

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 36****[CC Docket No. 80-286, FCC 95-494]****Establishment of a Joint Board****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: These regulations enact a six-month extension of the interim indexed cap on the total level of the Universal Service Fund ("USF"). The cap was intended to be effective as an interim measure moderating the growth of the USF during the pendency of a broader rulemaking that revises the Part 36 jurisdictional separations rules governing the USF. The interim cap is scheduled to expire on January 1, 1996. The extension will maintain the interim cap while the rulemaking is completed.

EFFECTIVE DATE: December 15, 1995.

FOR FURTHER INFORMATION CONTACT: Jeanine Poltronieri, (202) 418-0866, Deborah A. Dupont, (202) 418-0873, Common Carrier Bureau, Accounting and Audits Division.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communication Commission's Report and Order in Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board, FCC 95-494, CC Docket No. 80-286, adopted December 11, 1995, and released December 12, 1995. The Commission has made the full text of the Order available for inspection and copying during normal business hours in the Commission's Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C. 20554, and will publish it in the FCC Record. The full text of the Order may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C., (202) 857-3800.

The Commission adopted the two-year indexed cap for the purpose of moderating growth in the USF during the pendency of a rulemaking that addresses possible permanent changes to the Part 36 jurisdictional separations rules. Previous changes to the rules had involved lengthy phase-in periods to ease the transition for affected carriers. By moderating the growth in the USF and consequently individual carriers' draw from that fund, the interim cap was intended to enable the Commission to implement new rules in a timely manner. The two-year period was selected in the belief that the rulemaking would be completed within

that time. The interim cap is scheduled to expire on January 1, 1996.

On August 30, 1994, the Commission released an initial Notice of Inquiry, 59 FR 46606, Sept. 9, 1994, requesting comment on several policy questions relating to the goals and effects of high-cost assistance and on two alternative approaches to the high-cost assistance mechanisms of Part 36. On July 13, 1995, the Commission subsequently released a Notice of Proposed Rulemaking and Notice of Inquiry ("Notice"), 60 FR 46803, Sept. 8, 1995, inviting comment on proposals for revising the Part 36 jurisdictional separations rules. On August 31, 1995, in response to requests from interested parties, the deadlines for comments and reply comments on the issues raised in the Notice were extended four additional weeks. In granting the extension, the Commission explained that the extension would serve the public interest by facilitating more detailed analysis by interested parties, which should prove helpful to the ultimate resolution of the complex issues presented in the Notice.

On October 3, 1995, we issued a notice of proposed rulemaking, ("*Extension Notice*"), 60 FR 52359, Oct. 6, 1995, proposing the extension of the interim cap for an additional six months. We referred the issues raised in the *Extension Notice* to the Joint Board for a recommended decision. In the *Extension Notice*, we noted that we had limited the duration of the interim cap to two years in the belief that two years would be sufficient for the completion of the Part 36 USF jurisdictional separations rulemaking. We also emphasized that because of the complexity of the issues in the rulemaking, the rulemaking would take more time than the anticipated two years to complete, despite diligent effort by the Commission and Joint Board staff and interested parties. The Joint Board has recently released a recommended decision recommending that the Commission extend the interim cap. In view of the scope of the proposals under consideration in the current rulemaking, the process may conclude with new USF rules retargeting assistance. Consequently, the rationale articulated by the Commission in support of the original interim cap during the pendency of the rulemaking remains valid. Given the progress in the rulemaking process to date, the Commission believes that an additional six months should be sufficient to complete it and that the extension is essential to allow full analysis of the complex issues raised in this rulemaking. We believe that extending

the interim cap for an additional six months will allow growth in the USF to be moderated while the rulemaking revising the USF jurisdictional separations rules is completed. To continue to moderate the growth of the USF effectively during the entire rulemaking period, the six-month extension must be effective by the January 1, 1996, expiration of the interim cap. In addition, the Commission has reserved the discretion to consider a longer extension of the interim cap, without further notice, if it becomes clear that the rulemaking will not be completed by July 1, 1996, on the basis of the record already developed.

These rule changes will become effective immediately upon their publication in the Federal Register. Pursuant to 5 U.S.C. 553 (d)(3) the Commission found good cause to have the rule amendments take effect immediately upon publication in the Federal Register. The revised rules must be effective in less than 30 days so that the extended interim cap is in place by the expiration date of the interim cap, January 1, 1996.

Accordingly, pursuant to Sections 1, (4)(i), 221(c), and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 221(c), and 410(c), it is ordered That Part 36 of the Commission's Rules and Regulations, 47 C.F.R. Part 36, Subpart F—Universal Service Fund, is amended as shown in the rule changes below.

List of Subjects in 47 CFR Part 36

Communications common carriers, Jurisdictional separations procedures, Reporting and recordkeeping requirements, Telephone, Universal System of Accounts.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.***Rule Changes**

Parts 36 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 36—[AMENDED]

1. The authority citation for Part 36 continues to read as follows:

Authority: 47 U.S.C. Secs. 151, 154(i) and (j), 205, 221(c), 403 and 410.

2. Section 36.601 is amended by revising paragraph (c) to read as follows:

§ 36.601 General.

* * * * *

(c) During an interim period commencing on January 1, 1996, and terminating on July 1, 1996, the annual amount of the total Universal Service

Fund shall not exceed the amount of the total Universal Service Fund for the immediately preceding calendar year, increased by a rate equal to the rate of increase in the total number of working loops during the calendar year preceding the June filing. The total Universal Service Fund shall consist of the Universal Service expense adjustments, including amounts calculated pursuant to §§ 36.612(a) and 36.631. The rate of increase in total working loops shall be based upon the difference between the number of total working loops on December 31 of the year preceding the June filing and the number of total working loops on

December 31 of the second year preceding that filing, both calculated pursuant to § 36.611(a)(8).

3. Section 36.622 is amended by revising the first sentence of paragraph (a) and paragraph (c) to read as follows:

§ 36.622 National and study area average unseparated loop costs.

(a) National Average Unseparated Loop Cost per Working Loop. Except as provided in paragraph (c) of this section, this is equal to the sum of the Loop Costs for each study area in the country as calculated pursuant to § 36.621(a) divided by the sum of the working loops reported in § 36.611(a)(8)

for each study area in the country.

* * *

* * * * *

(c) During an interim period commencing on January 1, 1996, and terminating on July 1, 1996, the National Average Unseparated Loop Cost per Working Loop shall be the greater of:

(1) The amount calculated pursuant to the method described in paragraph (a) of this section; or

(2) An amount calculated to produce the maximum total Universal Service Fund allowable pursuant to § 36.601(c).

[FR Doc. 95-30548 Filed 12-14-95; 8:45 am]

BILLING CODE 6712-01-P