly updates carriers filed pursuant to section 36.612 of the Commission's rules. See 47 C.F.R. § 36.612; *Wireline Competition Bureau Announces Access to High-Cost Loop Support Data Submitted by NECA*, WC Docket Nos. 10-90, 05-337, Public Notice, 27 FCC Rcd 7135 (Wireline Comp. Bur. 2012).

<sup>15</sup> See *supra* note 14.

<sup>16</sup> The capex and opex CPL amounts are the same as those published by the Commission on March 26, 2013. See *Mar. 26, 2013 Public Notice*.

<sup>17</sup> See *supra* note 16.

<sup>18</sup> See *supra* note 16.

**IV. ORDERING CLAUSES**

6. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 2, 4(i), 201-206, 214, 218-220, 251, 254, and 303(r) of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. §§ 151, 152, 154(i), 201-206, 214, 218-220, 251, 254, 303(r), 1302, sections 0.91, 0.201(d), 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.201(d), 0.291, and 1.3, and the delegations of authority in paragraphs 210, 217, 226 and 1404 of the *USF/ICC Transformation Order*, 26 FCC Rcd 17663 (2011), that the petition for expedited waiver to correct its boundary data filed by South Slope Cooperative Telephone Company IS GRANTED to the extent described herein.

7. IT IS FURTHER ORDERED, pursuant to the authority delegated under sections 0.91, 0.291 and 1.102 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.102, that this Order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Julie A. Veach  
Chief  
Wireline Competition Bureau