

according to the SBA definition, hospitals must have annual gross receipts of \$5 million or less to qualify as a small business concern. There are approximately 3,856 hospital firms, of which 294 have gross annual receipts of \$5 million or less. Although some of these small hospital firms may not qualify as rural health care providers, we are unable at this time to estimate with greater precision the number of small hospital firms which may be affected by this Order. Consequently, we estimate that there are fewer than 294 hospital firms affected by this Order.

12. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements.* This order will impose no additional reporting, recordkeeping or other compliance requirements on small entities.

13. *Steps Taken to Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered.* As explained in the Order, based on the nearly unanimous comments received in response to the *September 10 Public Notice*, the Commission concludes that all applications filed during the window will be treated as if simultaneously received. We find that adopting such a window period will best serve the needs of applicants for universal service discounts, and will assist the administrative corporations in processing these requests in a timely manner. The Commission finds that the window will reduce pressure on applicants to submit their contracts at the earliest possible moment and, thus, will improve the accuracy and care with which these contracts are negotiated and the accompanying forms are completed. By providing additional time to complete contract negotiations after the four-week competitive bid waiting period, a window will allow schools to negotiate their contracts with greater care. Further, this window will reduce disparities between applicants with substantial administrative resources and applicants with fewer resources, such as small schools, libraries, and health care providers. We recognize, as noted by the commenters, that this window will not eliminate all disparities among applicants. The Commission adopted annual funding caps, \$2.25 billion for schools and libraries and \$400 million for health care providers, because it estimated that these monies would be sufficient for all applicants during the funding year. We emphasize that we have no reason to revise these estimates and have no reason to believe that either of the caps will be reached during the initial filing period, nor at any other point during the

funding period. We are adopting a window primarily to allow applicants sufficient time to negotiate contracts properly and submit complete filings.

14. The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. A copy of the Order and this FRFA will also be published in the **Federal Register** and will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Libraries, Schools, Healthcare providers, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Rule Changes

1. Part 54 of Title 47 of the Code of Federal Regulations (CFR) is amended as follows:

PART 54—UNIVERSAL SERVICE

2. Section 54.507 is amended by adding the last three sentences to paragraph (c) to read as follows:

§ 54.507 Cap.

* * * * *

(c) *Requests.* * * * The Schools and Libraries Corporation shall implement an initial filing period that treats all schools and libraries filing within that period as if they were simultaneously received. The initial filing period shall begin on the date that the Schools and Libraries Corporation begins to receive applications for support, and shall conclude on a date to be determined by the Schools and Libraries Corporation. The Schools and Libraries Corporation may implement such additional filing periods as it deems necessary.

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3. Section 54.623 is amended by adding the last three sentences to paragraph (c) to read as follows:

§ 54.623 Cap.

* * * * *

(c) *Requests.* * * * The Rural Health Care Corporation shall implement an initial filing period that treats all health care providers filing within that period as if they were simultaneously received. The initial filing period shall begin on the date that the Rural Health Care Corporation begins to receive applications for support, and shall conclude on a date to be determined by the Rural Health Care Corporation. The Rural Health Care Corporation may

implement such additional filing periods as it deems necessary.

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[FR Doc. 97-28612 Filed 10-28-97; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket Nos. 96-262, 94-1, 91-213; FCC No. 97-368]

Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for waiver.

SUMMARY: On October 8, 1997, the Commission adopted a Memorandum Opinion and Order in this proceeding granting a petition for waiver filed by the National Exchange Carrier Association, Inc. (NECA). In its petition, NECA sought an order waiving § 69.105(b)(2)-(3) for NECA's pool, so as to allow NECA to reflect revised long term support formula amounts in its carrier common line (CCL) tariff rates effective January 1, 1998. The Commission granted the waiver on condition that NECA compute the CCL charge in the manner prescribed by the Commission.

EFFECTIVE DATE: November 28, 1997.

FOR FURTHER INFORMATION CONTACT: Richard Lerner, Attorney, Common Carrier Bureau, Competitive Pricing Division, (202) 418-1530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order adopted October 8, 1997, and released October 9, 1997. The full text of this Memorandum Opinion and Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M St., NW., Washington, DC. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common_Carrier/Orders/fcc.97368.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW, Washington, DC 20036.

Paperwork Reduction Act

N/A. This Memorandum Opinion and Order does not require an information collection.

Synopsis of Memorandum Opinion and Order

1. The National Exchange Carrier Association, Inc. (NECA) asserts in its reconsideration petition that the Commission should revise on reconsideration the rule provisions governing calculation of NECA carrier common line (CCL) rates, without waiting for the conclusion of a separate proceeding on access charge reform for rate-of-return LECs. In the alternative, NECA requests that the Commission issue an order waiving § 69.105(b)(2)–(3) for NECA's pool, so as to allow NECA to reflect revised long term support (LTS) formula amounts in its CCL tariff rates effective January 1, 1998. No party opposed or supported NECA's petition for reconsideration or waiver of the rule. We have decided to waive the specified rule provisions at this time, and make appropriate rule revisions in the separate proceeding.

2. Section 69.105(b) currently sets the NECA CCL tariff at the average of price-cap LECs' CCL charges. Prior to January 1, 1998, LTS is a variable amount, based on the difference between the revenues earned from charging a nationwide average CCL rate and the NECA pool CCL revenue requirement. In the *Universal Service Order*, we substituted federal universal service support payments for previously-received recovery from the interstate access charge system through LTS. Federal-State Joint Board on Universal Service, Report and Order, CC Docket No. 96–45, 62 FR 32862 (June 17, 1997) (*Universal Service Order*). The rule revisions in the *First Report and Order* removed LTS amounts from price cap LEC CCL calculations, but postponed making conforming revisions in § 69.105(b) to the CCL rate calculation for NECA tariff participants. Access Charge Reform, CC Docket No. 96–262, First Report and Order, 62 FR 31040 (June 6, 1997).

3. Section 1.3 of our rules empowers the Commission to grant waivers of its rules if good cause is shown. In this situation, NECA must demonstrate that special circumstances justify a departure from the general rule and that such a deviation will serve the public interest. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969). We conclude that NECA has demonstrated that continued application of § 69.105(b)(2)–(3) would be contrary to the public interest in these circumstances. As we stated in the *Universal Service Order*, the "elimination of price-cap (incumbent LECs') LTS obligations will allow their CCL charges to fall, but there is no

corresponding reason for a reduction in the NECA CCL tariff. Yet under our current rules, the NECA CCL charge would fall simply because of our regulatory changes to price-cap (incumbent LECs') LTS payment obligations. We must therefore establish a new method to set the NECA CCL tariff."

4. Because changes in the recovery of LTS amounts and price-cap carrier CCL rate computations as adopted in the *First Report and Order* and *Universal Service Order* are scheduled to become effective on January 1, 1998, grant of the waiver will allow NECA to conform its rates to decisions reached in the *Universal Service Order* by reflecting revised LTS formula amounts in its CCL tariff rates effective January 1, 1998. We therefore waive § 69.105(b)(2)–(3) for the calculation of NECA's CCL pool rate that will become effective January 1, 1998, on the condition that NECA must compute the Carrier Common Line charge as follows:

(a) From the NECA pool aggregate Carrier Common Line revenue requirement amount, subtract: (1) Aggregate End User Common Line charges; (2) aggregate Special Access Surcharges; and (3) the portion of per-line support that NECA CCL pool participants receive, in the aggregate, pursuant to 47 CFR 54.303.

(b) The premium originating Carrier Common Line charge must be one cent per minute, except as described herein at paragraph (d), and

(c) The premium terminating Carrier Common Line charge must be computed by subtracting the projected revenues generated by the originating Carrier Common Line charges (both premium and non-premium) from the number calculated in paragraph (a), and dividing the remainder by the sum of the projected premium terminating minutes and a number equal to 0.45 multiplied by the projected non-premium terminating minutes, except as described herein at paragraph (d).

(d) If the calculations described in paragraph (c) result in a per minute charge on premium terminating minutes that is less than one cent, both the originating and terminating premium charges for the NECA CCL pool participants must be computed by dividing the number calculated pursuant to paragraph (a) by the sum of the premium minutes and a number equal to 0.45 multiplied by the non-premium minutes for the NECA CCL pool participants.

This NECA CCL charge calculation will reflect that now the CCL charge, rather than LTS, is a residual amount.

Accordingly, *it is ordered*, pursuant to 47 U.S.C. 154(i) and 47 CFR 1.3, that NECA's request for waiver of § 69.105(b)(2)–(3) of the Commissions rules, 47 CFR part 69.105(b)(2)–(3) is granted subject to the limitations and conditions described in this document.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 69**

[CC Docket Nos. 96–262, 94–1, 91–213; FCC 97–368]

Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Transport Rate Structure

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: On December 23, 1996, the Commission adopted a Notice of Proposed Rulemaking in this docket, 62 FR 4670 (Jan. 31, 1997), seeking comment on how the interstate access charge regime should be revised in light of the local competition and Bell Operating Company entry provisions of the Telecommunications Act of 1996 and state actions to open local markets to competition, the effects of potential and actual competition on incumbent LEC pricing for interstate access, and the impact of the Act's mandate to preserve and enhance universal service. On May 7, 1997, the Commission adopted a First Report and Order, 62 FR 31040 (June 6, 1997), in which it adopted many of the rules it proposed. In this Second Order on Reconsideration, the Commission modifies some of the rules adopted in the First Report and Order. These rule revisions are intended to foster competition, move access charges over time to more economically efficient levels and rate structures, preserve universal service, and lower rates.

EFFECTIVE DATES: The following rules or amendments thereto, shall become effective January 1, 1998: 47 CFR 69.153(g), 69.4, 69.111(c)(1), 69.153(c)(1), 69.153(d)(1)(i), 69.153(d)(2)(i), and 69.155(c). The Commission has requested emergency approval of the information collection requirements to ensure that it may be