

FCC FACT SHEET*

Promoting Telehealth in Rural America

Third Further Notice of Proposed Rulemaking and Order – WC Docket No. 17-310

Background: This *Third Further Notice of Proposed Rulemaking and Order* continues the Commission’s effort to promote Rural Health Care (RHC) Program efficiency and effectiveness. The *Third Further Notice of Proposed Rulemaking* would seek comment on several program improvements intended to reduce administrative burdens and costs on RHC Program participants and better administer limited funding given increased program participation and service costs. The *Order* would permit the use of previously approved rural rates for funding year 2027 that would otherwise require approval of a cost-based justification.

What the *Third Further Notice of Proposed Rulemaking* Would Do:

- Seek comment on defining the scope of “similar services” and “comparable rural areas” for purposes of determining rural rates in the Telecommunications Program.
- Seek comment on measures to lessen the burdens resulting from the cost studies option of determining rural rates and the associated evidentiary requirements proposed in the *Second Further Notice of Proposed Rulemaking*.
- Seek comment on ways to promote the use of lower-cost secondary (i.e., back-up) services.
- Seek comment on establishing an RHC Program eligible services list, modeled in part on the E-Rate program’s eligible services list.
- Seek comment on adopting RHC Program performance metrics with the goal of making program application processing faster and more effective.
- Seek comment on eliminating the requirement that the Program Administrator approve evergreen contracts.
- Seek comment on eliminating the Healthcare Connect Fund’s annual report requirement.

What the *Order* Would Do:

- Waive the Commission’s rules to permit the use of previously approved rural rates for funding year 2027 that would otherwise require approval of a cost-based justification while the Commission completes its review of the record developed in response to the *Third Notice of Proposed Rulemaking*.

*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. 17-310, 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	)	
	)	
Promoting Telehealth in Rural America	)	WC Docket No. 17-310
	)	

**THIRD FURTHER NOTICE OF PROPOSED
RULEMAKING AND ORDER***

Adopted: []

Released: []

Comment Date: (30 days after publication in the Federal Register)**Reply Comment Date: (60 days after publication in the Federal Register)**

By the Commission:

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* This document has been circulated for tentative consideration by the Commission at its August 6, 2026 open meeting. The issues referenced in this document and the Commission’s ultimate resolutions 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 Commission’s *ex parte* rules apply and presentations are subject to “permit-but-disclose” *ex parte* rules. See, e.g., 47 CFR §§ 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.

APPENDIX B – Initial Regulatory Flexibility Analysis

I. INTRODUCTION

1. The Commission today takes the next step in its continuing effort to streamline and enhance the Rural Health Care (RHC) Program by seeking comment on several possible program improvements. The RHC Program provides universal service financial support to help rural health care providers obtain telecommunications and broadband services at discount rates. This support facilitates the delivery of telehealth services to rural areas across the country, including some of the most remote areas in the nation, thereby effectively bridging the gap that separates geographically isolated patients from the critical care and expertise of medical professionals. These services are essential to the health and well-being of innumerable patients.

2. The Commission commenced the current series of RHC Program reforms in 2019, and since then has adopted numerous improvements that expand program participation and promote program efficiency and effectiveness.¹ With this *Third Further Notice of Proposed Rulemaking*, we continue on that course by focusing on ways to reduce administrative burdens and costs on RHC Program participants while also examining how best to administer limited funding given increased program participation and service costs. We first seek comment on the scope of the similar service and rural area comparability requirements in section 254(h)(1)(A) of the Communications Act of 1934, as amended (the Act).² We then seek comment on possible improvements to, or replacements of, our existing cost study method of determining rural telecommunications rates, which often proves to be difficult to prepare. We next request comment on possible methods of promoting the use of lower-cost technologies intended to provide backup services. In addition, we seek comment on a proposal to establish an eligible services list for the RHC Program modeled in part after a similar list used by the E-Rate program. We also request comment on whether to adopt performance metrics to expedite the processing of RHC Program funding requests. Finally, we address two suggestions from stakeholders offered in response to our *Delete, Delete, Delete* initiative by seeking comment on eliminating the requirement that the Universal Service Administrative Company (USAC) approve evergreen contracts and proposing to eliminate an annual program report requirement.³ In addition, in today's *Order*, we waive our rules to permit the use of previously approved rural rates for funding year 2027 that would otherwise require approval of a cost-based justification while the Commission completes its review of the record developed in response to the *Third Further Notice of Proposed Rulemaking*.

II. BACKGROUND

3. The RHC Program provides universal service support through two component programs: (1) the Telecommunications (Telecom) Program and (2) the Healthcare Connect Fund (HCF) Program. The Telecom Program, established in 1997, subsidizes the difference between the rates for telecommunications services in the health care provider's rural area and rates for comparable services

¹ See *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Report and Order, 34 FCC Rcd 7335 (2019) (*Promoting Telehealth Order I*); *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Order on Reconsideration, Second Report and Order, Order, and Second Further Notice of Proposed Rulemaking, 38 FCC Rcd 827 (2023) (*Promoting Telehealth Order II*); *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Third Report and Order, 38 FCC Rcd 12476 (2023).

² 47 U.S.C. § 254(h)(1)(A).

³ See *In Re: Delete, Delete, Delete*, GN Docket No. 25-133, Public Notice, 40 FCC Rcd 1601 (2025) (*Delete, Delete, Delete Public Notice*). The *Delete, Delete, Delete* initiative seeks to identify and eliminate obsolete, redundant, and burdensome Commission regulations.

available in urban areas within the health care provider's state.⁴ The HCF Program, created in 2012, promotes the use of broadband services and facilitates the formation of health care provider consortia that include both rural and urban health care providers by providing a flat 65% discount on an array of advanced telecommunications and information services.⁵ HCF applicants are required to submit an annual report by September 30 of each funding year containing information that allows the Commission to assess progress towards the program's performance goals and measures.⁶

4. To receive funding support through either the Telecom Program or HCF Program, an applicant must be an eligible health care provider requesting an eligible service. Health care provider eligibility is established by section 254(h)(7)(B) of the Act, which permits health care providers in one of eight categories to participate in the program.⁷ Services eligible for RHC Program support, at one time limited to telecommunications services, were expanded by the Commission more than a decade ago to include high-capacity broadband, consistent with the Act's statutory directive to enhance access to "advanced telecommunications and information services."⁸ Under the broadband-based HCF Program, eligible advanced telecommunications and information services are those that enable "health care providers to post their own data, interact with stored data, generate new data, or communicate, by providing connectivity over private dedicated networks or the public internet for the provision of health information technology."⁹ The Commission adopted this definition in lieu of an eligible services list similar to that employed by the E-Rate program due to the overwhelming stakeholder support for a "broad and flexible" definition of eligible services.¹⁰

5. The RHC Program requires that eligible health care providers seeking program support select the most "cost-effective" eligible service offering through a "fair and open" competitive bidding process.¹¹ Competitive bidding is required in all cases unless a competitive bidding exemption contained in our rules applies.¹² One such exemption is evergreen contracts, which are multi-year contracts entered into by a health care provider as a result of competitive bidding and that include certain contractual terms and requirements.¹³ After USAC, the Universal Service Fund administrator, designates a health care

⁴ See 47 U.S.C. § 254(h)(1)(A); 47 CFR §§ 54.603-606; *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9093-161, paras. 608-749 (1997) (*First Universal Service Report and Order*).

⁵ See 47 U.S.C. § 254(h)(2)(A); 47 CFR §§ 54.607-618; *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678 (2012) (*HCF Order*).

⁶ 47 CFR § 54.618(a).

⁷ See 47 U.S.C. § 254(h)(7)(B) (listing the eight categories: (1) post-secondary educational institutions offering health care instruction, including teaching or medical schools; (2) community health centers or health centers providing health care to migrants; (3) local health departments or agencies; (4) community mental health centers; (5) not-for-profit hospitals; (6) rural health clinics; (7) skilled nursing facilities; and (8) consortia of health care providers consisting of one or more of the foregoing). See also 47 CFR § 54.600(b).

⁸ See 47 U.S.C. § 254(h)(2)(A).

⁹ 47 CFR § 54.612(a).

¹⁰ *HCF Order*, 27 FCC Rcd at 16730, n.290. The E-Rate program provides Universal Service Fund support to eligible schools and libraries. See 47 CFR § 54.500 *et seq.*

¹¹ 47 CFR § 54.622(a)-(c).

¹² See 47 CFR § 54.622(a). The exemptions include government master service agreements, master service agreements approved under the RHC Pilot Program or HCF Program, E-Rate program master contracts, evergreen contracts, and (for the HCF Program only) funding requests with an annual discounted cost of \$10,000 or less. 47 CFR § 54.622(i).

¹³ 47 CFR § 54.622(i)(3).

provider's contract as evergreen, the health care provider need not undergo additional competitive bidding for the life of the contract.¹⁴

6. Section 254(h)(1)(A) of the Act requires that Telecom Program support be based on the difference between the urban rate and the rural rate, which is the rate “for similar services provided to other customers in comparable rural areas” of that particular state.¹⁵ Service providers benefit from high rural rates because high rural rates maximize payments to them, and applicants benefit from low urban rates because low urban rates minimize applicant payments.¹⁶ Telecom Program applicants calculate rural rates using one of three methods depending on the circumstances: (1) the average of rates that the carrier actually charges to other non-health care provider commercial customers for the same or similar services provided in the rural area where the health care provider is located (Method 1); (2) if the carrier does not have any commercial customers in the health care provider's rural area, the average of tariffed and other publicly available rates charged by other service providers for the same or similar services provided over the same distance in the rural health care provider's area (Method 2); or (3) if there are no such rates or the carrier reasonably determines that those rates would be unfair, a cost-based rate that is approved by the Commission for interstate services (or the relevant state commission for intrastate services) (Method 3).¹⁷ Methods 1, 2, and 3 must be applied sequentially in that order.¹⁸ A carrier seeking approval of a rural rate under Method 3 is required to provide a justification of the proposed rural rate that includes an itemization of the costs of providing the requested service (i.e., a cost study).¹⁹

¹⁴ 47 CFR § 54.622(i)(3)(i). Health care providers may exercise voluntary options to extend an evergreen contract without undergoing additional competitive bidding if the voluntary extension is memorialized in the evergreen contract, the decision to extend the contract occurs before the health care provider files its funding request, and the voluntary extension or extensions do not exceed five years in the aggregate. *Id.* at § 54.622(i)(3)(iii).

¹⁵ 47 U.S.C. § 254(h)(1)(A).

¹⁶ The urban rate is generally a rate no higher than the highest tariffed or publicly available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in the applicable state, calculated as if it were provided between two points within the city. *See* 47 CFR § 54.604(a). It is in the best interest of a health care provider applicant to request a high rural rate and a low urban rate to increase the level of support received.

¹⁷ 47 CFR § 54.605.

¹⁸ Specifically, Method 1 must be used to determine a rural rate unless the service provider selected is not actually charging non-health care provider customers rates for the same or similar services in the rural area where the eligible health care provider is located. In that case, Method 2 must be used. If it is not possible to determine a rural rate under Method 2 because there are not tariffed or publicly available rates charged by other service providers for the same or similar services in the rural area where the eligible health care provider is located, or if the service provider reasonably determines that the rural rate calculated using Method 2 is unfair, only then may Method 3 be used. *See Promoting Telehealth Order II*, 38 FCC Rcd at 832-33, para. 13.

¹⁹ 47 CFR § 54.605(b)(1). In 2019, the Wireline Competition Bureau released a public notice providing guidance to program applicants on what should be included in a cost study. At a minimum, the cost study requires a service provider to submit information on the following: “a) The company's total capital expenditures (CAPEX) and operational expenditures (OPEX), with a breakdown of the total figure's components (e.g., depreciation, taxes, return on investment); b) An explanation of how the total CAPEX/OPEX figure is allocated between customers, together with the resulting allocated figures, as necessary to show how the company has allocated CAPEX/OPEX costs to its RHC Program customers; c) The company's total common costs and a breakdown of that total figure's components; and d) An explanation of how the company's total common costs are allocated between customers, together with the resulting allocated figures, as necessary to show how the company has allocated common costs to RHC facilities and to RHC Program customers.” *The Wireline Competition Bureau Provides Guidance Regarding the Commission's Rules for Determining Rural Rates in the Rural Health Care Telecommunications Program*, WC Docket No. 02-60, Public Notice, 34 FCC Rcd 533, 537 (WCB 2019).

7. For the first two decades of the RHC Program, the cost studies option (Method 3) was never used, having first been invoked in funding year 2017.²⁰ However, as demand for bandwidth increased, particularly by health care providers in Alaska, the lack of applicable rates under Methods 1 and 2 led to the initial, and then to an expanding, use of Method 3. From the outset, RHC Program participants raised concerns about the burdens associated with Method 3 cost study preparation and approval.²¹ The Commission acknowledged these burdens when, in 2019, it eliminated the cost studies option except in extreme cases requiring a waiver supported by an evidentiary showing of objective, measurable economic injury.²² The Commission expected that cost studies would be necessary only in extreme cases because data to calculate a rural rate would likely be more available following its adoption of a new rural rate methodology that included the creation of a Rates Database and elimination of Methods 1-3.²³ The Rates Database, a compilation of eligible services in the Telecom Program with pre-determined median urban and rural rates based on publicly available rates, tariffs, and prior funding year data, was intended to increase transparency by centralizing and categorizing rate information in one place.²⁴

8. The Commission eliminated the Rates Database in 2023 due to its significant anomalies that could have resulted in inadequate or inconsistent Telecom Program support for rural health care providers.²⁵ In place of the Rates Database, it reinstated the Methods 1-3 requirements to determine rural rates as the best available option while long-term solutions were considered.²⁶ At the same time, the Commission adopted the *Second Further Notice of Proposed Rulemaking* that proposed modifications to the three rural rate determination methods.²⁷ To replace Methods 1 and 2, the Commission proposed alternative market-based calculations, which it called Method A and Method B.²⁸ The Commission also proposed that service providers continue to have the option to submit a cost-based rate if they cannot calculate a rural rate using Methods A or B. It further proposed that this revised cost-based method will require service providers to satisfy the same evidentiary requirements that the Commission adopted in

²⁰ *Promoting Telehealth Order I*, 34 FCC Rcd at 7368, para. 68.

²¹ *See id.* at 7369, para. 70 (noting that program participants “generally disfavor the cost-based method for determining rural rates, which they viewed as challenging to calculate and difficult to obtain approval for due to the burdensome itemized cost summaries that the method requires”).

²² *Id.* at 7369, paras. 70-71.

²³ *Id.* at 7369, para. 70.

²⁴ *See id.* at 7373, para. 79.

²⁵ *Promoting Telehealth Order II*, 38 FCC Rcd at 831, para. 11. The Rates Database featured rurality tiers based on the assumption that the cost to provide services increases as the level of rurality increases. However, the Commission uncovered many situations where that assumption did not hold. For example, in California, the Rates Database included a median rural rate for a 100 Mbps dedicated data service in an area deemed less rural that was four times higher than the rate in an area deemed more rural. Other anomalies involved rates not consistent with bandwidth, as in Georgia, where the Rates Database included a median rural rate for a 100 Mbps dedicated data service that was three times higher than the rate of a 250 Mbps dedicated data service. *See Rural Health Care Support Mechanism, Promoting Telehealth In Rural America*, WC Docket Nos. 02-60 and 17-310, Order, 36 FCC Rcd 7051, 7056, para. 13 (WCB 2021).

²⁶ *Promoting Telehealth Order II*, 38 FCC Rcd at 831, para. 10.

²⁷ *Id.* at 856, para. 71.

²⁸ *Id.* at 858, para. 76. Methods A and B differ from Methods 1 and 2 in two ways. First, the proposed new methods would be based on the median of inputs rather than their average. Second, the proposed new methods would base the default calculation on rates charged by other service providers, meaning that a service provider would only be able to use its own rates to calculate the rural rate if there are no applicable rates from other service providers. *Id.* at 858, para. 77.

2019 as required for a waiver of the now-defunct Rates Database rules.²⁹ In proposing these evidentiary requirements, the Commission acknowledged that stakeholders generally disfavor cost-study evidentiary requirements because of their burdensome nature.³⁰ It nevertheless moved forward with the proposal under the belief that a comprehensive cost-based process would likely incentivize service providers to justify their rates under Method A or B, which would be simpler for providers and USAC.³¹ At the same time, however, it also sought comment on alternative evidentiary requirements that could assist in evaluating cost-based rates and would mitigate administrative burdens without compromising program integrity.³²

III. THIRD FURTHER NOTICE OF PROPOSED RULEMAKING

9. In this *Third Further Notice of Proposed Rulemaking*, we seek comment on several possible RHC Program improvements grouped within three distinct areas: Telecom Program support calculations, RHC Program supported services, and RHC Program processes. For Telecom Program support calculations, we seek comment on whether and how we should define the scope of “similar services” and “comparable rural areas,” and on ways to lessen the burdens resulting from cost studies and the associated evidentiary requirements proposed in the *Second Further Notice of Proposed Rulemaking*. In connection with RHC Program supported services, we request comment on possible ways to promote use of lower-cost backup services, and request comment on the establishment of an RHC Program eligible services list similar in concept to that in place for the E-Rate program. Regarding RHC Program processes, we seek comment on whether to adopt performance metrics applicable to the processing of RHC Program applications, and on whether to eliminate USAC’s approval of evergreen contracts and the rule requiring the submission of an annual report by entities that receive HCF Program support. The common thread in these proposals is the intent to reduce burdens and costs on RHC Program participants while protecting the limited resources of the Universal Service Fund by preventing waste, fraud, and abuse. When commenting on our proposals, or when offering alternatives to our proposals, we encourage commenters to explain how their positions further those goals.

A. Improving Support Calculations in the Telecom Program

1. Redefining Similar Services and Rural Area Comparability

10. Section 254(h)(1)(A) of the Act requires carriers to provide services to eligible health care providers “at rates that are reasonably comparable to rates charged for similar services in urban areas in that state,” and provides that Telecom Program support be based on the difference between that urban rate and the rural rate, which is the rate “for similar services provided to other customers in comparable rural areas.”³³ In 2019, the Commission defined “similar services” to include services with advertised speeds 30% above or below the speed of the requested service.³⁴ It also directed USAC, when determining similar services, to not limit the similar service inquiry to solely telecommunications services but instead to use a technology-agnostic approach that determines similarity from the perspective of the end user.³⁵ The Commission affirmed these standards in 2023.³⁶ Also in 2023, by restoring the previous

²⁹ *Id.* at 860, para. 85.

³⁰ *Id.* at 861, para. 86.

³¹ *Id.* at 862, para. 86.

³² *Id.*

³³ 47 U.S.C. § 254(h)(1)(A).

³⁴ *Promoting Telehealth Order I*, 34 FCC Rcd at 7343, para. 15. For example, for a health care provider requesting a 100 Mbps service, rates with an advertised speed 30% above or below 100 Mbps, or between 70 Mbps and 130 Mbps, would qualify as similar services.

³⁵ *Id.* at 7345, para. 18. The Order also directed USAC to consider whether the requested service was dedicated (i.e., mission critical) or best efforts. *Id.* at 7344, para. 17.

rural rate determination rules after eliminating the Rates Database, the Commission in effect reinstated the pre-2019 definition of “comparable rural area” to be the immediate rural area in which the health care provider is located,³⁷ but sought comment on what constitutes “comparable rural areas.”³⁸ We now refresh the record by seeking additional comment on whether and how we should redefine the scope of “similar services” and “comparable rural areas.”

11. We first ask whether the plus-or-minus 30% threshold for similar services is still a reasonable interpretation of the Act, or should we consider another approach to defining similar services? To the extent we decide to eliminate or broaden the requirement that the speeds of the comparable services must be within 30% of the speed of the requested service, how should we adjust the price of the comparable service to reflect any differences in speed? For example, if there were a 100 Mbps service sold to a non-HCP commercial customer in a rural area, and the provider wanted to justify the price of a 1 Gbps service that it wants to sell to an HCP, how should the price of the 100 Mbps service be adjusted to project the 1 Gbps price? One possible approach would be to convert the price of the 100 Mbps service to a price per Mbps and then multiply that price times the number of Mbps requested by the HCP. We note, however, that prices generally do not rise linearly with speed (i.e., the price per Mbps tends to decline as speed increases). Given this, how should we adjust the per Mbps price to reflect differences in bandwidth between the requested service and the comparable service? Should adjustments also be made for other differences in product characteristics, and if so, how might this be accomplished?

12. If we eliminate the 30% speed restriction and allow providers to adjust rates to account for differences in bandwidths, should we require that a provider submit multiple comparable commercial rates and then average the adjusted rates for the similar services in some way to reduce variation? If so, do we risk introducing bias into the calculation of the rural rate? For example, if providers include rates that are increasingly dissimilar to the supported service (e.g., farther from the requesting HCP location), could this result in a less accurate estimate of the price of the supported service absent appropriate adjustments? In addition, if we allow the provider to choose which commercial rates it wants to use for purposes of calculating an adjusted rate for the supported service, this could lead to selection bias (i.e., the provider might choose only those commercial services that would yield the highest derived price for the supported service). Would a possible solution to this bias problem be to require a provider seeking RHC Program support to file data on all “sufficiently similar” commercial rates within a “sufficiently close proximity” of the HCP for which the supported rate is being calculated, and if so, how should we define these terms to collect the appropriate universe of rates for similar services?

13. The former Rates Database demonstrated that, in addition to bandwidth, there are other factors that affect the costs of providing a broadband service to a location and the monthly recurring charges for the service, and that if these factors are not accounted for, inaccurate price projections may result.³⁹ These factors may include the location of the customer, the distance and terrain that the service provider must cover to connect to the customer, the technology used, the type and cost of middle mile transport, the contract length, the service level agreement, the number of channel terminations, the geographic pricing area, and the monthly spending commitment, among other factors. Given all the factors that affect the costs of providing a service and observed broadband prices, how should the Commission determine which services and rates qualify as sufficiently similar?

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³⁶ *Promoting Telehealth Order II*, 38 FCC Rcd at 837-40, paras. 26-35.

³⁷ See *Promoting Telehealth Order I*, 34 FCC Rcd at 7349, para. 29 (explaining that “[h]istorically, the Commission defined ‘comparable rural areas’ to mean the immediate rural area in which the health care provide is located”). In *Promoting Telehealth Order I*, the Commission expanded “comparable rural areas” to include not only rural areas in the health care provider’s own immediate rural location but all similar rural areas in the same rural tier of the health care provider’s state. *Id.*

³⁸ *Promoting Telehealth Order II*, 38 FCC Rcd at 857, para. 75.

³⁹ See *Promoting Telehealth Order II*, 38 FCC Rcd at 831, para.11.

14. The hierarchical approach to determining rural rates, which assigns priority to Methods 1 and 2, represents a preference for the use of commercial rates over the use of cost studies available under Method 3.⁴⁰ In recent years, however, there has been a significant decline in the number of Telecom Program applications that have relied on Methods 1 and 2. For example, in Alaska, in funding year 2024, only 32 of 317 approved Telecom Program requests relied on Methods 1 or 2, while in funding year 2025, only 34 of 340 approved Telecom Program requests in Alaska relied on Methods 1 or 2.⁴¹ We seek comment on whether expanding the 30% speed restriction may promote expanded use of Method 1 or 2. Does the 30% restriction unduly limit the number of commercial rates that could be used in determining rural rates, and therefore limit a provider's ability to employ Methods 1 and 2? We also seek comment on whether we should continue to employ a "functional" approach to defining similar services, or should instead require that services be technologically similar.

15. Turning to how to redefine "comparable rural areas," does "comparable" necessarily mean rural areas in the same state or may that geographic area encompass rural areas in adjoining states so long as they have similar levels of rurality? Section 254(h)(1)(A) requires the provision of telecommunications service at rates that are "reasonably comparable to rates charged for similar services in urban areas in that State."⁴² Is it possible to read this language to include rural areas in adjoining states? On a separate point, is some form of rurality tiers, in which rates from more rural areas of a state are prevented from being unfairly reduced by the inclusion of rates for similar services in less rural areas, workable despite the inaccuracies and inconsistencies observed during our earlier attempt at such tiers?⁴³ We encourage commenters to support their positions with actual examples of how their preferred definitions of similar services and comparable rural areas would work in practice.

2. Improving or Replacing Cost Studies

16. We next consider the possible improvement or replacement of cost studies. Under our current rules, cost-based rates must be justified under Method 3, including by submitting "an itemization of the costs of providing the requested service."⁴⁴ In the *Second Further Notice of Proposed Rulemaking*, the Commission sought comment on a proposal to maintain Method 3 but with the requirement that service providers seeking approval of a cost-based rate submit a cost study that satisfies the same evidentiary requirements that the Commission adopted as required for a waiver of the Rates Database.⁴⁵ Parties submitting comments in response to the *Second Further Notice of Proposed Rulemaking* opposed that proposal,⁴⁶ objecting to cost studies generally as expensive and time-consuming for the service provider to prepare and for the Commission to review, while also questioning their accuracy.⁴⁷

⁴⁰ *First Universal Service Report and Order*, 12 FCC Rcd at 9121, para. 661 (explaining that rural rates should be based on "tariffed or other publicly available rates" and cost-based rates should be used only when there are no other commercial rates available).

⁴¹ See Letter from Mark Sweeney, Vice President, Rural Health Care, USAC, to Joseph S. Calascione, Wireline Competition Bureau, FCC (July 14, 2026) (on file in WC Docket No. 17-310) (Sweeney Letter).

⁴² 47 U.S.C. § 254(h)(1)(A).

⁴³ See *Rates Database Waiver Order*, 36 FCC Rcd at 7056, para. 13.

⁴⁴ 47 CFR § 54.605(b)(1).

⁴⁵ See *Promoting Telehealth Order II*, 38 FCC Rcd at 860-61, para. 85.

⁴⁶ See GCI Communication Corp. Comments at 44-49 (GCI Comments); USTelecom – The Broadband Association Reply Comments at 8 (USTelecom Reply); Alaska Communications Reply Comments at 12-14 (Alaska Communications Reply).

⁴⁷ See USTelecom Reply at 8 (noting that cost study approval "often takes significant time and resources to obtain, making it impracticable for many providers"); GCI Comments at 44-45 (explaining that cost studies are inaccurate because of the requirement to allocate costs to determine the direct costs of an individual service and its proportion of the common costs of the entire network).

Commenters also opposed the proposed evidentiary requirements as unnecessary and counterproductive.⁴⁸ These parties maintained that the proposed requirements are not needed to persuade service providers to use simpler rural rate-determination methods because the existing Method 3 process already imposes burdens and processing delays significant enough to encourage use of alternatives.⁴⁹ One commenter, GCI Communication Corp. (GCI), also offered alternatives to cost studies that it believes can be used in cases where rates cannot be determined using other means.⁵⁰

17. While the Commission previously recognized the burdens associated with cost studies, the comments filed in response to the *Second Further Notice of Proposed Rulemaking* heighten our awareness of this issue, and prompt us to revisit the efficacy and desirability of our existing cost study approach under Method 3. The comments also inform us of the potential benefits that could be realized from employing alternatives to Method 3. We discuss the reduction of cost study burdens and possible cost study alternatives below in turn, and encourage stakeholders to comment on our proposals, and to offer proposals of their own, that seek to improve the methodology of determining rural rates.

a. Reducing Cost Study Burdens

18. As noted, the record in response to the *Second Further Notice of Proposed Rulemaking* suggests that the cost study required under Method 3 is burdensome for service providers to prepare. These apparent burdens notwithstanding, the record also reveals that cost studies, initially intended to be a seldom-used “safety valve,” have become instead an increasingly utilized method for determining rural rates.⁵¹ For example, after the use of previously approved rural rates was permitted under a waiver granted by the Commission following the repeal of the Rates Database in 2023, participants in the Telecom Program utilized previously approved rates nearly 500 times in funding years 2024 and 2025 to justify rural rates. Absent the waiver, the Commission likely would have seen a large number of cost studies submitted for approval.⁵² There is also a risk that service providers may have chosen to not bid for services if they could not easily justify rates. While various parties oppose the evidentiary requirements proposed in the *Second Further Notice of Proposed Rulemaking* and argue that cost studies in general are burdensome, the dearth of Telecom Program approved rural rates that were based on Methods 1 and 2 suggests that, if we eliminate the current waivers, more providers may need to rely on Method 3 cost studies.

19. Given this, we seek comment on how we can reduce the possible burdens associated with cost studies, while ensuring they remain transparent and reliable. Section 254(h)(1)(A) requires that rates must reflect the difference between the urban and rural rate (i.e., the rate for similar service provided to other customers in comparable rural areas in that state) but does not specify the manner in which rates

⁴⁸ See GCI Comments at 51 (maintaining that the new requirements “will layer onerous obligations atop of the already burdensome cost-study process for no discernable benefit”); Alaska Communications Reply at 13-14 (arguing the “burdensome nature” of the proposed Method 3 modifications “may curtail participation in the Telecom Program – an outcome plainly contrary to the public interest and the Commission’s universal service objectives”).

⁴⁹ See GCI Comments at 52 (asserting the current Method 3 process “already strongly disincentivizes service providers from seeking cost-based rates when another method produces a rate, even if it is lower than the service provider would prefer”). GCI also maintains that the new evidentiary requirements are unnecessary because the Wireline Competition Bureau “already has fulsome access to detailed and confidential financial information for service providers under the existing Method 3 process.” *Id.*

⁵⁰ See GCI Comments at 53-56.

⁵¹ See *Promoting Telehealth Order I*, 34 FCC Rcd at 7369, para. 69.

⁵² See GCI Comments at 51 (“Without the Commission’s FY 2024 and FY 2025 waiver allowing service providers to use previously approved rates for services that would otherwise fall under Method 3, a full quarter of GCI’s funding requests would likely require cost-based rates.”). GCI was the service provider selected for 255 approved funding requests in funding year 2024 and for 265 approved funding requests in funding year 2025. See USAC, *USAC Open Data, Program Tools, Rural Health Care*, <https://opendata.usac.org/> (last visited July 14, 2026).

must be documented or specify a general standard or framework for ensuring accurate rates.⁵³ We believe the statutory language requires the Commission to protect against improper payments and, accordingly, the Commission has a responsibility to ensure that rural rates are backed by trustworthy, accurate, and well-documented data. We seek comment on these beliefs and on the appropriate types and granularity of data needed to fulfill this obligation. Commenters are encouraged to identify the specific burdens and benefits of cost studies.

20. *Evidentiary Requirements.* In 2023, the Commission proposed that service providers seeking approval of a cost-based rate satisfy the same evidentiary requirements adopted by the Commission in 2019 for use in connection with requests for waiver of use of the Rates Database.⁵⁴ This proposal, intended to increase transparency in how service providers calculate cost-based rates, would require service providers to include all financial and other information to verify the service provider's assertions, including, at a minimum, the following information:

- 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;
- 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;
- 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;
- Projections of the company-wide and rural health care service costs for the funding year in question and an explanation of these projections;
- Actual monthly demand data for the rural health care service for the most recent three calendar years (if applicable);
- 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 that projection;
- 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 12 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;
- Audited financial statements and notes to the financial statements for the most recent three fiscal years, if available, and otherwise unaudited financial statements for those 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
- 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

⁵³ See 47 U.S.C. § 254(h)(1)(A).

⁵⁴ *Promoting Telehealth Order II*, 38 FCC Rcd at 860-61, para. 85.

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.⁵⁵

Commenters who opposed this proposal as unnecessary, burdensome, and unlikely to encourage use of Methods 1 and 2 did not offer possible alternatives or improvements to the proposed requirements. Here, we seek comment on which of the proposed evidentiary requirements are necessary to preserve the transparency and reliability of cost studies and which can be eliminated without endangering the integrity of the funding process. Would it reduce the burden on applicants and facilitate Commission review of cost studies if the Commission were to adopt a standardized approach or template for cost studies? If so, please provide examples of such a standardized approach or cost study.

b. Cost Study Alternatives

21. We next turn to three cost study alternatives based on GCI's suggestions offered in response to the *Second Further Notice of Proposed Rulemaking*.⁵⁶ We seek comment on these proposals – involving wholesale rates, previously approved cost models or rates, and rate projections – as well as on other possible approaches. We also seek comment on whether we should adopt only one alternative or provide program participants with a suite of options to choose from to justify rural rates.

22. *Wholesale Rates.* The first cost study alternative would allow the wholesale rates that a service provider actually charges other service providers for the same or similar service to be submitted for approval as a cost-based rate. This alternative is similar to Method 1 in that it allows the submission of rates charged to other customers but is differentiated by the documentation required to justify the rate. Under this approach, a service provider would be required to submit an invoice or contract showing the wholesale rate, rate of return, taxes, and working capital to justify the costs of providing service.

23. We seek comment on this proposal. First, we seek comment on how we should determine whether the wholesale service is sufficiently similar to the services whose price is being justified. We also seek comment on circumstances under which a wholesale rate charged by a service provider to a third party could provide a cost-based justification for the rate. In particular, we seek comment on whether we should view the wholesale rate as cost based if the wholesale service is used to support a service supported by the Universal Service Fund, such as with E-Rate or the RHC Program.⁵⁷ We also seek comment on whether we should consider wholesale rates to be cost based if the wholesale provider has market power with respect to the wholesale service. In such a case, how should market power be defined? We also seek comment on whether we should allow a provider to add additional costs to a wholesale rate that it charges other carriers. For example, does it make sense to allow a provider to add an additional rate of return to a wholesale rate that it offers other carriers, since the provider would not have offered the wholesale service at all if it were not making a profit on the service? Finally, we seek comment on whether other safeguards would be required to allow wholesale rates to be used to justify rural rates. For example, should we disallow wholesale rates contracted with affiliated companies? Would the contract need to be for a standalone wholesale service so that the price associated with the service is not affected by other services being purchased?

24. In addition, we seek comment on whether providers should be allowed to add an additional rate of return to a wholesale rate offered to other carriers and, if so, what an appropriate cap would be for the claimed rate of return and how this rate of return could be verified. Should the Commission rely on 9.75% as the cap used for high-cost rate-of-return carriers, or should it vary by some

⁵⁵ *Promoting Telehealth Order II*, 38 FCC Rcd at 860-61, paras. 84-85.

⁵⁶ See GCI Comments at 53-56.

⁵⁷ We note that, when the Commission established Methods 1 and 2 in its *First Universal Service Report and Order*, it specifically excluded “rates reduced by universal service programs.” 12 FCC Rcd at 9120-21, para. 660.

other characteristics, like service and location?⁵⁸ Should the rural rate be adjusted downward until the return on reported working capital is equal to the maximum allowable return, and how should this be done? Finally, we seek comment on how, if the wholesale service supports service to multiple locations, the cost of that wholesale service can be allocated for the purpose of setting a rural rate for service to a single location.

25. *Previously Approved Cost Models or Rates.* Our second proposed alternative to cost studies involves the use of previously approved cost models or rates. The Commission has twice waived section 54.605(b) of its rules to permit the use of previously approved rates that would otherwise require approval of a cost-based justification, specifically to cover funding years 2024 through 2026.⁵⁹ In today's *Order*, we again waive our rule to permit the use of previously approved rates for funding year 2027.⁶⁰ We seek comment on a proposal that would have the practical effect of making these rule waivers permanent.

26. We first seek comment on how the use of previously approved rates would work on a permanent basis. Should the Commission accept previously approved rates that were based on a cost model as a rate ceiling that a provider can use for the same service offered to a location or a location within close geographic proximity? Should there be a limit to how recent a rate must have been approved in order to use it as justification for a new rate? Should there be a time limit for how long a provider can rely on a previously approved rate before being required to have the rate reapproved using Method 1, 2, or 3? If so, we seek comment on the appropriate timelines for each of these parameters. Are there trends in the industry that the Commission should account for in these timeframe requirements? Given ongoing network deployments, the Commission believes rates will decrease over time and available bandwidth capacity will increase. Therefore, older rates may overcompensate providers relative to current market rates. We seek comment on this and how the Commission should factor these trends into any rules permitting the use of previously approved rates. Additionally, should the use of previously approved rates be limited to rates approved under Method 1, Method 2, or Method 3?

27. The waivers adopted in the past allowed for the use of rates approved within the past three funding years. Should there continue to be limits on how long a previously approved rate can be relied on by a provider? For example, if we permit using rates approved in the last three years as we have before, and a provider uses a rate approved two years ago, should it only be allowed to do that once? If not, the provider could continually use the same rate indefinitely, as it would become a newly approved rate every three years. Can rates approved under this approach be used as justification for rates proposed in future years under this or other proposed approaches?

28. *Rate Projections.* The final proposed alternative involves rate projections. Under this approach, service providers would be allowed to use a rational rate projection to justify the rural rate where the same service is justified at a lower bandwidth or range of bandwidths under Methods 1 or 2. The projection approach would allow service providers to develop a rate table for HCPs to understand specific tiers of service.⁶¹ We seek comment on whether the Commission should permit providers to use

⁵⁸ See *Connect America Fund, ETC Annual Reports and Certifications, Developing a Unified Intercarrier Compensation Regime*, WC Docket No. 10-90, WC Docket No. 14-58, CC Docket No. 01-92, Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087, 3171, para. 226 (2016) (re-prescribing the authorized rate of return from 11.25% to 9.75% in all situations where a Commission-prescribed rate of return is used for incumbent Local Exchange Carriers).

⁵⁹ *Promoting Telehealth Order II*, 38 FCC Rcd at 833-34, para. 16 (waiving rule for funding years 2024 and 2025); *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Order, 40 FCC Rcd 8795 (WCB 2025) (waiving rule for funding year 2026) (*2025 Waiver Order*).

⁶⁰ See *infra* Section IV.

⁶¹ A simple linear example involving existing rates of \$75 for 50 Mbps service and \$100 for 150 Mbps service demonstrates how rate projections work. By creating a graph with bandwidth on the x axis and the cost for service

(continued....)

previously justified rural rates for a service to extrapolate a rural rate for the same service at a different bandwidth than the observed rates. In addition, consistent with our similar services and rural area comparability inquiry above, we seek comment on what the guidelines should be for characterizing a service as similar and a geographic rural area as comparable, and therefore appropriate to use for projecting a new rate.

29. We next seek comment on whether projections be allowed for bandwidth amounts that are greater than the bandwidths observed in the supporting rates (i.e., extrapolation), or limited to projections for bandwidths that are between the bandwidths observed in the supporting rates (i.e., interpolation)? We note that, in general, interpolation likely provides more accurate estimates than extrapolation because it estimates values within the range of the underlying data and therefore is constrained by the surrounding data points. If projections are only allowed for bandwidths within the range of observed bandwidths in the supporting rates, should the range of data be required to satisfy certain criteria? For example, would it be problematic if a provider submitted rate data for MPLS circuits with bandwidths of 1 Mbps and 1 Gbps and used this data to project rates for a 500 Mbps MPLS circuit?

30. We also seek comment on what parameters should be required of the supporting rates. Should we require that a certain minimum number of rates for similar services used for the projection? If so, what should that number be? In cases of interpolation, should a certain percentage of the rates be required to be below the bandwidth of the rate being projected and a certain percentage above? If extrapolations to higher bandwidth services are allowed, should the criteria for those supporting rates be more stringent than the criteria required for interpolation? We recognize that the cost of a service typically does not increase linearly as the bandwidth increases.⁶² In fact, observed costs are generally highly non-linear, with the prices of 1 Gbps circuits being far below the amount that would be predicted from multiplying a 100 Mbps circuit by 10.⁶³ Given this empirical regularity in broadband pricing data, should there be limitations put in place to guard against linear pricing, especially in cases of extrapolation? If so, what should those guardrails look like?

31. We seek comment on limiting projections to interpolation or extrapolation of rates based on rates that were approved within the past two years under Methods 1 or 2 for services that are appropriately similar in both rurality and product characteristics, and on an appropriate number of rates for similar services (consistent with how we ultimately define “similar”) to support a newly projected rate. Finally, we seek comment on the appropriate format to collect the data, methodology, and justification in order to limit burden to providers and Commission staff. Should the Commission require the submission of any specific supporting documents, like signed contracts or public-facing information, during the review process?

32. *Other Alternatives.* Using wholesale rates, previously approved rates, and rate projections are not the only possible alternatives to cost studies. We seek comment on other approaches. For example, if tariffed or publicly available rates are not available or cannot be used in a particular case,

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on the y axis, a line drawn between the two existing rates can interpolate service costs at differing bandwidths (e.g., a \$87.50 rate for 100 Mbps service). Drawing the line beyond the highest bandwidth yields extrapolated rates. As in the case of all rate projections, this example requires that the existing rates are sufficiently similar on the necessary relevant geographic and product dimensions.

⁶² See GCI Comments at 55-56 (suggesting use of a “rational rate extrapolation” where “[o]ne might rationally expect rates to compress as bandwidth increases, so price compression could be mandatory.”).

⁶³ Staff analysis of GCI’s MPLS rate table for Anchorage highlights the non-linearity trend in bandwidth prices. The monthly reoccurring price for a 100 Mbps bandwidth for a one-year term is \$485 per month while for 1 Gbps it is \$2,908 per month. An increase in bandwidth by a factor of ten increases costs by a factor of less than six ($5.99=2,908/485$). See GCI, MPLS Rate Table, <https://gcic-p-001.sitecorecontenthub.cloud/api/public/content/16d556ed65ee416fb347f28c15ca7e19?v=8df567ff> (last visited July 14, 2026).

should we consider rates from another area, time period, or type of service or service level standard? If so, what justification would be required to show such rates are representative? Should providers be required to certify under penalty of debarment that they provided all known tariffed or publicly available rates from the other area or time period? Should the Commission also request rates for different services and service standards in a given area? Could the Commission use other existing data (e.g., from other Universal Service Fund programs like the HCF Program or E-Rate program) to model the costs of service to determine potential reasonable ceilings that could be used as an alternative? Commenters offering alternative approaches should demonstrate how and why their proposed approaches will reduce administrative burdens while simultaneously setting rural rates that are accurate measures of the true cost of telecommunications services. Finally, we ask whether the Commission should offer a choice of cost study alternatives rather than only one approach. Does offering service providers the discretion to choose a cost study alternative overcomplicate the rate-approval process? Is there a risk that, with a suite of options to choose from, program participants will face a new level of burden resulting from having to make market-by-market determinations of the best option to take?

B. Making Effective Use of RHC Program Supported Services

1. Promoting Lower-Cost Secondary Services

33. We next seek comment on measures to promote health care providers' use of lower-cost options for backup (i.e., secondary) services. Backup services can be an essential component of a health care provider's risk management plan by providing continuity of patient care in the event of a communications system failure or cyber threat.⁶⁴ The Commission has previously concluded, however, that the cost of bandwidth for a backup service "must reasonably reflect its use as a secondary service, and it must be the most cost-effective option available."⁶⁵ With this standard in mind, we seek comment on possible ways to lower program costs associated with secondary services.

34. The RHC Program rules currently do not distinguish primary services from secondary services. This lack of a distinction may lead to cost inefficiencies, such as a health care provider that uses more expensive C-band satellite services for both primary and secondary services where a less costly low earth orbit satellite service could be used instead for secondary services. How commonplace is this scenario, where a lower-cost technology can replace a more expensive technology to meet the health care provider's needs for secondary service? Alternatively, how commonplace is the scenario where health care providers choose a higher service level standard when a lower-cost alternative is available? In the HCF Program, price must be a primary factor that an applicant considers when choosing the required most cost-effective service offering.⁶⁶ However, when facing a choice between service options at varying costs, a health care provider may reasonably reject lower-cost options due to concerns regarding the lower-cost technology's reliability or other functional shortcomings. How often do health care providers face this choice, and what metric or standard is used to weigh the competing interests of functionality and cost effectiveness? We ask that commenters support their responses with actual examples identifying the

⁶⁴ See Catherine Solomon, *What Health Care Organizations Have Learned from Telecommunication Outages* (Feb. 3, 2026), <https://pmc.ncbi.nlm.nih.gov/articles/PMC12867314/> ("As more and more of our essential systems rely upon telecom infrastructure, redundancy and resiliency strategies are key to avoiding more outages that, at best, create delays and administrative burden in health care and, at worst, can lead to real patient harm.").

⁶⁵ *HCF Order*, 27 FCC Rcd at 16731, n.295. In addition, the Commission stated that "[t]he applicant must also indicate that it is seeking secondary services on its request for services, so that vendors can appropriately scale their responses to the planned use of the service." *Id.*

⁶⁶ 47 CFR § 54.622(c). Under our rules, price must be a primary factor but need not be the only primary factor. *Id.* There is no equivalent requirement that price be a primary factor in the Telecom Program. However, Telecom Program applicants, like HCF Program applicants, are required to select the most cost-effective means of meeting its specific health care needs. *Id.*

specific technology(ies) of where they opted for higher-cost options when lower-cost alternatives were available and explanations as to why the higher-cost service was selected.

35. We seek comment on whether we should modify the RHC Program rules to distinguish between primary and secondary services. The Commission has historically been technology-agnostic in regard to the services eligible for funding in the RHC Program.⁶⁷ For secondary services, should we limit the technologies eligible for support? Should we limit the cost or the performance characteristics of the secondary service to no greater than that of the primary service? We seek comment on codifying the existing guidance that a secondary service “must reasonably reflect its use as a secondary service, and it must be the most cost-effective option available” into our program rules for clarity.⁶⁸ Should cost be a primary factor for secondary services or should we take into account other factors? If so, what should those factors be? Has a primary factor requirement been problematic in the HCF Program? Due to the importance of connectivity for health care providers, should the primary focus of both primary and secondary services be ensuring reliable connectivity regardless of price and technology? Are there other considerations we should take into account when examining potential limitations on technologies for secondary services? The Commission currently prioritizes RHC Program support based on eight tiers ranked by degree of rurality and greatest medical need.⁶⁹ Should we consider delineating primary and secondary services and prioritizing primary over secondary services when reviewing funding requests?

2. Establishing an RHC Program Eligible Services List

36. We next propose to adopt an eligible services list for the RHC Program, modeled in part after the E-Rate program’s eligible services list.⁷⁰ An eligible services list specifies the services that will be supported for eligible program participants. The Commission delegated responsibility to the Wireline Competition Bureau to annually seek public comment on an eligible services list for the E-Rate program, which is prepared and released prior to the opening of each funding year’s application filing window.⁷¹ We seek comment on whether the adoption of an analogous eligible services list for the RHC Program would promote clarity and consistency regarding the telecommunications and broadband services and equipment eligible through the program.

37. While the RHC Program lacks a formal eligible services list,⁷² lists of common products and services that qualify for support have been available through the USAC web site for about five years.⁷³ However, the adoption of a formal eligible services list would better align the RHC Program with other universal service programs. Not only has the E-Rate program released eligible services lists since

⁶⁷ See, e.g., *Promoting Telehealth Order I*, 34 FCC Rcd at 7345, para. 18.

⁶⁸ See Appx. A, Proposed Rules. See *supra* n.66.

⁶⁹ 47 CFR § 54.621(b).

⁷⁰ See Appx. A, Proposed Rules.

⁷¹ See 47 CFR § 54.502(e). See also *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Order, 40 FCC Rcd 10048 (WCB 2025) (adopting final eligible services list for funding year 2026).

⁷² An abbreviated eligible services list, highlighting in particular the differences for individual health care providers vs. consortia, was included in the 2012 order establishing the HCF Program. See *HCF Order*, 27 FCC Rcd at 16728.

⁷³ USAC, *Healthcare Connect Fund (HCF) Program Examples of Common Products and Services*, <https://www.usac.org/wp-content/uploads/rural-health-care/documents/handouts/HCF-Program-Examples-of-Common-Products-and-Services.pdf> (last visited July 14, 2026). See also USAC, *Telecommunications (Telecom) Program Examples of Common Services*, <https://www.usac.org/wp-content/uploads/rural-health-care/documents/handouts/Telecom-Program-Examples-of-Common-Services.pdf> (last visited July 14, 2026). We note that the RHC Program rules for eligible purchases remain substantially unchanged since the Telecom Program’s establishment in 1997 and the HCF Program’s establishment in 2012.

1998,⁷⁴ such lists have been used in connection with three recent temporary universal service programs: the COVID-19 Telehealth Program,⁷⁵ the Connected Care Pilot Program,⁷⁶ and the E-Rate Cybersecurity Pilot Program.⁷⁷ In addition, adopting an eligible services list could make RHC Program rules more transparent, easier to administer, and more comprehensible, particularly for new entrants to the program.

38. We invite comment on our proposal to create an RHC Program eligible services list. Have conditions changed since the Commission opted to not adopt an eligible services list when establishing the HCF Program in 2012 that now support adopting such a list for the RHC Program? Do stakeholders have examples of specific situations where the availability of an eligible services list would have been useful? Will the creation of an eligible services list help applicants (including both providers and health care providers) in applying for support? For instance, are stakeholders experiencing problems with specific eligibility where a service or product appears eligible, but a funding application is denied after USAC review? If so, we invite comment on whether this would be better resolved with an eligible services list or an alternative change to our rules. Would an eligible services list increase transparency and make program administration simpler both for participants and the Commission? We also seek comment on how an eligible services list would work in practice. How frequently would the list need to be updated? We propose that revisions to the eligible services list be conducted on an as-needed basis with authority delegated to the Wireline Competition Bureau to seek comment on changes and on whether separate lists are needed for the Telecom and HCF Programs. Are there other aspects of the E-Rate program eligible services list process that should be modified for the RHC Program and, if so, how and for what reason? Alternatively, could the advantages of a more comprehensive eligible services list be achieved through modifications to existing USAC or Commission web sites, without the adoption of rules?

C. Evaluating and Improving Program Processes

1. Applying Performance Metrics

39. We next ask whether we should adopt performance metrics to support the goal of making RHC Program application processing faster and more effective. The Commission adopted metrics for the E-Rate program in 2014 by establishing a September 1 deadline for USAC to issue funding commitments or denials for all “workable” funding requests.⁷⁸ The Commission defined “workable” to mean a funding request that is timely filed and complete with all necessary information, and filed by an applicant (or its service provider and consultants) not subject to investigation, audit, or other similar reasons to delay a funding decision.⁷⁹ Should we adopt a similar performance metric for the RHC Program? Does the RHC Program’s recent history warrant this or other processing targets? A September 1 deadline would provide USAC with approximately five months after the application filing deadline to review RHC Program

⁷⁴ E-Rate eligible services lists from 1998 to the present are available online. See USAC, *E-Rate, Eligible Services List*, <https://www.usac.org/e-rate/applicant-process/before-you-begin/eligible-services-list/> (last visited July 14, 2026).

⁷⁵ *COVID-19 Telehealth Program, Promoting Telehealth for Low-Income Consumers*, WC Docket Nos. 20-89, 18-213, Report and Order and Order on Reconsideration, 36 FCC Rcd 7141, 7184-85, Appendix B (2021).

⁷⁶ *Wireline Competition Bureau Announces Connected Care Pilot Program Application Filing Window Opening*, WC Docket No. 18-213, Public Notice, 35 FCC Rcd 12751, 12756, Appendix (WCB 2020).

⁷⁷ *Schools and Libraries Cybersecurity Pilot Program*, WC Docket No. 23-234, Report and Order, 39 FCC Rcd 6158, 6258-61, Appendix B (2024).

⁷⁸ *Modernizing the E-Rate Program for Schools and Libraries*, WC Docket No. 13-184, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8870, 8893, para. 59 (2014) (*First 2014 E-Rate Order*).

⁷⁹ *Id.*

funding requests.⁸⁰ We note that the September 1 deadline for the E-Rate program was established with the intent of providing applicants “certainty . . . by the beginning of the school year.”⁸¹ Does the inapplicability of a school year to the RHC Program mean that another deadline would be more or equally appropriate? As always, we seek to balance program integrity with efficiency and predictability. Could an expedited processing timeline increase the risk of RHC Program waste, fraud, and abuse? If more (or less) processing time than five months is preferred, why? The E-Rate metrics recognize that even “workable” funding requests may be time-consuming for USAC to process due to the need for additional information from the applicant.⁸² If we adopt metrics for the RHC Program, we tentatively conclude that we exempt from a processing deadline any applications that are subject to a pending information request from USAC to the applicant. Are there other exceptions to a targeted processing deadline that we should apply?

2. Evergreen Contract Approval Timing

40. We next seek comment on whether to eliminate the requirements in section 54.622(i)(3) of our rules for USAC to approve multi-year contracts in the RHC program as “evergreen” before applicants can avail themselves of the competitive bidding exemption for “evergreen” contracts.⁸³ Evergreen contracts are one of the exemptions to the general rule that applicants are required to undergo a competitive bidding process to identify the most cost-effective service in order to receive RHC Program support.⁸⁴ After USAC designates a multi-year contract as evergreen, an applicant with an evergreen contract need not undertake competitive bidding for the life of the contract.⁸⁵ The Schools, Health & Libraries Broadband Coalition (SHLB), in response to the *Delete, Delete, Delete* initiative,⁸⁶ recommends that the requirements in section 54.622(i)(3) of the Commission’s rules for USAC to approve multi-year contracts as “evergreen” be eliminated as “unnecessary,” maintaining that “there is no need for applicants to submit and wait for approval from USAC for their multi-year contracts.”⁸⁷ SHLB recommends that the RHC Program follow the approach used in the E-Rate program, where USAC approval of evergreen contracts is not required and “applicants simply have to seek competitive bids when the multi-year contract is expiring.”⁸⁸

41. We seek comment on SHLB’s recommendation to eliminate the requirements in section 54.622(i)(3) for USAC to approve multi-year contracts as “evergreen” before applicants can avail themselves of the competitive bidding exemption. As SHLB points out, the E-Rate program does not require evergreen contract approval. However, E-Rate competitive bidding violations can be discovered after a number of years, resulting in a larger recovery. Are the minor burdens of the evergreen contract

⁸⁰ See 47 CFR § 54.621(a)(1) (directing USAC to “open an initial application filing window with an end date no later than 90 days prior to the start of the funding year (i.e., no later than April 1)”).

⁸¹ *First 2014 E-Rate Order*, 29 FCC Rcd at 8893, para. 59.

⁸² *Id.* at 8893-94, para. 60.

⁸³ 47 CFR § 54.622(i)(3).

⁸⁴ See 47 CFR § 54.622(a) (competitive bidding requirement); 47 CFR § 54.622(i) (competitive bidding requirement exemptions).

⁸⁵ 47 CFR § 54.622(i)(3)(i). A multi-year contract may be designated as evergreen by USAC if the contract: (1) is signed by the individual health care provider or consortium lead entity; (2) specifies the service type, bandwidth, and quantity; (3) specifies the term of the contract; (4) specifies the cost of services to be provided; and (5) includes the physical location or other identifying information of the health care provider sites purchasing from the contract. *Id.* at § 54.622(i)(3)(ii).

⁸⁶ See *Delete, Delete, Delete Public Notice*, 40 FCC Rcd at 1601.

⁸⁷ Schools, Health & Libraries Broadband Coalition Comments, GN Docket No. 25-133, at 6 (rec. Apr. 14, 2025).

⁸⁸ *Id.*

review outweighed by the benefits of ensuring that the contract is approved for its duration? Alternatively, are there ways the approval process be shortened so that it still delivers benefits while minimizing burdens? Are health care providers in the position to assume the risk of a potential future finding of a violation if they rely on a yet-to-be-approved evergreen contract?

3. Eliminating HCF Annual Report Requirement

42. We next propose to eliminate a reporting requirement that our current rules impose on HCF Program applicants. When the HCF Program was established in 2012, the Commission adopted a rule, now contained in section 54.618, that requires each HCF Program applicant to file an annual report with USAC on or before September 30 for the preceding funding year.⁸⁹ The Commission adopted this reporting requirement to provide “information necessary to ensure the Commission can assess progress towards the performance goals and measures” adopted in the *HCF Order*.⁹⁰ The Ad Hoc Broadband for Rural Health Group (Ad Hoc Group), in response to the *Delete, Delete, Delete* initiative, requests that section 54.618 of the Commission’s rules be eliminated.⁹¹ The Ad Hoc Group maintains that the data gathered by the annual reports “is no longer a meaningful metric for measuring HCF performance goals” because of how much telehealth services have grown and changed since 2012.⁹²

43. We tentatively agree with the Ad Hoc Group, and propose deleting the HCF annual report requirement.⁹³ The HCF Program has established itself as the predominant funding mechanism of the RHC Program. In funding year 2024, the most recent funding year for which complete data is available, the HCF Program accounted for 56.8% of the RHC Program funding commitments in terms of dollars.⁹⁴ We tentatively conclude that the information gathered by the annual report requirement is no longer needed to measure the progress of HCF Program goals now that the program is so firmly established. The report instead serves as a hurdle that HCF Program applicants must clear in order to receive universal service support.

44. We request comment on our proposal to eliminate the HCF Program annual report requirement and our tentative conclusion that collection of this information is no longer necessary. Is the data collected in the annual reports of continuing value? Does the burden associated with complying with the annual reporting requirement outweigh any benefit for program administration? If the annual reporting requirement is to be retained, should the reports require different or additional information? Should the frequency and form of the retained reports remain as they are or revised to minimize the administrative burdens placed on reporting entities? We encourage commenting parties that favor continuation of the annual reports to explain how the value of the information contained in the reports outweighs the burdens associated with compiling and submitting the reports.

IV. ORDER

45. In this *Order*, we waive section 54.605(b) of the Commission’s rules to permit use of previously approved rural rates from funding years 2024 through 2026 for funding year 2027 that would

⁸⁹ 47 CFR § 54.618(a). An applicant must file an annual report for each funding year in which it receives HCF Program support. *Id.* at § 54.618(b). For consortia that receive large upfront payments, the reporting requirement extends for the life of the supported facility. *Id.* at § 54.618(c).

⁹⁰ *HCF Order*, 27 FCC Rcd 16678, 16808, para. 319. The information required to be reported includes connection characteristics (e.g., bandwidth and price), the number of eligible and non-eligible sites connected to the network, and the extent to which the supported connections are being used for telehealth. *Id.*

⁹¹ Ad Hoc Broadband for Rural Health Group Comments, GN Docket No. 25-133, at 4-5 (rec. Apr. 14, 2025).

⁹² *Id.* at 5.

⁹³ See Appx. A, Proposed Rules.

⁹⁴ See Sweeney Letter.

otherwise require approval of a cost-based justification.⁹⁵ We take this action to limit the administrative burdens placed upon RHC Program participants seeking Method 3 approvals as the Commission reviews the record developed in response to today's *Third Further Notice of Proposed Rulemaking* concerning whether, and how, to reform our requirements with regard to cost studies.

46. The Commission's rules may be waived for good cause shown.⁹⁶ The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.⁹⁷ In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis.⁹⁸ Waiver of the Commission's rules is appropriate only if both (1) special circumstances warrant a deviation from the general rule, and (2) such deviation will serve the public interest.⁹⁹

47. Section 54.605(b) has twice been waived to permit the use of previously approved rates, specifically to cover funding years 2024 through 2026.¹⁰⁰ In both cases, there was good cause to waive the rule because the public interest would not be served by requiring service providers seeking Method 3 rate approval to absorb the administrative burdens associated with cost studies while the Commission developed a permanent solution to replace the Rates Database.¹⁰¹ That waiver rationale continues to apply given the proposals adopted today seeking comment on ways to improve or replace the cost study methodology and our need to review the record compiled in response to the proposals. Should the instant rulemaking continue beyond the waiver period, we direct the Wireline Competition Bureau to determine whether waivers covering funding year 2028 and beyond are necessary.

48. The Method 3 waiver that we adopt today permits use of previously approved rural rates from the most recent funding commitment for the facility/service combination at issue, provided that funding commitment was issued in funding years 2024, 2025, or 2026. If there is no approved rate for a particular facility/service combination, the health care provider and its service provider may use a rural rate for the most recent funding commitment for the same or similar services to the facility with the same or similar geographic characteristics provided the funding commitment was issued in funding years 2024, 2025, or 2026. If no such comparable rates are available, this waiver is not applicable and the rural rate must be established using a Method 3 cost study pursuant to section 54.605(b) of our rules.¹⁰²

V. PROCEDURAL MATTERS

49. *Regulatory Flexibility Act.* The Regulatory Flexibility Act of 1980, as amended (RFA),¹⁰³ requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a

⁹⁵ See 47 CFR § 54.605(b).

⁹⁶ 47 CFR § 1.3.

⁹⁷ *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁹⁸ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *Northeast Cellular*, 897 F.2d at 1166.

⁹⁹ *Northeast Cellular*, 897 F.2d at 1166.

¹⁰⁰ *Promoting Telehealth Order II*, 38 FCC Rcd at 833-34, para. 16 (waiving rule for funding years 2024 and 2025); *2025 Waiver Order* 40 FCC Rcd at 8795, para. 1 (waiving rule for funding year 2026).

¹⁰¹ *Promoting Telehealth Order II*, 38 FCC Rcd at 834, para. 18; *2025 Waiver Order* 40 FCC Rcd at 8797, para. 7.

¹⁰² 47 CFR § 54.605(b). As was the case with the prior rule waivers, this waiver does not include Method 1 or Method 2 approvals or to urban rate approvals because the administrative burden and time required for these approvals are less than those associated with a Method 3 approval. See *Promoting Telehealth Order II*, 38 FCC Rcd at 834, para. 19.

¹⁰³ The RFA, see 5 U.S.C. §§ 601-612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Pub. L. No. 104-121, Title II, 110 Stat. 847 (1996).

significant economic impact on a substantial number of small entities.”¹⁰⁴ Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in the *Third Further Notice of Proposed Rulemaking*. The IRFA is set forth in Appendix B. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the *Third Further Notice of Proposed Rulemaking* indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

50. *Paperwork Reduction Act.* This *Third Notice of Proposed Rulemaking* may contain proposed new or modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on any information collections contained in this document, as required by the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3521. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, 44 U.S.C. § 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

51. *Providing Accountability Through Transparency Act.* Consistent with the Providing Accountability Through Transparency Act, Public Law 118-9, a summary of the *Third Further Notice of Proposed Rulemaking* will be available on <https://www.fcc.gov/proposed-rulemakings>.

52. *Filing Requirements.* Pursuant to sections 1.415 and 1.419 of the Commission’s rules, 47 CFR §§ 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission’s Electronic Comment Filing System (ECFS).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/ecfs/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing.
 - Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. **All filings must be addressed to the Secretary, Federal Communications Commission.**
 - Hand-delivered or messenger-delivered paper filings for the Commission’s Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC’s mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
 - Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.

53. *Ex Parte Rules – Permit-But-Disclose.* This proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.¹⁰⁵ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting

¹⁰⁴ 5 U.S.C. § 605(b).

¹⁰⁵ 47 CFR § 1.1200 *et seq.*

at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

54. *People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530.

55. *Contact Person.* For further information about this proceeding, please contact, Kate Dumouchel, Deputy Division Chief, Telecommunications Access Policy Division, Wireline Competition Bureau, at kate.dumouchel@fcc.gov.

VI. ORDERING CLAUSES

56. Accordingly, IT IS ORDERED, pursuant to the authority contained in sections 1, 4(j), 214, 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(j), 214, 254, and 303(r), and pursuant to section 1.3 of the Commission's rules, 47 CFR § 1.3, that this Third Further Notice of Proposed Rulemaking and Order IS ADOPTED.¹⁰⁶

57. IT IS FURTHER ORDERED that pursuant to the authority in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to section 1.3 of the Commission's rules, 47 CFR § 1.3, that section 54.605(b) of the Commission's rules as amended herein, 47 CFR §§ 54.605(b), IS WAIVED to the extent provided herein.

58. IT IS FURTHER ORDERED, that pursuant to section 1.103 of the Commission's rules, the Order WILL BECOME EFFECTIVE upon release.

59. IT IS FURTHER ORDERED that the Commission's Office of the Secretary SHALL SEND a copy of this Third Further Notice of Proposed Rulemaking and Order, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁰⁶ Pursuant to Executive Order 14215, 90 Fed. Reg. 10447 (Feb. 24, 2025), this regulatory action has been determined to be not significant under Executive Order 12866, 58 Fed. Reg. 51735 (Oct. 4, 1993).

APPENDIX A

PROPOSED RULES

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 to read as follows:

PART 54 – UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601-1609, and 1752, unless otherwise noted.

2. Amend § 54.603 by replacing paragraph (b) to read as follows:

§ 54.603 Consortia, telecommunications services, and existing contracts.

* * *

(b) *Telecommunications services.* Any telecommunications service listed in the eligible services list as provided in § 54.634 and that is the subject of a properly completed bona fide request by a rural health provider shall be eligible for universal service support. Upon submitting a bona fide request to a telecommunications carrier, each eligible 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. Services that provide back-up, redundant, or fail-over services are eligible for support, but the cost and bandwidth of the service must reasonably reflect its use as a secondary service and must be the most cost-effective option available.

2. Amend § 54.612 by replacing paragraph (a) to read as follows:

§ 54.612 Eligible services.

(a) *Eligible services.* Subject to the provisions of §§ 54.600 through 54.602 and 54.607 through 54.634, eligible health care providers may request support under the Healthcare Connect Fund Program for advanced telecommunications or information service that enables health care providers to post their own data, interact with stored data, generate new data, or communicate, by providing connectivity over private dedicated networks or the public internet for the provision of health information technology. The services eligible for support shall be contained in the eligible services list as provided in § 54.634. Services that provide back-up, redundant, or fail-over services are eligible for support, but the cost and bandwidth of the service must reasonably reflect its use as a secondary service and must be the most cost-effective option available.

3. Remove and reserve § 54.618.

§ 54.618 [Reserved]

4. Add new § 54.634 to read as follows:

§ 54.634 Eligible Services List.

(a) *Eligible services list.* The Commission shall provide a list of all supported services eligible for Telecommunications Program and Healthcare Connect Fund Program support. The eligible services list

shall be subject to revision in accordance with paragraph (b) of this section.

(b) *Eligible services list revision.* As needed to account for changes to Commission rules applicable to subsequent funding years, technology advances, and other circumstances that cause or will cause the existing eligible services list to become outdated or incomplete, the Wireline Competition Bureau shall issue a Public Notice seeking comment on a revised eligible services list. The final revised list of services eligible for support will be released at least 60 days prior to the opening of the application filing window for the following funding year.

APPENDIX B

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),¹ the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the *Third Further Notice of Proposed Rulemaking* assessing the possible significant economic impact on a substantial number of small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the *Third Further Notice of Proposed Rulemaking*. The Commission will send a copy of the *Third Further Notice of Proposed Rulemaking*, including this IRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy.² In addition, the *Third Further Notice of Proposed Rulemaking* and IRFA (or summaries thereof) will be published in the Federal Register.³

A. Need for, and Objectives of, the Proposed Rules

1. The Commission is required by section 254 of the Communications Act of 1934, as amended, to promulgate rules to implement the universal service provisions of section 254.⁴ On May 8, 1997, the Commission adopted rules to reform its system of universal service support mechanisms so that universal service is preserved and advanced as markets move toward competition.⁵ The Rural Health Care (RHC) Program consists of two component programs: (1) the Telecommunications (Telecom) Program, and (2) the Healthcare Connect Fund (HCF) Program. The Telecom Program, established in 1997, subsidizes the difference between the rates for eligible telecommunications services in the health care provider's rural area and rates for comparable services available in urban areas within that state.⁶ The HCF Program, created in 2012, promotes the use of broadband services and facilitates the formation of health care provider consortia that include both rural and urban health care providers⁷ by providing a flat 65% discount on an array of advanced telecommunications and information services.⁸

2. The *Third Further Notice of Proposed Rulemaking* proposes several improvements to reduce administrative burdens for RHC Program participants, as well as appropriate administrative responses to increased program demand. We seek comment on the scope of the similar service and rate comparability requirements in Section 254(h)(1)(A); possible reforms to our existing cost study method of determining rural telecommunications rates; possible methods of promoting the use of lower-cost back-up and redundancy technologies; the establishment of an eligible services list for the RHC Program; whether to increase the RHC Program funding cap; and whether we should change how the RHC Program prioritizes support in the event that demand exceeds the program funding cap. We also request comment on whether to adopt Universal Service Administrative Company (USAC) performance metrics to expedite the processing of RHC Program funding requests. Finally, we respond to two suggestions from

¹ 5 U.S.C. §§ 601 *et seq.*, as amended by the Small Business Regulatory Enforcement and Fairness Act (SBREFA), Pub. L. No. 104-121, 110 Stat. 847 (1996).

² *Id.* § 603(a).

³ *Id.*

⁴ See 47 U.S.C. § 254.

⁵ See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9006-9008, paras. 431-34 (1997) (*First Universal Service Report and Order*).

⁶ See 47 U.S.C. § 254(h)(1)(A); *First Universal Service Report and Order*, 12 FCC Rcd at 9093-161, paras. 608-749.

⁷ See *Rural Health Care Support Mechanism*, WC Docket No. 02-60, Report and Order, 27 FCC Rcd 16678, 16680-81, paras. 1-2 (2012) (*HCF Order*).

⁸ See 47 U.S.C. § 254(h)(2)(A); 47 CFR § 54.611; *HCF Order*, 27 FCC Rcd at 16680-81, paras. 1-3.

stakeholders offered in response to our Delete, Delete, Delete initiative by seeking comment on the elimination of the evergreen contract competitive bidding exemption and proposing to eliminate an annual program report requirement

B. Legal Basis

3. The proposed action is authorized pursuant to sections 1, 4(j), 214, 254, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(j), 254, and 303(r), and section 1.3 of the Commission's rules, 47 CFR § 1.3.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.⁹ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."¹⁰ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.¹¹ A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.¹² The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.¹³

5. Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions.¹⁴ In general, a small business is an independent business having fewer than 500 employees.¹⁵ These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses.¹⁶ Next, "small organizations" are not-for-profit enterprises that are independently owned and operated and not dominant in their field.¹⁷ While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees.¹⁸ Finally, "small governmental jurisdictions" are defined as cities, counties, towns, townships, villages,

⁹ 5 U.S.C. § 603(b)(3).

¹⁰ *Id.* § 601(6).

¹¹ *Id.* § 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

¹² 15 U.S.C. § 632.

¹³ 13 CFR § 121.903.

¹⁴ 5 U.S.C. § 601(3)-(6).

¹⁵ See SBA, Office of Advocacy, *Frequently Asked Questions About Small Business* (July 23, 2024), https://advocacy.sba.gov/wp-content/uploads/2024/12/Frequently-Asked-Questions-About-Small-Business_2024-508.pdf.

¹⁶ *Id.*

¹⁷ 5 U.S.C. § 601(4).

¹⁸ See SBA, Office of Advocacy, *Small Business Facts, Spotlight on Nonprofits* (July 2019), <https://advocacy.sba.gov/2019/07/25/small-business-facts-spotlight-on-nonprofits/>.

school districts, or special districts with populations of less than fifty thousand.¹⁹ Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.²⁰

6. The rules proposed in the *Third Further Notice of Proposed Rulemaking* will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS)²¹ codes and corresponding SBA size standard.²² Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

Table 1. 2022 U.S. Census Bureau Data by NAICS Code

Regulated Industry (Footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS Code	SBA Size Standard	Total Firms²³	Total Small Firms²⁴	% Small Firms
Telephone Apparatus Manufacturing	334210	1,250 employees	155	136	87.74%
Radio and Television Broadcasting and Wireless Communications Equip Manufacturing ²⁵	334220	1,250 employees	155	136	87.74%
Other Communications Equipment Manufacturing	334290	800 employees	310	294	94.84%
Wired Telecommunications Carriers ²⁶	517111	1,500 employees	3,403	3,027	88.95%
Wireless	517112	1,500	1,184	1,081	91.30%

¹⁹ 5 U.S.C. § 601(5).

²⁰ See U.S. Census Bureau, 2022 Census of Governments –Organization, <https://www.census.gov/data/tables/2022/econ/gus/2022-governments.html>, tables 1-11.

²¹ The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. See www.census.gov/NAICS for further details regarding the NAICS codes identified in this chart.

²² The size standards in this chart are set forth in 13 CFR § 121.201, by six digit North American Industrial Classification System (NAICS) code.

²³ U.S. Census Bureau, "Selected Sectors: Employment Size of Firms for the U.S.: 2022." Economic Census, ECN Core Statistics Economic Census: Establishment and Firm Size Statistics for the U.S., Table EC2200SIZEEMPfirm, 2025, "Selected Sectors: Sales, Value of Shipments, or Revenue Size of Firms for the U.S.: 2022." Economic Census, ECN Core Statistics Economic Census: Establishment and Firm Size Statistics for the U.S., Table EC2200SIZEREVfirm, 2025.

²⁴ *Id.*

²⁵ Affected Entities in this industry include Vendors of Infrastructure Development Network Buildout.

²⁶ Affected Entities in this industry include Competitive Access Providers, Incumbent Local Exchange Carriers (Incumbent LECs), Interexchange Carriers (IXCs), and Wired Broadband Internet Access Service Providers.

Regulated Industry (Footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS Code	SBA Size Standard	Total Firms²³	Total Small Firms²⁴	% Small Firms
Telecommunications Carriers (except Satellite) ²⁷		employees			
Telecommunications Resellers	517121	1,500 employees	955	847	88.69%
Satellite Telecommunications	517410	\$44 million	332	195	58.73%
All Other Telecommunications ²⁸	517810	\$40 million	1,673	1,007	60.19%
Offices of Physicians Except Mental Health Specialists	621111	\$16 million	138,120	104,486	75.65%
Offices of Dentists	621210	\$9 million	121,011	105,588	87.25%
Offices of Chiropractors	621310	\$9 million	38,673	30,425	78.67%
Offices of Optometrists	621320	\$9 million	18,582	16,425	88.39%
Offices of Mental Health Practitioners Except Physicians	621330	\$9 million	39,395	30,210	76.68%
Offices of Physical Occupational & Speech Therapists & Audiologists	621340	\$12.5 million	31,682	25,139	79.35%
Offices of Podiatrists	621391	\$9 million	6,546	5,737	87.64%
Offices of All Other Miscellaneous Health Practitioners	621399	\$10 million	29,775	18,206	61.15%
Family Planning Centers	621410	\$19 million	1,671	1,238	74.09%
Outpatient Mental Health and Substance Abuse Centers	621420	\$19 million	9,647	6,837	70.87%
HMO Medical Centers	621491	\$44.5 million	56	25	44.64%
Kidney Dialysis Centers	621492	\$47 million	516	367	71.12%
Freestanding Ambulatory Surgical and Emergency Centers	621493	\$19 million	6,092	4,544	74.59%
All Other Outpatient Care Centers	621498	\$25.5 million	8,942	7,160	80.07%
Medical Laboratories	621511	\$41.5 million	4,527	3,525	77.87%
Diagnostic Imaging Centers	621512	\$19 million	4,717	3,537	74.98%
Home Health Care Services	621610	\$19 million	27,774	20,724	74.62%
Ambulance Services	621910	\$22.5 million	3,002	2,436	81.15%

²⁷ Affected Entities in this industry include 1670–1675 MHz Services, Wireless Broadband Internet Access Service Providers, Wireless Carriers and Service Providers, and Wireless Telephony.

²⁸ Affected Entities in this industry include Internet Service Providers (Non-Broadband).

Regulated Industry (Footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS Code	SBA Size Standard	Total Firms²³	Total Small Firms²⁴	% Small Firms
Blood and Organ Banks	621991	\$40 million	371	258	69.54%
All Other Miscellaneous Ambulatory Health Care Services	621999	\$20.5 million	7,270	5,794	79.70%
General Medical and Surgical Hospitals	622110	\$47 million	2,280	501	21.97%
Psychiatric and Substance Abuse Hospitals	622210	\$47 million	403	134	33.25%
Specialty Hospitals - Except Psychiatric and Substance Abuse	622310	\$47 million	280	92	32.86%
Emergency and Other Relief Services	624230	\$41.5 million	714	514	71.99%

Table 2. Telecommunications Service Provider Data

2025 Universal Service Monitoring Report Telecommunications Service Provider Data ²⁹ (Data as of December 2024)	SBA Size Standard (1500 Employees)		
Affected Entity	Total # FCC Form 499A Filers	Small Firms	% Small Entities
CAP/CLEC	645	548	84.96
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	920	78.30
Interexchange Carriers (IXCs)	112	92	82.14
Telecommunications Resellers	655	630	96.18
Wired Telecommunications Carriers ³⁰	4,971	4,531	91.15
Wireless Telecommunications Carriers (except Satellite) ³¹	608	522	85.86

²⁹ Federal-State Joint Board on Universal Service, Universal Service Monitoring Report at 25, Table 1.12 (2025), <https://docs.fcc.gov/public/attachments/DOC-418505A1.pdf>.

³⁰ Local Resellers fall into another U.S. Census Bureau industry (Telecommunications Resellers) and therefore data for these providers is not included in this industry.

³¹ Affected Entities in this industry include all reporting wireless carriers and service providers.

D. Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

7. The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.³²

8. In general, the proposals in the *Third Further Notice of Proposed Rulemaking* should reduce administrative burdens for all program participants, including small entities, and have minimal impact on the hiring of professionals for compliance purposes for current participants who should be familiar with the program. We seek comment on whether the cost study approach under Method 3 is burdensome for providers to prepare, and whether and how to reduce the requirements associated with cost studies. We also seek comment on how to define the scope of “comparable rural areas” and “similar services,” and whether providers should be able to choose from alternative options to justify rural rates. The *Third Further Notice of Proposed Rulemaking* also seeks comment on ways to lower costs using secondary services. We also propose to adopt an eligible services list to better align with other universal service programs. Finally, we seek comment on whether to apply performance metrics for the RHC program and eliminate HCF annual reporting requirements, as well as the evergreen contract approval requirement. We do not expect the proposals to affect the overall size of the RHC or the type of health care provider that participates.

E. Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

9. The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities.³³ The discussion is required to include alternatives such as: “(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”³⁴

10. The *Third Further Notice of Proposed Rulemaking* proposes or seeks comment on several alternatives that may reduce the economic impact on program participants, including small entities. For example, we seek comment on alternatives to cost studies proposed by commenters that may streamline cost studies and reduce evidentiary requirements that some found to be burdensome. These include using rate projections and associated methodologies, rates previously approved for rural areas, or wholesale rates that service providers charge other providers. The Commission welcomes submission of any comments with constructive proposals that would minimize the compliance burden or economic impact for small entities.

F. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules

11. None.

³² 5 U.S.C. § 603(b)(4).

³³ *Id.* § 603(c).

³⁴ *Id.* § 603(c)(1)-(4).