Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	

NINETEENTH ORDER ON RECONSIDERATION

Adopted: December 17, 1999 Released: December 17, 1999

By the Commission: Commissioner Furchtgott-Roth dissenting and issuing a statement.

I. INTRODUCTION

1. In this Order, the Commission on its own motion makes a procedural change to the new high-cost universal service support mechanism for non-rural carriers adopted in the *High-Cost Methodology Order* on October 21, 1999, and scheduled to become effective on January 1, 2000.[1] The change concerns the targeting of high-cost support amounts to individual wire centers, which was set to occur beginning in the first quarter of 2000. Because non-rural carriers will be filing wire center line count data for the first time on December 30, 1999,[2] the Commission will not have a sufficient opportunity to review and verify that data to enable targeting during the first and second quarters of 2000. We therefore find that support payments targeted to the wire center level shall be issued beginning with payments provided in the third quarter of 2000. This change affects only the *targeting* of support during the first and second quarters of 2000, and does not alter the January 1, 2000 effective date of the new mechanism or the aggregate *amount* of support provided to each non-rural carrier under the new mechanism.

II. BACKGROUND

2. On October 21, 1999, based on recommendations from the Federal-State Joint Board on Universal Service (Joint Board), the Commission adopted a new high-cost universal service support mechanism for non-rural carriers.[3] The new mechanism is based on the forward-looking costs of providing supported services[4] as determined by the Commission's cost model.[5]

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[1] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report & Order and Eighteenth Order on Reconsideration, FCC 99-306 (rel. Nov. 2, 1999) (*High-Cost Methodology Order*).

[2] *See* 47 C.F.R. §§ 36.611, 36.612, 54.307.

[3] *High-Cost Methodology Order*, FCC 99-306.

[4] The services eligible for federal universal service support are listed in section 54.101 of the Commission's rules. 47 C.F.R. § 54.101.

For each state, the cost model calculates the wire center average forward-looking cost per line incurred by non-rural carriers to provide supported services. These wire center average costs are then averaged at the statewide level to determine the statewide average forward-looking cost per line. The forward-looking support mechanism provides support to non-rural carriers in those states that have a statewide average forward-looking cost per line greater than the national benchmark, which is set at 135 percent of the national average forward-looking cost per line.[6]

3. After determining the total amount of forward-looking support provided to non-rural carriers in a particular state, the support is then targeted to individual wire centers that have forward-looking costs in excess of the benchmark.[7] Under the targeting approach, the amount of support provided to a non-rural carrier serving a particular wire center depends on the relative costs in that wire center and the number of lines served by the carrier. By comparing the relative costs in various above-benchmark wire centers, the targeting approach enables the Commission to provide greater amounts of support to carriers serving lines in wire centers with costs further above the benchmark. Thus, unlike providing a uniform per line statewide support amount, the targeting approach provides support in an amount commensurate with the cost of service, thereby encouraging carriers to serve high-cost areas. The Commission described the mechanics of this targeting approach as follows:[8]

> Under the methodology we adopt today, the model's wire center costs are averaged at the statewide level and a total statewide support amount is determined. That total statewide support amount is then targeted, based on the individual high-cost wire center costs in the state, as previously determined by the cost model, that are above the benchmark. For example, assume that a state has three wire centers with ten lines in each wire center. Assume that the average

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[5] The cost model consists of: (1) a model platform, which contains a series of fixed assumptions about network design and engineering; and (2) input values for the model platform, such as the cost of network components, e.g., cables and switches, as well as various capital cost parameters. The Commission adopted the model platform in the *Platform Order* released in October 1998. *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Forward-Looking Mechanism for High-Cost Support for Non-Rural LECs*, CC Docket No. 97-160, Fifth Report and Order, 13 FCC Rcd 21323 (1998) (*Platform Order*). The Commission adopted input values in the *Inputs Order* released in November 1999. *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Forward-Looking Mechanism for High-Cost Support for Non-Rural LECs*, CC Docket No. 97-160, Tenth Report and Order, FCC 99-304 (rel. Nov. 2, 1999) (*Inputs Order*).

[6] *High-Cost Methodology Order*, FCC 99-306 at paras. 10, 55. The forward-looking support mechanism provides support for all intrastate costs that exceed the benchmark. *High-Cost Methodology Order*, FCC 99-306 at paras. 60-63. Intrastate costs account for 76 percent of all forward-looking costs estimated by the model. *High-Cost Methodology Order*, FCC 99-306 at para. 63. Therefore, the forward-looking mechanism provides support for 76 percent of the forward-looking costs that exceed the benchmark. *High-Cost Methodology Order*, FCC 99-306 at para. 63.

[7] *High-Cost Methodology Order*, FCC 99-306 at paras. 68-76.

[8] *High-Cost Methodology Order*, FCC 99-306 at para. 73.

forward-looking cost per line in each wire center is as follows: Wire Center 1 - $20, Wire Center 2 - $30, Wire Center 3 - $40. Thus, the statewide average cost per line is $30 ((($20 x 10) + ($30 x 10) + ($40 x 10)) / 30 lines). Assume further that the national benchmark equates to $25 per line. Using the statewide methodology adopted above, the total amount of support provided to the carriers in the state would be $114.00 (($30 - $25) x 30 lines x 76%[9]), or $3.80 per line per month of untargeted support. Under the targeting approach, however, this support is distributed to carriers serving lines in the highest-cost wire centers, based on the difference between costs in that wire center and the benchmark, the number of lines served, and a pro rata factor. Any carrier serving customers in the low-cost wire center receives no support. Targeting support to high-cost wire centers requires three calculations. First, support is calculated separately for each wire center (wc-scale support). Wire Center 1 is not entitled to any support because its cost is below the benchmark. Wire Center 2's wc-scale support would be $38.00 (($30 - $25) x 10 lines x 76%). Wire Center 3's wc-scale support would be $114.00 (($40 - $25) x 10 lines x 76%). Second, a pro-rating factor is calculated for the state. Total wc-scale support for both wire centers is $152 ($38.00 + $114.00). Because only $114.00 of support is available in the state, each wire center will receive 75 percent ($114 / $152) of its wc-scale support. Third, the pro-rating factor is applied to each wire center eligible for support. In Wire Center 2, support will be $2.85 per line ($38.00 x 75% / 10). In Wire Center 3, support will be $8.55 per line ($114.00 x 75% / 10). Total support in the state, distributed in this way, is $114.00 (($2.85 x 10) + ($8.55 x 10)). The targeting mechanism, therefore, provides support to carriers serving the highest cost customers, but within the overall limit on the state's support amount from the federal mechanism.

4. In addition to the new forward-looking high-cost support mechanism for non-rural carriers, the Commission also adopted an interim hold-harmless provision to prevent sudden or undue disruptions in consumer rates during the transition to the new mechanism.[10] Under this provision, no non-rural carrier will receive less support under the forward-looking mechanism than it would have received if we had continued to provide support under the existing high-cost support mechanism.[11] Specifically, to the extent that a carrier does not qualify

[9] *See supra* note 6.

[10] *High-Cost Methodology Order*, FCC 99-306 at paras. 78-88. The Commission stressed that the interim hold-harmless provision is a transitional measure, and is not intended as a perpetual entitlement. *High-Cost Methodology Order*, FCC 99-306 at para. 88. The Commission requested that, on or before July 1, 2000, the Joint Board provide the Commission with a recommendation on how the interim hold-harmless provision can be phased out or eliminated without causing undue disruption to consumer rates in high-cost areas. *High-Cost Methodology Order*, FCC 99-306 at para. 88. *See also Federal-State Joint Board on Universal Service Seeks Comment on the Interim Hold-Harmless Provision of the Commission's High-Cost Support Mechanism*, CC Docket No. 96-45, Public Notice, FCC 99J-2 (rel. Nov. 3, 1999).

[11] *High-Cost Methodology Order*, FCC 99-306 at paras. 78-88. Existing high-cost support for non-rural carriers is provided pursuant to Part 36 and, to a lesser extent, section 54.303 of our rules.

for forward-looking support, or qualifies for forward-looking support in an amount less than it would have received pursuant to the existing mechanism, the carrier shall receive interim hold-harmless support as calculated by the Commission's existing mechanism.[12]

5. Instead of providing a uniform amount of interim hold-harmless support for all lines served by a non-rural carrier in a particular study area,[13] the Commission adopted a method for targeting the support to the carrier's highest-cost wire centers. This targeting approach is slightly different than the targeting approach the Commission adopted for forward-looking support. While the total amount of interim hold-harmless support available to a non-rural carrier is determined pursuant to our existing mechanism,[14] that amount is targeted to the carrier's individual wire centers based on the costs of providing supported services in those wire centers as determined by the cost model.[15] Under this targeting approach, interim hold-harmless support is distributed in a cascading fashion so that a carrier's highest-cost wire centers receive support before its lower-cost wire centers. In the *High-Cost Methodology Order*, the Commission explained the operation of the targeting approach for interim hold-harmless support as follows:[16]

> For example, assume a state has a single carrier with three wire centers in the state and ten lines in each wire center. Assume that the average forward-looking cost per line in each wire center is as follows: Wire Center 1 - $15, Wire Center 2 - $20, Wire Center 3 - $25. Thus, the statewide average cost per line is $20 (($150 + $200 + $250) / 30 lines = $20 / line). Assume further that the national benchmark equates to $22 per line, and therefore the carrier receives no forward-looking support under the forward-looking methodology in Part 54 of our rules, which averages costs at the statewide level. Also assume that the carrier receives a total of $90 of interim hold-harmless support as determined pursuant to Part 36 of our rules. Under our targeting approach, the hold-harmless support is distributed first to the wire center with the highest costs until that wire center's costs, net of support, equal the costs in the next most expensive wire center. This process continues in a cascading fashion until all support has been distributed. In this example, the first $50 of hold-harmless support ($5 per line) would be distributed to Wire Center 3, so that the average forward-looking cost in Wire

[12] *High-Cost Methodology Order*, FCC 99-306 at para. 78.

[13] The existing high-cost support mechanism calculates and distributes support at the study area level. *See* 47 C.F.R. Part 36.

[14] Under our rules, a competitive eligible telecommunications carrier serving lines in an incumbent local exchange carrier's service area is entitled to the same amount of per-line support provided to the incumbent. *See* 47 C.F.R. § 54.307.

[15] *High-Cost Methodology Order*, FCC 99-306 at paras. 83-85.

[16] *High-Cost Methodology Order*, FCC 99-306 at para. 84.

> Center 3, net of hold-harmless support, is reduced to $20 per line. This places Wire Center 3 on equal footing with Wire Center 2, which also has average costs of $20 per line. The remaining $40 of hold-harmless support would be divided equally on a per-line basis between Wire Center 2 and Wire Center 3. Thus, both wire centers would receive an additional $2 per line ($40 / 20 lines), so that the average forward-looking costs, net of hold-harmless support, in Wire Center 2 and Wire Center 3 would be $18 per line.

6. By targeting interim hold-harmless support, the federal mechanism ensures that, when a competitor serves a line in a wire center where the incumbent is receiving interim hold-harmless support, the competitor will receive support in an amount commensurate with the costs of providing supported services in that wire center. If interim hold-harmless support were not targeted to high-cost wire centers, a uniform amount of support would be available to a competitor serving any line in the incumbent's service area, including low-cost lines. Thus, a uniform distribution of support would create uneconomic incentives for competitors to serve low-cost areas (where support would be greater relative to cost) while foregoing opportunities to serve high-cost areas (where support would be lesser relative to cost).[17]

7. To ensure that non-rural carriers in a given state use the support provided by the federal support mechanism in a manner consistent with section 254(e) of the Communications Act of 1934, as amended,[18] the Commission required states that wish to receive federal support for such carriers to file an annual certification with the Commission stating that all federal high-cost funds flowing to non-rural carriers in that state will be used in a manner consistent with section 254(e).[19] The Commission concluded that, during the first year of operation of the new federal forward-looking support mechanism (January 1, 2000 - December 31, 2000), a non-rural carrier in a particular state would not receive forward-looking support until the state files an appropriate certification with the Commission.[20] The carrier would, however, receive interim hold-harmless support during the first year in the event that the state does not make the required certification.[21]

8. The Commission decided that state certifications for a given year would be due on October 1 of the preceding year.[22] Because of the timing of the adoption of the *High-Cost Methodology Order* (October 21, 1999), however, the Commission established different filing

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[17] *High-Cost Methodology Order*, FCC 99-306 at paras. 83-85.

[18] 47 U.S.C. § 254(e). Section 254(e) states that carriers must use universal service support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended."

[19] *High-Cost Methodology Order*, FCC 99-306 at para. 97.

[20] *High-Cost Methodology Order*, FCC 99-306 at para. 98.

[21] *High-Cost Methodology Order*, FCC 99-306 at para. 98.

[22] *High-Cost Methodology Order*, FCC 99-306 at para. 100.

requirements for state certifications filed for the first year of operation of the new mechanism (January 1, 2000 - December 31, 2000).[23] Specifically, the first-year filing requirements provide that, if the state files its certification before January 1, 2000, carriers subject to that certification would receive forward-looking support for the first quarter of 2000 in the second quarter of 2000,[24] and forward-looking support for the second quarter of 2000 in that quarter. If the state files its certification on or before April 1, 2000, and certifies carriers for the first and second quarters of 2000, carriers subject to that certification would receive forward-looking support for the first quarter of 2000 in the third quarter of 2000, together with forward-looking support for the third quarter of 2000.[25] Such carriers would receive forward-looking support for the second quarter of 2000 in the fourth quarter of 2000, together with forward-looking support for the fourth quarter of 2000.[26]

9. In order to implement the wire center targeting approaches for both the forward-looking support mechanism and the interim hold-harmless provision, the Commission must know the number of lines served by a carrier in a particular wire center. To obtain this information, the Commission requested wire center line count data from non-rural carriers in July 1999.[27] Many carriers submitted the requested data, but designated it as confidential information, thereby limiting the Commission's ability to use the data to calculate support amounts, which are made available to the public.[28] In the *High-Cost Methodology Order*, the Commission *required* non-rural carriers, and competitive eligible telecommunications carriers serving lines in the service area of a non-rural carrier, to report to the Universal Service Administrative Company (USAC) and the Commission on a quarterly basis the number of lines they serve in each wire center in their service area.[29] The first such submission containing data at the wire center level is due on December 30, 1999.

III. DISCUSSION

[23] *High-Cost Methodology Order*, FCC 99-306 at para. 101.

[24] Such forward-looking support would be net of any interim hold-harmless support provided to the carrier in the first quarter of 2000.

[25] Such forward-looking support would be net of any interim hold-harmless support provided to the carrier in the first quarter of 2000.

[26] Such forward-looking support would be net of any interim hold-harmless support provided to the carrier in the second quarter of 2000.

[27] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Forward-Looking Mechanism for High-Cost Support for Non-Rural LECs*, CC Docket No. 97-160, Order, DA 99-1406 (rel. July 19, 1999) (*Data Request*). *See also Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Forward-Looking Mechanism for High-Cost Support for Non-Rural LECs*, CC Docket No. 97-160, Protective Order, DA 98-1490 (rel. July 27, 1998) (*Protective Order*).

[28] *See Data Request*, DA 99-1406; *Protective Order*, DA 98-1490.

[29] *High-Cost Methodology Order*, FCC 99-306 at para. 87, Appendix C.

10. We conclude that support payments should be calculated using the targeting approaches previously adopted. We conclude, however, that the provision of forward-looking support should be deferred until the third quarter of 2000. Until targeted support is provided in the third quarter of 2000, interim hold-harmless support shall be provided at the study-area level. Because non-rural carriers will be formally submitting wire center line count data for the first time on December 30, 1999, we do not believe that there will be sufficient time to analyze and verify the data before carriers are scheduled to receive targeted interim hold-harmless support in the first quarter of 2000 and targeted forward-looking support in the second quarter of 2000. Our decision to postpone the targeting of support will allow us to work with carriers and USAC to address any anomalies in carriers' first-time filings and to ensure that the wire center line count data are valid and sufficiently accurate for targeting purposes. We emphasize, however, that this decision does not change the January 1, 2000 effective date of the new mechanism or the aggregate amount of high-cost support provided to non-rural carriers under the new mechanism.

11. We therefore reconsider and amend on our own motion sections 54.313(c) and 54.311(b) of our rules, as set forth in Appendix A.[30] Specifically, we delete section 54.313(c)(1)(i) of our rules, thereby eliminating the January 1, 2000 state certification option, which would have permitted any carrier in a state that filed a certification by that date to receive targeted forward-looking support for the first and second quarters of 2000 in the second quarter of 2000. The elimination of this filing option, however, does *not* eliminate a carrier's ability to obtain forward-looking support for the first and second quarters of 2000. Under the rules adopted in the *High-Cost Methodology Order*, if a state files the requisite certification by April 1, 2000, carriers subject to that certification shall receive forward-looking support for the first and third quarters of 2000 in the third quarter of 2000, and forward-looking support for the second and fourth quarters of 2000 in the fourth quarter of 2000.[31] We also amend section 54.311(b) of our rules, so that for the first and second quarters of 2000, non-rural carriers eligible for interim-hold harmless support shall receive such support at the study-area level, rather than the wire center level.[32] Targeting of interim hold-harmless support shall occur at the wire center level beginning in the third quarter of 2000.[33]

12. We also correct an oversight in the rules that we adopted in the *High-Cost*

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[30] The Commission may, on its own motion, reconsider any action taken by it within 30 days from the date of public notice of such action. 47 C.F.R. § 1.108. Public notice of rulemakings occurs upon publication in the Federal Register. 47 C.F.R. § 1.4(b)(3). The *High-Cost Methodology Order* was published in the Federal Register on December 1, 1999. 64 Fed. Reg. 67416 (1999).

[31] *High-Cost Methodology Order*, FCC 99-306 at para. 101. Former section 54.313(c)(1)(ii) has been renumbered as section 54.313(c)(1)(i). *See* Appendix A.

[32] The existing high-cost support mechanism, upon which interim hold-harmless support is based, calculates and distributes support at the study area level. *See* 47 C.F.R. Part 36.

[33] *See* Appendix A.

Methodology Order concerning the calculation of the expense adjustments for non-rural carriers. In that order, we amended section 36.631(d) of our rules so that the expense adjustment for study areas reporting more than 200,000 working loops would be calculated pursuant to the new forward-looking support mechanism or the interim hold-harmless provision, whichever is applicable, effective January 1, 2000.[34] We inadvertently did not make a similar amendment to section 36.631(c) of our rules, which concerns study areas reporting 200,000 or fewer working loops, even though a small number of non-rural carriers serve such study areas. To remedy this oversight, we now amend section 36.631(c) so that the expense adjustment for non-rural carriers serving study areas reporting 200,000 or fewer working loops will be calculated pursuant to the new forward-looking support mechanism or the interim hold-harmless provision, whichever is applicable, effective January 1, 2000.[35]

IV. PROCEDURAL MATTERS

A. Regulatory Flexibility Act Certification

13. The Regulatory Flexibility Act (RFA)[36] requires an Initial Regulatory Flexibility Analysis (IRFA)[37] whenever an agency publishes a notice of proposed rulemaking, and a Final Regulatory Flexibility Analysis (FRFA)[38] whenever an agency subsequently promulgates a final rule, unless the agency certifies that the proposed or final rule will not have "a significant economic impact on a substantial number of small entities," and includes the factual basis for such certification.[39] The RFA generally defines "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."[40] In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.[41] 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

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[34] *See High-Cost Methodology Order*, FCC 99-306 at Appendix C. Most non-rural carriers serve study areas reporting more than 200,000 working loops.

[35] *See* Appendix A.

[36] *See* 5 U.S.C. § 601 *et. seq*. The RFA was amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Title II of the Contract with America Advancement Act of 1996, Pub. L. 104-121, 110 Stat. 87 (1996).

[37] 5 U.S.C. § 603.

[38] 5 U.S.C. § 604.

[39] 5 U.S.C. § 605(b).

[40] 5 U.S.C. § 601(6).

[41] 5 U.S.C. § 601(3) (incorporating by reference the definition of “small business concern” in Small Business Act, 15 U.S.C. § 632).

criteria established by the Small Business Administration (SBA).[42] The SBA defines a small telecommunications entity in SIC code 4813 (Telephone Communications, Except Radiotelephone) as an entity with 1,500 or fewer employees.[43]

14. In the *High-Cost Methodology Order*, the Commission certified pursuant to the RFA[44] that the final rules adopted in that order would not have a significant economic impact on a substantial number of small entities.[45] We concluded that the *High-Cost Methodology Order* adopted a final rule affecting only the amount of high-cost support provided to non-rural LECs. Non-rural LECs generally do not fall within the SBA's definition of a small business concern because they are usually large corporations or affiliates of such corporations. In a companion Further Notice of Proposed Rulemaking adopted in this docket, the Commission prepared an IRFA seeking comment on the economic impacts on small entities.[46] No comments were received in response to that IRFA.

15. The rule changes adopted in this order are merely procedural and affect only the timing of the implementation of certain aspects of the *High-Cost Methodology Order*, and the correction of an oversight in the rules accompanying the *High-Cost Methodology Order*. The changes adopted in this order will affect only non-rural LECs. As mentioned above, non-rural LECs generally do not fall within the definition of a small business concern. Therefore, we certify pursuant to Section 605(b) of the RFA, that the final rules adopted in this order will not have a significant economic impact on a substantial number of small entities.[47] The Consumer Information Bureau, Reference Information Center, will send a copy of the *Nineteenth Order on Reconsideration*, including a copy of this final certification, to the Chief Counsel for Advocacy of the SBA in accordance with the RFA.[48] In addition, this certification and order will be published in the Federal Register.[49] Finally, the Commission's Consumer Information Bureau, Reference Information Center, will send a copy of the *Nineteenth Order on Reconsideration*, including a copy of this final certification, in a report to Congress pursuant to the Small Business

[42] Small Business Act, 15 U.S.C. § 632.

[43] 13 C.F.R. § 121.201.

[44] 5 U.S.C. § 605(b).

[45] *See High-Cost Methodology Order*, FCC 99-306 at Appendix C. Most non-rural carriers serve study areas reporting more than 200,000 working loops.

[46] *See Federal-State Joint Board on Universal Service, Forward-Looking Mechanism for High-Cost Support for Non-Rural LECs*, Further Notice of Proposed Rulemaking, CC Docket Nos. 96-45, 97-160, FCC 99-120 at paras. 257-271 (rel. May 28, 1999).

[47] 5 U.S.C. § 605(b).

[48] *See* 5 U.S.C. § 605(b).

[49] *Id.*

Regulatory Enforcement Fairness Act of 1996.[50]

B. Effective Date of Final Rules

16. We conclude that the amendments to our rules adopted herein shall be effective immediately upon publication in the Federal Register. In this order, we make minor amendments to the rules adopted in the *High-Cost Methodology Order*, which implement a new forward-looking high-cost support mechanism, effective January 1, 2000. Making the amendments effective 30 days after publication in the Federal Register would jeopardize the required January 1, 2000 implementation date. Accordingly, pursuant to the Administrative Procedure Act, we find good cause to depart from the general requirement that final rules take effect not less than 30 days after their publication in the Federal Register.[51]

IV. ORDERING CLAUSES

17. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4, 201-205, 214, 218-220, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154, 201-205, 214, 218-220, 254, 303(r), 403, and 410, and section 1.108 of the Commission's rules, 47 C.F.R. § 1.108, the NINETEENTH ORDER ON RECONSIDERATION IS ADOPTED.

18. IT IS FURTHER ORDERED that Part 36 of the Commission's Rules, 47 C.F.R. Part 36, IS AMENDED as set forth in Appendix A hereto, effective immediately upon publication in the Federal Register.

19. IT IS FURTHER ORDERED that Part 54 of the Commission's Rules, 47 C.F.R. Part 54, IS AMENDED as set forth in Appendix A hereto, effective immediately upon publication in the Federal Register.

20. IT IS FURTHER ORDERED that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this NINETEENTH ORDER ON RECONSIDERATION, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

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[50] *See* 5 U.S.C. § 801(a)(1)(A).

[51] *See* 5 U.S.C. § 553(d)(3).

APPENDIX A - FINAL RULES

PART 36 - JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

Subpart F - Universal Service Fund

1. Section 36.631 is amended to read as follows:

§ 36.631 Expense adjustment.

(a) . . .

(b) . . .

(c) Beginning January 1, 1998, for study areas reporting 200,000 or fewer working loops pursuant to § 36.611(h), the expense adjustment (additional interstate expense allocation) is equal to the sum of subsections (c)(1)-(2). After January 1, 2000, the expense adjustment (additional interstate expense allocation) for non-rural telephone companies serving study areas reporting 200,000 or fewer working loops pursuant to § 36.611(h) shall be calculated pursuant to § 54.309 of this Chapter or § 54.311 of this Chapter (which relies on this Part), whichever is applicable.

(1) . . .

(2) . . .

(d) . . .

PART 54 - UNIVERSAL SERVICE

Subpart D - Universal Service Support for High Cost Areas

2. Section 54.311 is amended to read as follows:

§ 54.311 Interim hold-harmless support for non-rural carriers.

(a) . . .

(b) *Distribution of Interim Hold-Harmless Support Amounts*. Until the third quarter of 2000, interim hold-harmless support shall be distributed pursuant to Part 36 and, if applicable, section 54.303 of this Subpart. Beginning in the third quarter of 2000, the total amount of interim hold-harmless support provided to each non-rural incumbent local exchange carrier within a particular State pursuant to subsection (a) shall be distributed first to the carrier's wire center with the highest wire center average FLEC per line until that wire center's average FLEC per line, net of support, equals the average FLEC per line in the second most high-cost wire center. Support shall then be distributed to the carrier's wire center with the highest and second highest wire center average FLEC per line until those wire center's average FLECs per line, net of support, equal the average FLEC per line in the third most high-cost wire center. This process shall continue in a cascading fashion until all of the interim hold-harmless support provided to the carrier has been exhausted.

(c) . . .

3. Section 54.313 is amended to read as follows:

§ 54.313 State certification.

(a) . . .

(b) . . .

(c) *Filing Deadlines.* In order for a non-rural incumbent local exchange carrier in a particular State, and/or an eligible telecommunications carrier serving lines in the service area of a non-rural incumbent local exchange carrier, to receive federal high-cost support, the State must file an annual certification, as described in subsection (b), with both the Administrator and the Commission. Support shall be provided in accordance with the following schedule:

(1) *First Program Year (January 1, 2000 - December 31, 2000).* During the first program year (January 1, 2000 - December 31, 2000), a carrier in a particular State shall receive support pursuant to section 54.311 of this Subpart. If a State files the certification described in this section during the first program year, carriers eligible for support pursuant to section 54.309 shall receive such support pursuant to the following schedule:

(i) *Certifications filed on or before April 1, 2000.* Carriers subject to certifications that apply to the first and second quarters of 2000, and are filed on or before April 1, 2000, shall receive support pursuant to section 54.309 of this Subpart for the first and third quarters of 2000 in the third quarter of 2000, and support for the second and fourth quarters of 2000 in the fourth quarter of 2000. Such support shall be net of any support provided pursuant to section 54.311 of this Subpart for the first or second quarters of 2000.

(ii) *Certifications filed on or before July 1, 2000.* Carriers subject to certifications filed on or before July 1, 2000, shall receive support pursuant to section 54.309 of this Subpart for the fourth quarter of 2000 in the fourth quarter of 2000.

(iii) *Certifications filed after July 1, 2000*. Carriers subject to certifications filed after July 1, 2000, shall not receive support pursuant to section 54.309 of this Subpart in 2000.

(2) . . .

(3) . . .

**DISSENTING STATEMENT OF
COMMISSIONER FURCHTGOTT-ROTH**

Re: *Federal-State Joint Board on Universal Service*, Nineteenth Order on Reconsideration, CC Docket No. 96-45.

I did not support the methodology that the Commission adopted in October to calculate high-cost universal service support, and I cannot support this revision to that order. For some reason, the Commission has suddenly decided that it will not have enough time to "analyze and verify" the wire center data that it earlier directed non-rural carriers to submit by December 30, 1999. It consequently concludes that, until the third quarter of 2000, it will not be able to target interim hold-harmless support at the wire center level, nor will it be able to distribute any forward-looking support. *See* Order ¶ 10-11.

It is not clear why the Commission originally established an unworkable timetable for distributing high-cost universal service support pursuant to its new methodology, nor does the Order indicate why it took nearly two months for the Commission to recognize that deficiency. Certainly, the Order points to no new or unforeseeable circumstances that would justify a departure from the original schedule. I regret the time that State commissions and carriers may have wasted in trying to meet the deadlines that the Commission has now eliminated, and I urge the Commission in the future to consider more fully whether it has set a realistic schedule for the implementation of any new regulation.