

until June 30th for the upcoming funding year. On June 30th each rate-of-return carrier will be permitted to submit to the Administrator an update to the projected data for the funding year ending on that date.

(4) Each rate-of-return carrier shall submit to the Administrator on December 31st of each year the data necessary to calculate a carrier's Interstate Common Line Support, including common line cost and revenue data, for the prior calendar year. Such data shall be used by the Administrator to make adjustments to monthly per-line Interstate Common Line Support amounts in the final two quarters of the following calendar year to the extent of any differences between the carrier's ICLS received based on projected common line cost and revenue data and the ICLS for which the carrier is ultimately eligible based on its actual common line cost and revenue data during the relevant period.

(b) Upon receiving the information required to be filed in paragraph (a) of this section, the Administrator shall:

(1) Perform the calculations described in §54.901;

(2) Publish the results of these calculations showing Interstate Common Line Support Per Line available in each rate-of-return carrier study area, by Disaggregation Zone and customer class;

(3) Perform periodic reconciliation of the Interstate Common Line Support provided to each carrier based on projected data filed pursuant to paragraph (a)(3) of this section and the Interstate Common Line Support for which each carrier is eligible based on actual data filed pursuant to paragraph (a)(4) of this section.

(4) Collect the funds necessary to provide support pursuant to this subpart in accordance with subpart H of this part;

(5) Distribute support calculated pursuant to the rules contained in this subpart; and

(6) Report quarterly to the Commission on the collection and distribution of funds under this subpart as described in §54.702(i). Fund distribution reporting will be by state and by eligible

telecommunications carrier within the state.

[66 FR 59728, Nov. 30, 2001, as amended at 67 FR 15493, Apr. 2, 2002; 67 FR 19809, Apr. 23, 2002; 68 FR 31623, May 28, 2003]

§54.904 Carrier certification.

(a) *Certification.* Carriers that desire to receive support pursuant to this subpart shall file a certification with the Administrator and the Federal Communications Commission stating that all Interstate Common Line Support provided to such carrier will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Support provided pursuant to this subpart shall only be provided to the extent that the carrier has filed the requisite certification pursuant to this section.

(b) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from an authorized representative for the carrier, and must be filed with both the Administrator and the Office of the Secretary of the Federal Communication Commission clearly referencing CC Docket No. 96-45, on or before the filing deadlines set forth in paragraph (d) of this section.

(c) All of the certifications filed by carriers pursuant to this section shall become part of the public record maintained by the Commission.

(d) *Filing deadlines.* In order for a rate-of-return carrier, and/or an eligible telecommunications carrier serving lines in the service area of a rate-of-return carrier, to receive Interstate Common Line Support, such carrier must file an annual certification, as described in paragraph (b) of this section, on the date that it first files its line count information pursuant to §54.903, and thereafter on June 30th of each year.

PART 59—INFRASTRUCTURE SHARING

Sec.

59.1 General duty.

59.2 Terms and conditions of infrastructure sharing.

59.3 Information concerning deployment of new services and equipment.

59.4 Definition of "qualifying carrier".

§ 59.1

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AUTHORITY: 47 U.S.C. 154(i), 154(j), 201–205, 259, 303(r), 403.

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§ 59.1 General duty.

Incumbent local exchange carriers (as defined in 47 U.S.C. section 251(h)) shall make available to any qualifying carrier such public switched network infrastructure, technology, information, and telecommunications facilities and functions as may be requested by such qualifying carrier for the purpose of enabling such qualifying carrier to provide telecommunications services, or to provide access to information services, in the service area in which such qualifying carrier has obtained designation as an eligible telecommunications carrier under section 214(e) of 47 U.S.C.

§ 59.2 Terms and conditions of infrastructure sharing.

(a) An incumbent local exchange carrier subject to the requirements of section 59.1 shall not be required to take any action that is economically unreasonable or that is contrary to the public interest.

(b) An incumbent local exchange carrier subject to the requirements of section 59.1 may, but shall not be required to, enter into joint ownership or operation of public switched network infrastructure, technology, information and telecommunications facilities and functions and services with a qualifying carrier as a method of fulfilling its obligations under section 59.1.

(c) An incumbent local exchange carrier subject to the requirements of section 59.1 shall not be treated by the Commission or any State as a common carrier for hire or as offering common carrier services with respect to any public switched network infrastructure, technology, information, or telecommunications facilities, or functions made available to a qualifying carrier in accordance with regulations issued pursuant to this section.

(d) An incumbent local exchange carrier subject to the requirements of section 59.1 shall make such public switched network infrastructure, technology, information, and telecommunications facilities, or functions avail-

able to a qualifying carrier on just and reasonable terms and pursuant to conditions that permit such qualifying carrier to fully benefit from the economies of scale and scope of such local exchange carrier. An incumbent local exchange carrier that has entered into an infrastructure sharing agreement pursuant to section 59.1 must give notice to the qualifying carrier at least sixty days before terminating such infrastructure sharing agreement.

(e) An incumbent local exchange carrier subject to the requirements of section 59.1 shall not be required to engage in any infrastructure sharing agreement for any services or access which are to be provided or offered to consumers by the qualifying carrier in such local exchange carrier's telephone exchange area.

(f) An incumbent local exchange carrier subject to the requirements of section 59.1 shall file with the State, or, if the State has made no provision to accept such filings, with the Commission, for public inspection, any tariffs, contracts, or other arrangements showing the rates, terms, and conditions under which such carrier is making available public switched network infrastructure, technology, information and telecommunications facilities and functions pursuant to this part.

§ 59.3 Information concerning deployment of new services and equipment.

An incumbent local exchange carrier subject to the requirements of section 59.1 that has entered into an infrastructure sharing agreement under section 59.1 shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including any software or upgrades of software integral to the use or operation of such telecommunications equipment.

§ 59.4 Definition of “qualifying carrier”.

For purposes of this part, the term “qualifying carrier” means a telecommunications carrier that:

- (a) Lacks economies of scale or scope; and
- (b) Offers telephone exchange service, exchange access, and any other service

that is included in universal service, to all consumers without preference throughout the service area for which such carrier has been designated as an eligible telecommunications carrier under section 214(e) of 47 U.S.C.

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AUTHORITY: Secs. 1, 4(i), 4(j), 201–205 and 403 of the Communications Act of 1934, as