January 3, 2019

FCC FACT SHEET[*]

Connect America Fund

Report and Order – WC Docket No. 10-90

Background: The high-cost program in the Commission's Universal Service Fund implements one of Congress's core universal service policies—to ensure that consumers in expensive-to-serve parts of the United States have access to the same voice and high-speed broadband services as urban consumers do, and at reasonably comparable rates. The Connect America Fund (or CAF) advances this goal by providing support to areas currently served by the larger telephone companies, or price cap carriers, using a combination of a forward-looking broadband cost model and competitive bidding. In 2015, several price cap carriers declined model-based support in these areas but continued to receive CAF Phase I frozen support. Meanwhile, competitive carriers providing service to fixed locations had their high-cost support frozen, pending the completion of the competitive bidding process. This Report and Order adopts a transition framework to end CAF Phase I frozen support in areas where support is being awarded through the CAF Phase II auction, now that the auction has been completed, and phase out federal high-cost support in price cap areas that were not eligible for continued support through the auction.

What the *Report and Order* Would Do:

- Allocate legacy CAF Phase I frozen support, using the Connect America Cost Model (CAM), among those price cap carriers that declined CAF Phase II model-based support based on the relative cost of serving each area served by those carriers.
- Establish a schedule for ending support to price cap carriers and phasing down fixed competitive eligible telecommunications carriers (ETCs) in areas that were successfully bid during the auction, while providing interim support for areas that did not receive any bids.
- Afford price cap carriers and fixed competitive ETCs an option to decline support.

[*] This document is being released as part of a "permit-but-disclose" proceeding. Any presentations or views on the subject expressed to the Commission or its staff, including by email, must be filed in WC Docket No. 10-90, which may be accessed via the Electronic Comment Filing System (https://www.fcc.gov/ecfs/). Before filing, participants should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. See 47 CFR § 1.1200 et seq.

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

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	

REPORT AND ORDER[*]

Adopted: [ ] **Released: [ ]**

By the Commission:

I. INTRODUCTION

1. In this Report and Order, the Commission takes a small but important step towards closing the digital divide and making broadband available for all Americans, by phasing down legacy support for voice services to make greater funding available for voice and broadband services. Specifically, the Commission adopts a transition framework to phase down Connect America Fund (CAF) Phase I frozen support in areas where support is now awarded pursuant to the CAF Phase II auction. Winning bidders were awarded $1.488 billion in support over 10 years to deploy broadband in 45 states to 713,176 locations.[1] Approximately 73% of the locations available in the CAF Phase II auction were covered by winning bids, significantly narrowing the areas where price cap carriers will maintain voice-only obligations under the legacy regime. The transition plan we adopt today provides certainty and stability in those areas by establishing a reasonable support glide path as we transition from one support mechanism to another.

II. BACKGROUND

2. In the *USF/ICC Transformation Order*, the Commission undertook a comprehensive reform of the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband services, both fixed and mobile, are available to Americans throughout the nation.[2] As part of that reform effort, the Commission created the CAF, with the goal that it would ultimately

[*] This document has been circulated for tentative consideration by the Commission at its January open meeting. The issues referenced in this document and the Commission's ultimate resolution of those issues remain under consideration and subject to change. This document does not constitute any official action by the Commission. However, the Chairman has determined that, in the interest of promoting the public's ability to understand the nature and scope of issues under consideration, the public interest would be served by making this document publicly available. The FCC's *ex parte* rules apply and presentations are subject to "permit-but-disclose" *ex parte* rules. *See, e.g.*, 47 C.F.R. §§ 1.1206, 1.1200(a). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules, including the general prohibition on presentations (written and oral) on matters listed on the Sunshine Agenda, which is typically released a week prior to the Commission's meeting. *See* 47 CFR §§ 1.1200(a), 1.1203.

[1] *See Connect America Fund Phase II Auction (Auction 903) Closes; Winning Bidders Announced; FCC Form 683 Due October 15, 2018*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, DA 18-887, at 1 (RBATF/WTB/WCB Aug. 28, 2018).

[2] *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17667, para. 1 (2011) (*USF/ICC Transformation Order*), *aff'd sub nom. In re FCC 11-161,* 753 F.3d 1015 (10th Cir. 2014).

replace all existing high-cost support mechanisms.[3] The Commission envisioned the CAF as the mechanism by which we would help make broadband available to homes, businesses, and community anchor institutions in areas that do not, or would not otherwise, have those services, by using competitive bidding and other incentive-based and market-driven mechanisms that will ensure the efficient distribution of universal service funds to the country's hardest-to-serve areas.[4]

3. To begin the process of transitioning high-cost support to the CAF, the Commission implemented CAF Phase I by freezing support under then-existing high-cost support mechanisms[5] and decided that this frozen support would transition to CAF Phase II support upon completion of the CAF Phase II auction.[6] Specifically, it determined that, for a price cap carrier that declined the offer of Phase II model-based support and the associated state-wide service commitment, "the carrier will continue to receive support in an amount equal to its CAF Phase I support amount until the first month that the winner of any competitive bidding process receives support under CAF Phase II; at that time, the carrier declining the state-wide commitment will cease to receive high-cost universal service support."[7]

4. The Commission also eliminated the "identical support rule," which provided competitive eligible telecommunications carriers (ETCs) with the same per-line amount of high-cost support as the incumbent local exchange carrier serving the same area.[8] The Commission decided to transition this legacy competitive ETC support for both fixed and mobile competitive ETCs beginning July 1, 2012.[9] The Commission further determined that it would pause the phase-down for all competitive ETCs at 60% of support received under the identical support rule if the Mobility Fund Phase II (MF-II) auction was not operational by June 30, 2014.[10]

5. Subsequently, in the *April 2014 Connect America Further Notice*, the Commission sought comment on how to allocate Phase I frozen support to areas won at auction, areas not eligible for the auction, and areas eligible but not won at auction.[11] In the associated *April 2014 Connect America Report and Order*, the Commission decided that a competitive ETC that is awarded "support through the competitive bidding process will cease to receive legacy phase-down support for those specific areas upon commencement of Connect America Phase II support."[12] As of July 1, 2014, consistent with the *USF/ICC Transformation Order*, the Commission froze fixed competitive ETCs' legacy support at 60%

[3] *Id.* at 17673, para. 20.

[4] *Id.*

[5] *Id.* at 17712-13, paras. 128-129. The Commission froze, effective January 1, 2012, all support for price cap carriers and their rate-of-return affiliates, which carriers received pending Phase II. *Id.* at 17715, para. 133.

[6] *Id.* at 17733, para. 180.

[7] *Id.*

[8] *See id.* at 17825-30, paras. 498-511.

[9] *Id.* at 17830-37, paras. 512-532. At that time, the Commission noted that "wireline competitive ETCs receive a relatively small portion of total competitive ETC support, and developing administrative procedures to separately address wireline competitive ETCs would be unduly administratively burdensome." *Id.* at 17832 n.860.

[10] *Id.* at 17832, para. 519.

[11] *Connect America Fund, et al.*, Report and Order, Declaratory Ruling, Order, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, 29 FCC Rcd 7051, 7115, paras. 189-190 (2014) (*April 2014 Connect America Report and Order and/or Further Notice*, as appropriate). The Commission sought comment on how exactly it would "determine the appropriate amount of frozen support to provide in those instances where a competitive ETC is awarded support to serve less than the entire area of the incumbent where the average cost exceeds the funding benchmark." *See id.*

[12] *April 2014 Connect America Report and Order*, 29 FCC Rcd at 7068, para. 53.

of what they had received under the identical support rule.[13]

6. Later that year, the Commission determined that high-cost census blocks served by competitive ETCs offering service to fixed locations (fixed competitive ETCs) would be eligible for support in the CAF Phase II auction.[14] Additionally, the Commission forbore "from enforcing a federal high-cost requirement that price cap carriers offer voice telephony service . . . [in] census blocks where a subsidized competitor—i.e., another ETC—is receiving federal high-cost support,"[15] effective from "the first month that support is disbursed to another ETC that is required to serve particular census blocks with voice and broadband service to fixed locations."[16] The Commission noted, however, that price cap carriers "remain obligated . . . to maintain existing voice service unless and until they receive authority under section 214(a) to discontinue that service."[17]

7. The Commission more recently linked the phase-down timing for fixed competitive ETCs' frozen identical legacy support to the CAF Phase II auction.[18] Concurrently, the Commission decided that, to transition mobile competitive ETC support to Mobility Fund Phase II (MF-II) support, the Wireless Telecommunications Bureau and Wireline Competition Bureau would first disaggregate a carrier's legacy support among the census blocks within its designated service area, and then phase down that support depending on the census block's eligibility in the MF-II auction and, if eligible, the results of the auction.[19]

III. DISCUSSION

8. As the Commission has noted, "the CAF is not created on a blank slate, but rather against the backdrop of a decades-old regulatory system."[20] Thus, a smooth transition must account for the several support mechanisms currently in effect as well as the auction outcomes in different areas. To comprehensively resolve these phase-down issues prior to authorizing CAF Phase II auction support, we address the transition of both price cap carriers' and fixed competitive ETCs' legacy support together.

A. Legacy Support Disaggregation Methodology

9. Pursuant to the *April 2014 Connect America Further Notice*,[21] we adopt a methodology for disaggregating support by employing the Connect America Cost Model (CAM) to account for the relative costs of providing service among areas in states where price cap carriers declined model-based CAF Phase II support.[22] These price cap carriers currently receive an amount of frozen support for each

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[13] *See USF/ICC Transformation Order*, 26 FCC Rcd at 17832, para. 519.

[14] *Connect America Fund; ETC Annual Reports and Certifications; Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Obsolete ILEC Regulatory Obligations that Inhibit Deployment of Next-Generation Networks*, Report and Order, 29 FCC Rcd 15644, 15671-72, paras. 73-75 (2014) (*December 2014 Connect America Order*).

[15] *Id.* at 15663, para. 51.

[16] *Id.* at 15670, para. 69.

[17] *Id.* at 15663-64, para. 51.

[18] *Connect America Fund; Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 2152, 2182 n.189 (2017).

[19] *Id.* at 2183-87, paras. 70-79.

[20] *USF/ICC Transformation Order*, 26 FCC Rcd at 17727, para. 165.

[21] *April 2014 Connect America Further Notice*, 29 FCC Rcd at 7115, paras. 189-190.

[22] In this Report and Order, we address only the phase-down of CAF Phase I frozen support in states where the price cap carriers declined the offer of model-based CAF Phase II support. This includes the phase-down of Phase I frozen support in New York after the authorization of Phase II auction support awarded pursuant to the *New York Waiver Order*. *See generally Connect America Fund; ETC Annual Reports and Certifications*, Order, 32 FCC Rcd

(continued….)

carrier's designated service area within a particular state.[23] Within that state, we use the CAM to allocate a portion of each carrier's existing frozen support to each auction-eligible census block based on the relative costs of providing service across all auction-eligible census blocks within the same state. Consistent with the cap for reserve prices exceeding the extremely high-cost threshold in the CAF Phase II auction,[24] we limit the allocated monthly support for any census block to $146.10 per location.

10. We conclude that the interim methodology we adopt is a reasonable approach for allocating support among a price cap carrier's census blocks because it targets support based on the relative costs of providing service based on the CAM.[25] Phase I frozen support was based largely on inherently inefficient legacy support mechanisms that did not reflect the costs of serving high-cost and extremely high-cost areas;[26] our interim methodology now ties disaggregated support amounts to the costs of serving each affected census block for the transitional period. We also conclude that the methodology we adopt is preferable to the proposal in the *April 2014 Connect America Further Notice*[27] because it better calibrates the available support with the cost to serve the defined areas.[28] Our 2014 proposal would have distributed the legacy support that carriers received in each state based on the average cost to serve *all* high-cost and extremely high-cost areas in that state.[29] As a result, it would have allocated the same amount of support regardless of the relative mix of high-cost and extremely high-cost areas that carriers are required to serve after the auction until a replacement ETC is in place.

B. Transitioning Legacy Support

11. We adopt the schedule below for the transition of price cap carriers' and fixed competitive ETCs' legacy support.[30] This transition schedule will fund new service obligations undertaken by Phase II auction winners, protect customers of current support recipients from a potential loss of service, and minimize the disruption to recipients of frozen legacy support from a loss of

(Continued from previous page)
968 (2017) (*New York Waiver Order*). The Commission has already addressed areas served by Alaska Communications, for which the Commission adopted tailored Phase II service obligations, *see generally Connect America Fund*, Order, 31 FCC Rcd 12086 (2016), and will address any transitions when it adopts Stage 2 for Puerto Rico and the U.S. Virgin Islands, *see generally The Uniendo a Puerto Rico Fund and the Connect USVI Fund et al.*, WC Docket No. 18-143 et al., Order and Notice of Proposed Rulemaking, FCC 18-57 (2018).

[23] Price cap carriers annually certify that all Phase I frozen support received in the previous year was used to build and operate broadband-capable networks used to offer the provider's own retail broadband service in areas substantially unserved by an unsubsidized competitor. *See* 47 CFR § 54.313(c)(4).

[24] *See Connect America Fund Phase II Auction Scheduled for July 24, 2018; Notice and Filing Requirements and Other Procedures for Auction 903*, Public Notice, 34 FCC Rcd 1428, 1486, para. 210 (2018); *New York Waiver Order*, 32 FCC Rcd at 985-86, para. 46.

[25] The CAM employs advanced modeling techniques to determine costs to serve census blocks on a granular basis. *See Connect America Fund*, WC Docket No. 10-90 et al., Report and Order, 28 FCC Rcd 5301 (WCB 2013); *Connect America Fund*, WC Docket No. 10-90 et al., Report and Order, 29 FCC Rcd 3964 (WCB 2014).

[26] *USF/ICC Transformation Order*, 26 FCC Rcd at 17713, para. 131 (noting that the legacy mechanism averaged costs on a statewide basis).

[27] *April 2014 Connect America Further Notice*, 29 FCC Rcd at 7115, para. 191.

[28] *See* Comments of AT&T, WC Docket No. 10-90 et al., at 28-29 (filed Aug. 8, 2014) (AT&T Comments) ("AT&T recommends that the Commission devise some methodology to calculate offered support amounts other than the one it proposed in the *FNPRM*.").

[29] *Contra* ITTA Comments at 20-21 (asserting that the methodology proposed in the *April 2014 Connect America Further Notice* "is a simple and reasonable approach").

[30] Our phase-down rules have been designed to be consistent with the provisions in 47 CFR § 54.307(e)(5)-(6) (2015), unless and until the restrictions in Consolidated Appropriations Act, 2016, Pub. L. No. 114- 113, Div. E, Title VI, § 631, 129 Stat. 2242, 2470 (2015), are no longer in effect.

funding.[31] It balances the need for responsible stewardship of finite universal service funds against the need to distribute funding for voice and broadband services consistent with the results of our CAF Phase II auction while providing a reasonable termination of legacy support for voice services.[32] The schedule we adopt maintains the Commission's prior decision that a price cap carrier declining model-based Phase II support will continue to receive support in an amount equal to its Phase I frozen support amount only until the winner of any competitive bidding process receives support under Phase II.[33] Accordingly, in our implementation of Phase II auction support, we now establish a path toward eliminating legacy support, except to maintain service on an interim basis in auction-eligible, high-cost areas where there was no winning bidder in the CAF Phase II auction, pending further Commission action.

1. Price Cap Carriers

12. For auction-eligible census blocks where price cap carriers receive CAF Phase I frozen support, starting the first day of the month following the authorization of Phase II auction support in a price cap carrier's designated service area within a state, the price cap carrier's legacy support in those census blocks for which Phase II auction support is newly authorized will be (1) converted to Phase II support (for a winning price cap carrier bidder); (2) maintained for an interim period (for the price cap carrier in areas without a winning bidder); or (3) eliminated (for price cap carriers in areas won by another carrier).[34]

13. Although the CAF Phase II auction saw significant interest, some eligible areas did not receive a qualifying winning bid. By including these areas in the auction, the Commission has already determined that these areas require continued high-cost support. Thus, in those auction-eligible areas where there was no winning bidder in the Phase II auction, the price cap carrier will continue to receive disaggregated legacy support until further Commission action.[35] That is, interim support will be

[31] *See April 2014 Connect America Report and Order*, 29 FCC Rcd at 7067, para. 50 (citing *USF/ICC Transformation Order*, 26 FCC Rcd at 17752, 17936, paras. 242, 802) ("[T]he Commission generally prefers to avoid flash cuts in support that would dramatically affect consumers."); *see also USF/ICC Transformation Order*, 26 FCC Rcd at 17671, para. 11 ("We have also sought to phase in reform with measured but certain transitions, so companies affected by reform have time to adapt to changing circumstances.").

[32] Many carriers expressed concerns regarding a potential rapid termination of legacy support particularly in the context of the Mobility Fund II transition. *See Mobility Fund Phase II Order*, 32 FCC Rcd at 2186-87 n.202 (citing numerous filings expressing such concerns).

[33] Many carriers expressed concerns regarding a potential rapid termination of legacy support particularly in the context of the Mobility Fund II transition. *See Mobility Fund Phase II Order*, 32 FCC Rcd at 2186-87 n.202 (citing numerous filings expressing such concerns). *See supra* note 31; *USF/ICC Transformation Order*, 26 FCC Rcd at 17733, para. 180. The phase-down schedule we adopt provides "a mechanism to determine the appropriate amount of frozen support to provide in those instances where a competitive ETC is awarded support to serve less than the entire area of the incumbent where the average cost exceeds the funding benchmark." *See April 2014 Connect America Further Notice*, 29 FCC Rcd at 7115, para. 189. The schedule is also consistent with the Commission's expressed preference for avoiding flash cuts in support. *See April 2014 Connect America Report and Order*, 29 FCC Rcd at 7067, para. 50 (citing *USF/ICC Transformation Order*, 26 FCC Rcd at 17752, 17936, paras. 242, 802) ("However, the Commission generally prefers to avoid flash cuts in support that would dramatically affect consumers.").

[34] At that time, the forbearance from the federal high-cost requirement to offer voice telephony service in census blocks where another ETC "is receiving federal high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations" shall take effect, and we direct the Wireline Competition Bureau to update and publish the list of census blocks subject to federal high-cost voice obligations. *See December 2014 Connect America Order*, 29 FCC Rcd at 15663, para. 51, 15670, para. 69.

[35] Those areas not subject to winning bids in the Phase II auction will be considered for eligibility in a subsequent auction. *See Connect America Fund; ETC Annual Reports and Certifications; Rural Broadband Experiments*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 6020, para. 198 (2016). The Commission will adopt more specific rules and procedures prior to conducting such a future auction.

determined for each census block consistent with the legacy support disaggregation methodology we adopt. Maintaining such support is necessary on an interim basis to preserve service to consumers in these areas, pending further Commission action. At the same time, using our disaggregation methodology will ensure interim support is distributed more efficiently.

14. For areas where the winning bidder is the price cap carrier receiving legacy support, Phase II support will commence on the first day of the month after the support is authorized by the Wireline Competition Bureau in that area. To ensure a smooth transition to Phase II support, a winning bidder will receive support payments at the current, disaggregated legacy support level until that time.[36] Continuing disaggregated legacy support until Phase II support has been authorized for each census block will minimize disruptions and ensure continuity of services for consumers. And, as with areas without any winning bidder, using disaggregated legacy support amounts until Phase II support is authorized will better target legacy support during the interim period than the inherently inefficient legacy support mechanisms used on which Phase I frozen support are based.

15. In areas won at auction by a carrier other than the price cap carrier, beginning on the first day of the month immediately following authorization to receive Phase II support, the winning bidder ETC will begin receiving support and bear an obligation to serve those areas. Accordingly, the price cap carrier will not receive legacy support for those census blocks beginning on the first day of the month after Phase II support is authorized for those census blocks.[37] At that point, continued legacy support would become duplicative.

16. *Auction-Ineligible Blocks.* In all census blocks determined to be ineligible for the CAF Phase II auction, price cap carriers that declined statewide model-based support will no longer receive legacy support starting the first day of the month following the first authorization of any Phase II auction support nationwide. By excluding certain areas from the auction, the Commission has already determined not to offer ongoing high-cost support for those areas.[38] Thus, this approach implements the Commission's earlier decision not to distribute Phase I frozen support after Phase II auction support has begun.

2. Fixed Competitive ETCs

17. Fixed competitive ETCs' legacy support will be subject to a two-year phase down, beginning on the first day of the month immediately following the first authorization of any Phase II

[36] A price cap winning bidder that is receiving legacy support for an area subject to its own winning bid will not be entitled to receive Phase II support until the Wireline Competition Bureau issues a public notice authorizing support for that bidder. In the public notice, the Wireline Competition Bureau shall direct and authorize USAC to disburse monthly Phase II payments to the winning bidder and to cease paying it at the frozen support level. If the Wireline Competition Bureau does not authorize the bidder to receive Phase II support, the price cap will continue receiving legacy support for the relevant areas.

[37] In some situations, two or more auction winners may win different portions of a price cap carrier's designated service area and state, and Phase II support may be authorized on a rolling basis, such that one ETC receives its authorization before others in that same designated service area and state. A price cap carrier's phase-down for any auction-eligible census block will not begin until another ETC is authorized for that census block.

[38] *See Connect America Fund; ETC Annual Reports and Certifications; Rural Broadband Experiments*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, 5973, paras. 70-71 (2016). In the *April 2014 Connect America Further Notice*, the Commission clarified that frozen support would be eliminated for the geographic area where another provider is awarded Phase II support. *April 2014 Connect America Further Notice*, 29 FCC Rcd at 7115, paras. 187, 189. That clarification did not address areas where no providers may be awarded CAF Phase II auction support. We now clarify that, in those auction-ineligible areas, the price cap carrier declining the state-level commitment will cease receiving frozen support the first month that any CAF Phase II auction winning bidder receives CAF Phase II auction support. *See id.* (citing *USF/ICC Transformation Order*, 26 FCC Rcd at 17733, para. 180).

auction support. Fixed competitive ETCs will receive phase-down support equal to two-thirds of their total legacy support for the first 12 months. For the following 12 months, fixed competitive ETCs will receive one-third of their total legacy support. All legacy support will end thereafter.

18. Unlike the phase down for price cap carriers' legacy support in auction-eligible areas, the timing of the phase down for fixed competitive ETCs' legacy support will not differ by census block. For fixed competitive ETCs, we conclude that a straightforward phase-down of support is more appropriate; fixed competitive ETCs receive a comparatively small amount of legacy support, and few expressed interest in continuing to provide service by participating in the CAF Phase II auction.[39] The two-year phase-down schedule resumes the phase-down schedule adopted in the *USF/ICC Transformation Order* for competitive ETCs.[40] The two-year phase-down schedule thus eliminates support that is no longer necessary while providing an appropriate adjustment period for affected carriers.

19. In sum, Tables 1 and 2 below illustrate the transition schedule we adopt.

Table 1: Transition of Price Cap Carriers' Legacy Support

Before the first day of the month following authorization of any Phase II support nationwide	**Transition Schedule**
Price cap carrier receives legacy support in an eligible census block won by that carrier in the Phase II auction	Beginning the first day of the month following authorization of Phase II support in an auction-eligible census block, legacy support is converted to Phase II support
Price cap carrier receives legacy support in an eligible census block with no winning bidder in the Phase II auction	Legacy support is maintained until further Commission action
Price cap carrier receives legacy support in a census block won by another carrier in the Phase II auction	Beginning the first day of the month following authorization of Phase II support in an auction-eligible census block, legacy support is eliminated
Price cap carrier receives legacy support in an auction-ineligible census block	Beginning the first day of the month following authorization of any Phase II support nationwide, legacy support is eliminated

[39] Implementing a transition process mirroring price cap carriers' transition would require separately disaggregating legacy support among fixed competitive ETCs' service areas—adding complexity to the transition process with no benefit to those carriers and with little impact on the Commission's budget.

[40] *See USF/ICC Transformation Order*, 26 FCC Rcd at 17832, para. 519.

Table 2: Transition of Fixed Competitive ETCs' Legacy Support

Before the first day of the month following the first authorization of any Phase II support nationwide	**Beginning the first day of the month following the first authorization of any Phase II support nationwide**	**Beginning 12 months after the first day of the month following the first authorization of any Phase II support nationwide**	**Beginning 24 months after the first day of the month following the first authorization of any Phase II support nationwide**
Fixed competitive ETC receives legacy support	Legacy support is reduced to two-thirds of support	Legacy support is reduced to one-third of support	Legacy support is eliminated

C. Declining to Extend Interim Support to New Areas

20. In establishing this schedule, we decline to adopt a different definition of "unsubsidized competitor," i.e., by including areas with mobile or non-terrestrial voice service.[41] The existence of non-fixed voice service options within a particular census block does not guarantee that consumers there will continue to have access to voice service in the absence of an ETC being required to serve those consumers.[42] We therefore remain unpersuaded that the Commission need not continue providing support to ETCs "simply based on the fact that there are multiple wireless providers serving that census block."[43]

21. We also decline to adopt USTelecom's most recent proposal[44] to (1) distribute $105 million in "new voice support" across all high-cost and extremely high-cost census blocks for which, after the CAF Phase II auction, price cap carriers will continue to have an ETC obligation to provide voice

[41] *See* AT&T Comments at 24-28 ("Rather than focusing on whether some other ETC provides voice service in a particular area to determine if continued funding is warranted, AT&T . . . suggests that the Commission instead consider whether a particular high-cost area is unserved by *any* provider of voice telephony service, including satellite providers."); *USF/ICC Transformation Order*, 26 FCC Rcd at 17701, paras. 103-04 (defining "unsubsidized competitor" as "a facilities-based provider of residential terrestrial fixed voice and broadband service that does not receive high-cost support").

[42] *See Petition of USTelecom for Forbearance Pursuant to 47 U.S.C. § 160(c) from Enforcement of Obsolete ILEC Legacy Regulations That Inhibit Deployment of Next-Generation Networks; Lifeline and Link Up Reform and Modernization; Connect America Fund*, Memorandum Opinion and Order, 31 FCC Rcd 6157, 6219, para. 117. (2015).

[43] *See id.*

[44] USTelecom's June 29, 2018 proposal supersedes its previous proposals offered in a series of *ex parte* filings, which we do not consider here. Letter from Michael Saperstein, USTelecom Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, at 1 (filed June 29, 2018) (USTelecom June 29, 2018 *Ex Parte*) ("propos[ing] an updated methodology for distributing universal service funds to support voice telephony service obligations in high cost and extremely high cost price cap areas that are not and will not be otherwise supported via the Connect America Fund Phase II . . . program"). *See, e.g.*, Letter from Jonathan Banks, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Mar. 23, 2018) (proposing that, for each price cap carrier and state, the Commission use the CAM "to adjust the level of frozen support as a function of the funded census blocks . . . that are successfully bid for during the CAF II auction"); Letter from Jonathan Banks, Senior Vice President Law & Policy, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 (filed Apr. 3, 2015) (proposing that, "Frozen Support shall be reallocated on a holding company basis . . . [and] will not be disbursed . . . in any census block for which CAF II funding is disbursed"). USTelecom members also previously expressed support for the proposal in USTelecom's April 3, 2015 *ex parte* filing. *See, e.g.*, Comments of CenturyLink, WC Docket No. 10-90 et al., at 3 (filed Sept. 9, 2015); Reply Comments of Frontier Communications Corporation, WC Docket No. 10-90 et al., at 3-5 (filed Sept. 24, 2015).

service;[45] (2) distribute an additional $35 million in transitional support to carriers receiving less "new voice support" in a state than the carrier's "residual frozen support" amount for that state;[46] and (3) phase down the additional transitional support over a two-year period.[47] We find this proposal inconsistent with the overarching objective of transitioning away from the current Phase I frozen support funding mechanism. Instead, USTelecom seeks to expand the areas for which price cap carriers receive support—through a new funding mechanism, "new voice support"—to include areas where they do not currently receive legacy support. We decline to do so. Through the interim framework we adopt, we establish a reasonable process for transitioning Phase I frozen support and fixed competitive ETCs' legacy support after the authorization of Phase II auction support. Price cap carriers currently receive Phase I frozen support for use within particular service areas, and we now allocate that support across the census blocks for which the support is provided, i.e., within the same service areas, to be phased down, converted, or maintained.

22. Even if we were to adopt a transition mechanism more like USTelecom's proposal, modified to only include areas for which carriers receive legacy support, the proposed annual budget of $105 million for "new voice support" and first-year budget of $35 million in additional transitional support would far exceed a reasonable amount of legacy support for carriers to continue serving only those areas not won at auction. USTelecom explains that $105 million "equals the $95 million of frozen support currently distributed to price cap carriers and $10 million of additional support to account for ACS's participation in the program."[48] Under USTelecom's proposal, as with the transition mechanism we adopt, carriers would not receive legacy support in either areas ineligible for the auction or areas won at auction. But USTelecom's proposal would require distributing a fixed amount of $105 million—more than the total frozen support price cap carriers currently receive—across the remaining areas and up to $35 million in additional support for some of those same areas.[49] In contrast, our method efficiently targets support by using the CAM to allocate the support a price cap carrier currently receives to serve its entire service area according to the relative costs of serving each census block and then removing only the support associated with census blocks for which the price cap no longer has a federal high-cost voice obligation. The approach we adopt today therefore more rationally ties the current legacy support a price cap carrier receives in a designated service area within a state to the phase-down support it will continue to receive until further Commission action. We do not believe increasing support to maintain existing voice service in these areas—even on an interim basis—is a good use of our limited funds.

23. We recognize, nonetheless, that drawing on the results of legacy support mechanisms may produce results undesirable to certain carriers. Under those legacy mechanisms, some price cap carriers did not receive legacy support in certain states containing high-cost and extremely high-cost areas.[50] The Commission has likewise explained that the identical support rule for competitive ETCs

[45] *See* USTelecom June 29, 2018 *Ex Parte* at 2-6.

[46] *See id.* at 6-8. USTelecom's proposed residual frozen support calculation approximates how much legacy support a carrier might receive after the auction if carriers' existing frozen support were reallocated on a state-by-state basis. *See id.*

[47] *See id.*

[48] *Id.* at 6.

[49] *Id.* at 6, 8.

[50] *See* AT&T Comments at 28. *Cf.* USTelecom June 29, 2018 *Ex Parte* at 5-6 (noting that with previous legacy support mechanisms, "certain states may have received significantly more or less support for reasons that are no longer relevant"). However, designation as an ETC under section 214 does not entitle a carrier to funding. *See In re FCC 11-161*, 753 F.3d 1015, 1088 (10th Cir. 2014), *cert. denied sub nom.*, *inter alia*, *Cellular S., Inc. v. FCC*, 135 S. Ct. 2050 (2015).

"fail[ed] to efficiently target support where it is needed."[51] Accordingly, we emphasize that the phase-down support maintained under our transition mechanism is not intended to provide a long-term solution. Instead, until the Commission is able to implement a new program,[52] we maintain a targeted portion of carriers' existing legacy support to preserve affordable consumer access to telecommunications in high-cost areas. In adopting this interim framework, we thus balance our statutory duties to ensure affordable access to quality services,[53] promote in "rural, insular, and high cost areas . . . access to telecommunications and information services . . . that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas,"[54] and establish "specific, predictable and sufficient . . . mechanisms to preserve and advance universal service."[55]

D. Election and Certification

24. We also provide price cap carriers and fixed competitive ETCs the option to decline phase-down support on a state-by-state basis. It is possible that, despite their mandatory voice obligations, some carriers may conclude that they do not wish to continue receiving legacy support in every state.[56] We therefore direct the Wireline Competition Bureau to calculate and publish, for each price cap carrier's designated service area within each affected state, the amount of support available in every census block after the authorization of Phase II auction support within the same service area. Within 30 days after the release of public notice of such support amounts, price cap carriers and fixed competitive ETCs electing not to receive phase-down support in any states must provide notice of such election in the manner specified by the Wireline Competition Bureau.

25. Regardless of the carrier's election, however, the federal ETC high-cost obligation to provide voice service is mandatory and independent of whether a carrier accepts phase-down support.[57] To the extent a price cap carrier or fixed competitive ETC no longer wishes to maintain its ETC designation in the relevant areas, it may petition the relevant state to relinquish its ETC designation for those areas where another ETC is providing service, and it may choose to go through the section 214 discontinuance process.[58] For those price cap carriers and fixed competitive ETCs that receive phase-

[51] *See USF/ICC Transformation Order*, 26 FCC Rcd at 17832, para. 502 ("Based on more than a decade of experience with the operation of the current rule and having received a multitude of comments noting that the current rule fails to efficiently target support where it is needed, we reiterate the conclusion that this rule has not functioned as intended.").

[52] *See supra* note 35. Our interim framework continues the "process of transitioning all federal high-cost support to price cap carriers to supporting modern communications networks capable of supporting voice and broadband in areas without an unsubsidized competitor." *USF/ICC Transformation Order*, 26 FCC Rcd at 17722, para. 149.

[53] 47 U.S.C. § 254(b)(1).

[54] 47 U.S.C. § 254(b)(3).

[55] 47 U.S.C. § 254(b)(5). *See AT&T, Inc. v. FCC*, 886 F.3d 1236, 1252-53 (D.C. Cir. 2018) ("The sufficiency of funding is but one of several enumerated principles that the FCC must consider in devising universal service mechanisms. . . [T]he FCC's conclusion that funding may fall short of full compensation in particular areas and still be 'sufficient' is faithful to Section 254(b)(5) of the Act."). *See also Rural Cellular Ass'n v. FCC*, 588 F.3d 1095, 1103 (D.C. Cir. 2009) (citing, *inter alia*, *Alenco Commc'ns, Inc. v. FCC*, 201 F.3d 608, 620 (5th Cir. 2000); *Qwest Commc'ns Int'l Inc. v. FCC*, 398 F.3d 1222, 1234 (10th Cir. 2005)) ("The [Fifth Circuit] court thus recognized the principle of providing sufficient funding mechanisms to advance universal service, 47 U.S.C. § 254(b)(5), may need to be balanced against the principle of affordability for consumers, *id.* § 254(b)(1). The Commission enjoys broad discretion when conducting exactly this type of balancing.").

[56] *See* AT&T Comments at 27 ("The Commission's offer of support in this narrow circumstance must be voluntary") (citing *April 2014 Connect America Order*, 29 FCC Rcd at 7092-93, para. 120).

[57] *See* 47 U.S.C. § 214(1)(A).

[58] *See* 47 U.S.C. § 214(a), (e)(4).

down support, we will require that they certify annually that they have and will use the support they continue to receive in the relevant high-cost and extremely high-cost areas to provide voice telephony service throughout the relevant census blocks at rates that are reasonably comparable to comparable offerings in urban areas.[59]

26. To the extent that any carrier believes it needs additional support to provide voice service at reasonably comparable rates throughout the remaining census blocks within its service area, it may bring to the Commission's attention facts that demonstrate it is necessary and in the public interest for the price cap carrier to receive that additional funding to maintain reasonably priced voice service. We do not, however, expect to grant these requests routinely, and caution petitioners that we intend to subject such requests to a rigorous, thorough and searching review comparable to a total company earnings review. In particular, we intend to take into account not only all revenues derived from network facilities that are supported by universal service but also revenues derived from unregulated and unsupported services as well.

IV. PROCEDURAL MATTERS

27. *Paperwork Reduction Analysis.*—This Report and Order contains new and modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new and modified information collection requirements contained in the proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002,[60] we previously sought specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."[61] We have described impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the Final Regulatory Flexibility Analysis (FRFA), attached as Appendix B.

28. *Congressional Review Act.*—The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. § 801(a)(1)(A).

29. *Regulatory Flexibility Act.*—The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice and comment rulemakings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities."[62] The FRFA concerning the impact of the rule changes contained in the Report and Order is attached as Appendix B.

V. ORDERING CLAUSES

30. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 4(i), 214, and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 214, and 254, that this Report and Order is ADOPTED, effective thirty (30) days after publication of the text or summary thereof in the Federal Register, except that modifications to Paperwork Reduction Act burdens shall become effective immediately upon announcement in the Federal Register of OMB approval.

31. IT IS FURTHER ORDERED that Part 54 of the Commission's rules, 47 CFR Part 54 IS AMENDED as set forth in Appendix A, and such rule amendments SHALL BE EFFECTIVE thirty (30)

[59] *See April 2014 Connect America Further Notice*, 29 FCC Rcd at 7116, para. 192; *see also* 47 U.S.C. § 254(e); 47 CFR § 54.7. Appendix A contains this new addition to section 54.313 of the rules.

[60] Pub. L. No. 107-198.

[61] 44 U.S.C. § 3506(c)(4).

[62] 5 U.S.C. §§ 601 *et seq*.

days after publication of the rules amendments in the Federal Register, except to the extent they contain information collections subject to PRA review. The rules that contain information collections subject to PRA review SHALL BECOME EFFECTIVE immediately upon announcement in the Federal Register of OMB approval.

32. IT IS FURTHER ORDERED that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, SHALL SEND a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

APPENDIX A

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

1. Amend § 54.307(e) by adding paragraph (8) to read as follows:

§54.307 Support to a competitive eligible telecommunications carrier.

* * * * *

(e) * * *

(8) *Eligibility for support after Connect America Phase II auction*. Starting the first day of the month following the first authorization of Connect America Phase II auction support nationwide, fixed competitive eligible telecommunications carriers shall have the option of receiving support pursuant to § 54.307(e)(2)(iii) as described below:

(i) For 12 months following the first authorization of Connect America Phase II auction support nationwide, each fixed competitive eligible telecommunications carrier shall receive two-thirds (2⁄3) of the carrier's total support pursuant to § 54.307(e)(2)(iii).

(ii) For 12 months starting the month following the period described in paragraph (e)(8)(i) of this section, each fixed competitive eligible telecommunications carrier shall receive one-third (1⁄3) of the carrier's total support pursuant to § 54.307(e)(2)(iii).

(iii) Following the period described in paragraph (e)(8)(ii) of this section, no fixed competitive eligible telecommunications carrier shall receive any support pursuant to § 54.307(e)(2)(iii).

(iv) Notwithstanding the foregoing schedule, the phase-down of support below the level described in § 54.307(e)(2)(iii) shall be subject to the restrictions in Consolidated Appropriations Act, 2016, Public Law 114-113, Div. E, Title VI, section 631, 129 Stat. 2242, 2470 (2015), unless and until such restrictions are no longer in effect.

2. Amend § 54.312 by adding paragraph (d) to read as follows:

§54.312 Connect America Fund for Price Cap Territories—Phase I.

* * * * *

(d) *Eligibility for support after Connect America Phase II auction.*

(1) A price cap carrier that receives monthly baseline support pursuant to this section and is a winning bidder in the Connect America Phase II auction shall receive support at the same level as described in paragraph (a) of this section for such area until the Wireline Competition Bureau determines whether to authorize the carrier to receive Connect America Phase II auction support for the same area. Upon the Wireline Competition Bureau's release of a public notice approving a price cap carrier's application submitted pursuant to §54.315(b) and authorizing the carrier to receive Connect America Fund Phase II auction support, the carrier shall no longer receive support at the level of monthly baseline support pursuant to this section for such area. Thereafter, the carrier shall receive monthly support in the amount of its Connect America Phase II winning bid.

(2) Starting the first day of the month following the first authorization of Connect America Phase II auction support nationwide, no price cap carrier that receives monthly baseline support pursuant to this section shall receive such monthly baseline support for areas that are ineligible for Connect America Phase II auction support.

(3) To the extent Connect America Phase II auction support is not awarded at auction for an eligible area, as determined by the Wireline Competition Bureau, the price cap carrier shall have the option of continuing to receive support at the level described in paragraph (a) of this section until further Commission action.

(4) Starting the first day of the month following the authorization of Connect America Phase II auction support to a winning bidder other than the price cap carrier that receives monthly baseline support pursuant to this section for such area, the price cap carrier shall no longer receive monthly baseline support pursuant to this section.

(5) Notwithstanding the foregoing schedule, the phase-down of support below the level described in paragraph (a) of this section shall be subject to the restrictions in Consolidated Appropriations Act, 2016, Public Law 114-113, Div. E, Title VI, section 631, 129 Stat. 2242, 2470 (2015), unless and until such restrictions are no longer in effect.

3. Amend § 54.313 by adding paragraph (m) to read as follows:

§54.313 Annual reporting requirements for high-cost recipients.

* * * * *

(m) Any price cap carrier or fixed competitive eligible telecommunications carrier that elects to continue receiving support pursuant to § 54.312(d) or § 54.307(e)(2)(iii) shall provide certifications, starting July 1, 2020 and for each subsequent year they receive such support, that all such support the company received in the previous year was used to provide voice service throughout the high-cost and extremely high-cost census blocks where they continue to have the federal high-cost eligible telecommunications carrier obligation to provide voice service pursuant to § 54.201(d) at rates that are reasonably comparable to comparable offerings in urban areas. Any price cap carrier or fixed competitive eligible telecommunications carrier that solely receives support pursuant to § 54.312(d) or § 54.307(e)(2)(iii) in its designated service area shall not be subject to reporting requirements in any other paragraphs in this section for such support.