final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by November 1, 1999.

ADDRESSES: Written comments should be addressed to Walter Wilkie, Acting Chief, Technical Assessment Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; District of Columbia Department of Public Health, Air Quality Division, 51 N Street, N.E., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Denis Lohman (215) 814–2192, at the EPA Region III address above, or by e-mail at lohman.denny@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: September 21, 1999.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 99–25423 Filed 9–29–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[TN 222–1–9928b; FRL–6448–2]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the section 111(d) Plan submitted by the Tennessee Department of Environment and Conservation (DEC) for the State of Tennessee on January 8, 1999, for implementing and enforcing the Emissions Guidelines applicable to existing Municipal Solid Waste Landfills. The Plan was submitted by the Tennessee DEC to satisfy certain Federal Clean Air Act requirements. In the Final Rules section of this **Federal Register**, EPA is approving the Tennessee State Plan submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action.

DATES: Comments must be received in writing by November 1, 1999.

ADDRESSES: Written comments should be addressed to Steven M. Scofield at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Steven M. Scofield, 404/562–9034.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L&C Annex, 401 Church Street, Nashville, Tennessee 37243–1531, 615/532–0554.

FOR FURTHER INFORMATION CONTACT: Scott Davis at 404/562–9127 or Steven M. Scofield at 404/562–9034.

SUPPLEMENTARY INFORMATION:

See the information provided in the Direct Final action which is located in the Rules section of this **Federal Register**.

Dated: July 28, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–25432 Filed 9–29–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 99–204]

Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document concerning the responsibilities and potential actions of the Federal-State Joint Board on Universal Service addresses the unique issues that may limit telecommunications deployment and subscribership in the unserved or underserved regions of our Nation, including on tribal lands and in insular areas. The Commission seeks comment on current levels of deployment and subscribership in unserved, tribal and insular areas, including penetration rates, availability of telecommunications services, and possible impediments to increased deployment and penetration. With respect to tribal areas, the Commission seeks comment on issues that may be affecting the availability of universal service in tribal areas, including who has jurisdiction, how eligible telecommunications carriers may be designated, and possible modifications to federal high-cost and low-income support mechanisms that may be necessary to promote deployment and subscribership in these areas.

DATES: Comments are due November 29, 1999 and reply comments are due December 29, 1999.

ADDRESSES: All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW, TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jack Zinman, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking released on September 3, 1999. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW, Washington, DC 20554.

I. Introduction

1. An important goal of the Telecommunications Act of 1996 is to preserve and advance universal service in a competitive telecommunications environment. The 1996 Act mandates that ''consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high[-] cost areas, should have access to telecommunications and information services * * *.'' Congress also directed that the support mechanisms employed by the Commission for this task should be ''specific, predictable and sufficient.'' Through decisions adopted over the past two years, the Commission has been striving to ensure that federal universal service support mechanisms for high-cost areas, low-income consumers, schools and libraries, and rural health care providers, enable consumers to obtain telecommunications services that would otherwise be prohibitively expensive.

2. The absence of telecommunications service in a home puts its occupants at a tremendous disadvantage in today's society. Parents cannot be reached when urgent situations arise at school. Job seekers cannot offer prospective employers a quick and convenient means of communication. People in immediate need of emergency services cannot contact police departments, fire departments, or medical providers. In short, telephone service provides a vital link between individuals and society as a whole. Given the importance of telephone service in modern society, it is imperative that the Commission take swift and decisive action to promote the deployment of facilities to unserved and underserved areas and to provide the support necessary to increase subscribership in these areas.

3. The Commission took additional steps in the Thirteenth Order on Reconsideration, 64 FR 30917 (June 9, 1999), toward realizing Congress's goal of bringing telecommunications services to all regions of the Nation. Specifically, in consultation with the Federal-State Joint Board on Universal Service (Joint Board), we adopted the framework for a new, forward-looking high-cost support mechanism for non-rural carriers. This new high-cost support mechanism is intended to ensure that high-cost areas receive support that is specific, predictable, and sufficient, even as local competition develops. Moreover, we believe that the forward-looking methodology, as opposed to a methodology based on book costs, will encourage efficient entry and investment in high-cost areas because forward-looking costs drive market decisions.

4. In addition to adopting the methodology for the new high-cost support mechanism for non-rural carriers, the Thirteenth Order on Reconsideration also sought comment on certain issues regarding the implementation of the new mechanism. The Commission intends to resolve these implementation issues in the fall of 1999, so that the new high-cost support mechanism will begin providing support to non-rural carriers beginning on January 1, 2000. In addition, the Commission reaffirmed its intention that rural carriers will receive support based on the forward-looking costs of providing supported services, but not before January 1, 2001, and only after further review by the Commission, the Joint Board, and a Rural Task Force appointed by the Joint Board. In the meantime, rural carriers will continue to receive high-cost support based on the existing mechanism until the Commission adopts an appropriate forward-looking mechanism for determining rural support.

5. The Commission has also recognized that, despite the steps it had taken to achieve the universal service goals of the 1996 Act, some areas of the nation remain unserved or inadequately served. In the *First Report and Order*, 62 FR 32862 (June, 17, 1999), the Commission stated that it would revisit certain issues pertaining to the availability of service in unserved areas and universal service support in insular areas. In its *Second Recommended Decision*, 63 FR 67837 (December 9, 1998), the Joint Board recommended that the special needs of unserved areas be investigated and subjected to a more comprehensive evaluation in a separate proceeding. Telephone penetration rates among low-income consumers, and in insular, high-cost, and tribal lands lag behind the penetration rates in the rest of the country. Indeed, while approximately 94.2 percent of all households in the United States have telephone service today, subscribership levels for very low income households (78.3 percent), insular areas, certain high-cost areas, and tribal lands (46.6 percent), are significantly lower than the national average. The Commission has stated that these low penetration rates are largely the result of ''income disparity, compounded by the unique challenges these areas face by virtue of their location.''

6. The Commission has been particularly concerned that Indians on reservations, in comparison to other Americans, have less access even to basic telecommunications services. In 1998, the Commission began formally examining its relationship with Indian tribes and the unique issues involved in providing access to telephone service for Indians on reservations. As a first step, Commissioners and staff met with many tribal leaders and other Indian representatives to obtain their input. In meetings on April 30, 1998, and July 7, 1998, Commissioners and staff heard from a variety of tribal leaders, tribal telephone company representatives, academics, government personnel, and others with experience and expertise in the deployment of telecommunications services on reservations. Experts discussed problems ranging from geographic isolation to lack of information to economic barriers. These meetings provided an unprecedented opportunity for the Commission to hear about the variety of interrelated obstacles that have resulted in the lowest penetration rates in the country. Following these meetings, several of the experts returned in the fall of 1998, to provide a tutorial on Indian law for Commission staff.

7. Based on this informal dialogue with experts, the Commission determined that it would conduct public hearings to explore further the reasons for the lack of telephone service and to determine what specific actions the Commission could take that would improve access to telephone service on Indian reservations. The hearings, entitled ''Overcoming Obstacles to Telephone Service for Indians on Reservations,'' BO Docket No. 99–11, provided an opportunity to obtain formal testimony and comments on the range of problems the Commission had begun to identify. The first field hearing was held on January 29, 1999 at the Indian Pueblo Cultural Center in Albuquerque, New Mexico. The second field hearing was held on March 23, 1999 at the Gila River Indian Community in Chandler, Arizona. Each hearing consisted of three panels representing tribal authorities and tribal telephone companies, industry, and government and consumer groups. The Commission heard extensive testimony on issues including the costs of delivering services to remote areas having very low population densities; the impact of the size and extent of local calling areas on affordability of service; the quality of telephone service on reservations; the complexities of governmental jurisdiction and sovereignty issues; and the effects on telephone service of low incomes and high unemployment on reservations. Transcripts of the hearings and comments filed by interested parties are

available on the Commission's website. Comments filed in BO Docket Number 99–11 will be incorporated, where relevant, into the record of this proceeding.

8. Further, in connection with each of the field hearings, Commissioners and staff made site visits to Indian reservations and tribally-owned telephone companies. These included visits to the Rosebud Reservation, the Santa Domingo, Jemez, and Picuris Pueblos, and to Saddleback Communications, the Gila River Telephone Company, the Salt River Pima-Maricopa Reservation, the Navajo Nation, the Hopi Reservation, and the Havasupai Reservation. These site visits provided an opportunity for Commissioners and staff to observe firsthand the state of telephone service in these reservations and pueblos and to hear directly from tribal members about their experiences. For example, Commissioners and staff visited the home of an elderly couple who could not afford the cost of installing a telephone in their home. The husband of the couple explained that he was suffering from a chronic illness, but was unable to reach the hospital or his doctor by telephone to schedule medical appointments and discuss his treatment. During another site visit, a tribal member stated that a relative had died during a medical emergency when his family was unable to call an ambulance in time when critical medical attention was needed. In addition, the trips to Saddleback Communications and the Gila River Telephone Company enabled Commission staff to view the successful operations of some tribally-owned telephone companies.

9. In this Further Notice of Proposed Rulemaking (Further Notice), the Commission addresses the unique issues that may limit telecommunications deployment and subscribership in the unserved or underserved regions of our Nation, including on tribal lands and in insular areas. In particular, the Commission seeks comment on current levels of deployment and subscribership in unserved, tribal and insular areas, including penetration rates, availability of telecommunications services, and possible impediments to increased deployment and penetration. With respect to tribal areas, the Commission seeks comment on issues that may be affecting the availability of universal service in tribal areas, including the assignment of jurisdiction, designation of eligible telecommunications carriers, and possible modifications to federal high-cost and low-income support mechanisms that may be necessary to promote deployment and subscribership in these areas. In particular, the Commission seeks comment on the possibility of allowing carriers to establish separate tribal study areas, raising the cap on the high-cost fund to allow for growth based on separate tribal study areas, and revisions to its Lifeline rules. In a companion Notice of Proposed Rulemaking we are adopting today, we seek comment on the potential of wireless technology to provide basic telephone service to tribal lands.

10. With respect to unserved areas, the Commission seeks further comment regarding the implementation of section 214(e)(3) of the Act, which permits the Commission or state commissions to order a carrier to provide service to an unserved community, including the possibility of adopting a competitive bidding mechanism to identify the carrier or carriers best able to serve an unserved area. The Commission also seeks comment on possible modifications to the federal low-income and rural health care support mechanisms in underserved areas, including tribal and insular areas, including the possibility of expanding LinkUp to include facilities based charges, and providing support for intrastate toll-calling and rural health care infrastructure. The Commission seeks comment on rule changes designed to enhance the availability of support for rural health care providers in insular areas, including determining the urban rate and the nearest large city. Through these efforts, we seek to ensure that unserved and underserved areas have access to telecommunications services. With respect to tribal lands, we also seek to ensure that our efforts are consistent with principles of tribal sovereignty, the federal trust relationship, and support for tribal self-determination.

II. Current Levels of Deployment and Subscribership

A. Penetration Rates

11. The Industry Analysis Division of the Common Carrier Bureau publishes a Subscribership Report three times per year. The data in this report is based on the Current Population Survey (CPS), conducted monthly by the Census Bureau to keep track of the unemployment rate and other socio-economic conditions. The survey, however, is based on information from only 50,000 households nationwide and does not identify geographic areas with fewer than 100,000 people. Because many unserved, tribal and insular areas fall below this population threshold, the CPS cannot be used to estimate penetration rates for these areas. In addition, this data does not include areas of the United States that are not states, including Puerto Rico and the Virgin Islands. The long form of the decennial census, which is delivered to millions of households, contains a question about telephone subscribership. As a result, the census data can be used to estimate telephone penetration for smaller geographic areas. This data, however, is collected only every ten years and it takes the Census Bureau one year to compile results.

12. We seek detailed information, to the extent that it is available, on penetration rates in high-cost areas, insular areas, tribal lands, and any other areas considered to be underserved. By the term penetration rate, we mean the percentage of households within a specified area that have telephone service in the housing unit. We seek this information on a national level, on a state-by-state or territory-by-territory level, and on an area-by-area level. To the extent possible, we encourage commenters to provide the following additional information in each of the areas, and on each of the levels, where they measure penetration rates: (1) total population; (2) population density; (3) average annual income; and (4) average unemployment rate. We also ask that commenters briefly explain the methods by which they gather their data (e.g., census data, statistical sampling, etc.). We also seek comment on the difficulty of getting such information, such as the difficulty of mapping a telephone service territory onto the census territories (such as census block groups) because the boundaries may not always coincide, and questions concerning the definitions of the terms ''household'' and ''telephone service.''

B. Availability and Cost of Telecommunications Services

13. In each of the areas, and on each of the levels described, we seek to determine the nature of the telecommunications services available and the costs of such services. In particular, we seek comment on the extent to which these areas receive the following service, if any: basic telephone service, services included within the definition of universal service, and/or advanced telecommunications services. We also seek comment on whether any carrier is providing the following services and the approximate number of households served by each service: wireline, wireless, Basic Exchange Telecommunications Radio Systems (BETRS), or other telecommunications

services; cable television; direct broadcast satellite service; other satellite services that provide voice and data, such as those provided through VSAT networks; Internet service; and electric service. In addition, we seek comment on the monthly rate for each of these services. With specific regard to basic telephone service, we seek comment on the average monthly bill for local service, local toll service, and long-distance service.

14. To the extent that underserved, high-cost, insular, and/or tribal lands have basic telephone service, we seek comment on whether the local calling area includes the nearest metropolitan area or other area where the nearest medical, government, cultural or entertainment facilities exist, *i.e.*, the ''community of interest.'' For unserved areas, and in particular tribal lands, we also seek comment to determine whether these areas fall within the designated service area of existing carriers, regardless of whether such carriers are providing service to the area.

15. We seek comment on the extent to which existing facilities currently used to provide other services (*e.g.*, radio broadcast towers, cable television plant, electrical poles and satellite infrastructure) could be adapted to provide the services included within the definition of universal service. We also seek comment on whether specific services included within the definition of universal service could not be provided via these facilities. We seek comment on the extent to which facilities used to provide telecommunications service to customers outside the unserved or underserved areas exist adjacent to or nearby the unserved or underserved areas. In particular, we seek comment on whether railroad tracks, or towers used for the placement of antennas, are found in these adjacent areas. We seek comment on what role the Commission might play in encouraging the use of these other facilities to provide service in underserved areas. For example, we seek comment on whether the Commission, or some other entity, should develop a database to maintain information about facilities that could be used to provide service in currently unserved or underserved areas, including tribal lands and insular areas.

16. We also seek comment on the possible shared use of existing federal telecommunications infrastructure, facilities or other resources, including government rights-of-way, to provide service in unserved or underserved areas, including tribal and insular areas. We seek comment on whether federal telecommunications resources could be made available in the short term to serve as connecting backbone infrastructure for health and safety telecommunications in unserved areas. We encourage federal entities with government owned telecommunications resources, particularly the Bureau of Indian Affairs, to comment on this issue.

17. Individuals from Indian communities, state agencies and the telecommunications industry have commented that satellite and terrestrial wireless systems may represent practical and cost-effective alternatives for providing service in unserved areas, including tribal lands. In the pending 2 GHz proceeding, which proposes policies and rules for licensing and operation of the 2 GHz mobile satellite service (MSS) systems in the United States, the Commission sought comment on incentives and policies to encourage provision of satellite services to unserved, rural, insular or economically isolated areas. The commenters generally support the Commission's tentative conclusion that satellites represent an excellent technology for providing basic and advanced telecommunications services to unserved areas, including tribal lands. Several commenters stated that the Commission should take positive steps to encourage access to Universal Service Funds by satellite operators or service providers. Several commenters also requested that the Commission should identify express and implicit regulatory provisions that may prevent satellite providers from seeking universal support subsidies and reform those provisions, or forbear from imposing these provisions, so that MSS providers can fully participate in the Universal Service Support initiative.

18. Satellite networks, used either on a stand alone basis or in combination with a terrestrial wireless network, may offer a cost advantage over wireline or other alternatives in remote areas where a limited population may not provide the economies of scale to support the deployment of wireline or other networks for each community. Because satellites have large coverage areas, and in many cases, can reach an entire nation, satellite providers may achieve greater economies of scale in serving isolated areas since the costs of deployment could be spread across a number of communities. The basic build-out required to obtain satellite service is for earth stations to transmit and receive satellite signals. We seek comment on why satellite or terrestrial wireless systems have not been used more extensively to serve these areas. Specifically, we seek comments regarding the particular characteristics of satellite or terrestrial wireless systems that render these technologies suited for serving unserved areas, the costs associated with deployment, the availability of federal universal service support, and any other impediments to deployment. To the extent that costs deter satellite and terrestrial wireless deployment, we seek comment on what actions the Commission should take to support the establishment and maintenance of satellite and terrestrial wireless services. We ask parties to comment on whether specific aspects of our universal service rules may deter both current and future satellite services providers from providing service to rural, insular, and other unserved communities, and what specific steps the Commission can undertake to encourage the use of universal service support by satellite service providers. We also seek comment on any other actions the Commission should take to encourage the deployment of the most cost-effective, practical solution in these geographically extreme areas.

C. Impediments to Increased Penetration

19. In addition to identifying impediments to increased penetration rates, we also ask commenters to discuss potential solutions for overcoming those impediments. We do not reach tentative conclusions on any of the proposals discussed. Instead, we seek comment on the need for the Commission to address the specific concerns set forth and the costs and benefits of the proposals discussed. We seek comment on how the Commission should measure its success in satisfying the mandate in the 1996 Act that consumers in all regions of the nation have access to telecommunications services. We seek comment on what measure we could use, other than penetration rates, to evaluate our success in achieving this goal.

1. Demographic Factors

20. We ask commenters to supply data for high-cost, insular, and tribal lands regarding: (1) total population; (2) population density; (3) average annual income; and (4) average unemployment rate. Bureau of Census data indicates that income and education levels greatly affect telephone penetration rates and that geographic location can also make a difference. In this section, we seek specific comments on how these demographic factors affect penetration rates. For example, do income levels have a greater effect on penetration rates than population density? Do the

combined effects of low income and low population density have an exponential effect on penetration rates? We seek comment on whether other demographic factors significantly affect penetration rates in high-cost, insular, and tribal lands, *e.g.*, education levels.

2. Geographic Factors

21. One of the more obvious explanations for low penetration rates in high-cost, insular, and tribal lands is that these areas are unusually expensive to serve. Distance appears to be one reason line extension charges are so high. During the New Mexico and Arizona Field Hearings, several tribes testified about the remoteness of their locations and the challenges that remote locations presented in terms of telecommunications services. For example, in 1997, the Navajo Communications Company issued 72 line extension charge estimates that averaged more than $40,000, including eight over $100,000 and one over $157,000. The cost for installation of a line on the Salt River Pima-Maricopa Indian Community (located in the heart of metropolitan Phoenix) is $5,000. We seek comment on the general terrain, including the existence of mountains, plains, swamps, water, plateaus, canyons, etc., that create challenges in providing telecommunications services. We also seek comment on the extent to which the absence of necessary infrastructure, for example roads or electrical capacity, constitutes a barrier to deployment in rural, insular, high-cost, and tribal lands.

3. Financial Factors

22. We seek comment on whether difficulties in obtaining access to financing limits the ability of carriers to provide service in unserved or underserved rural, insular, high-cost, and tribal lands. We seek comment on any specific provisions in loan agreements that serve to deter deployment in these areas. We also seek comment on any measures the Commission could take that would diminish the risks faced by investors and would enhance the ability of carriers to attract financing necessary to provide service in unserved or underserved rural, insular, high-cost, and tribal lands. We also seek comment on the availability and utility of existing programs that may provide funding and assistance to carriers seeking to provide telecommunications service in unserved areas and underserved areas, including tribal and insular areas, including whether the availability of existing sources of funding and assistance is adequately publicized.

4. Cultural Factors

23. We seek comment on the extent to which cultural values or lifestyle preferences deter consumer interest in subscribing to telecommunications services in unserved or underserved areas. For example, we seek comment on whether concerns about cultural preservation, religion, identity, and values may affect the willingness of tribal authorities to allow or promote the availability of telecommunications services in their communities. Similarly, we seek comment on whether there are a significant number of individuals that simply do not want telecommunications services because of personal lifestyle choices. We also seek comment on the extent to which carriers justify the lack of deployment in unserved or underserved rural, insular, high-cost, and tribal lands based on concerns for cultural preservation and whether these concerns are legitimate. In addition, we seek comment on whether the Commission's efforts to promote deployment and subscribership in unserved and underserved areas should be constrained by the cultural choices expressed by tribal authorities or other local leadership.

5. Regulatory Factors

24. We seek comment on impediments imposed by various laws, regulations or practices that may deter carriers from providing service to unserved or underserved areas, including federal, state, tribal or insular authorities.

25. *Federal Regulatory Impediments.* We seek comment on the current process for obtaining access to rights-of-way on tribal lands and to what extent this process deters carriers from providing service on tribal lands. Under the Right-of-Way Act of 1948, there are three critical components for obtaining rights-of-way over tribal land: (1) the Secretary of the Interior through the Bureau of Indian Affairs must grant the easement for the right-of-way; (2) compensation of not less than fair market value, as determined by the Secretary, plus severance damages must be paid to the property owner; and (3) tribal consent must be obtained. The first of these requires a service provider to undergo environmental assessments and secure cultural and archaeological clearances from the Bureau of Indian Affairs. The second component requires the service provider to obtain the standard appraisal it would for any easement but under standards set by Bureau of Indian Affairs. Finally, the service provider must also meet any conditions imposed by the particular tribe because the tribe has the ultimate authority to accept or reject the right-of-way. Carriers have indicated that this process is a significant barrier to entry. Tribal authorities have expressed concern about the ability of carriers to use existing rights-of-way to establish new terrestrial networks without obtaining the consent of the tribal authority. In addition, carriers and tribal authorities appear to have concerns concerning appropriate compensation for use of rights-of-way in tribal lands. To the extent rights-of-way management issues pose a barrier to entry on tribal lands, we seek comment on what role, if any, the Commission could play in addressing these issues.

26. We also seek comment on whether any aspect of our universal service rules deters carriers from providing service to unserved and underserved areas. For example, does the definition of supported services deter terrestrial wireless or satellite service providers from providing services in these areas? In our ongoing proceeding to reform the high-cost universal service support mechanism for non-rural carriers, several parties representing rural carriers have filed comments asking that we adjust or eliminate the cap on the high-cost loop fund to coincide with the anticipated transition of non-rural carriers to a new forward-looking support mechanism on January 1, 2000. We observe that the cap on the existing high-cost fund properly allows for growth based on the rate of growth in the total number of working loops nationwide. We also observe that carriers do invest in facilities in an amount greater than that which is supported through federal universal service support mechanisms. We seek comment regarding the extent to which the interim cap on the high-cost fund is a factor contributing to the lack of deployment in unserved areas, including tribal and insular areas.

27. We comment on whether existing LATA boundaries prevent calls from unserved or underserved areas, including tribal lands, to the nearest metropolitan area or community of interest from being included in local service. We seek comment on any other federal rules or Commission regulations which may deter carriers from providing service to unserved or underserved areas. We also observe that issues specific to wireless providers will be addressed in a separate proceeding.

28. *State Regulations.* We also seek comment on regulations or actions at the state level that may impact deployment and subscribership in unserved and underserved areas. We seek comment on the extent to which

statewide rate-averaging requirements or limited local calling areas may make the costs of telecommunications service unaffordable to low-income consumers living in unserved or underserved areas. We also seek comment on existing state programs designed to ensure that rates in remote and tribal lands are affordable.

29. *Tribal/Insular Regulatory Impediments.* We seek comment on any regulations or requirements imposed by tribal or insular authorities that may deter entry in tribal lands or in insular areas. For example, we seek comment on whether local governments own or operate the local exchange carrier in their areas and what impact this may have on competitive entry from other cost-effective wireline, terrestrial wireless, or satellite service providers. We seek comment on whether government ownership or operation affects the provision of services supported by universal service mechanisms in these areas. We seek comment on any ownership or employment requirements imposed by tribal authorities that may impair the ability of carriers to provide service and/or compete with tribally-owned carriers. For example, we seek comment on the extent to which tribes require an ownership interest in a carrier as a prerequisite to allowing the carrier to provide service on tribal lands. We seek comment on the impact such requirements may have on the deployment of telecommunications facilities and services on tribal lands.

III. Tribal Lands

30. For our universal service support mechanisms to be effective on tribal lands, we seek to promote active involvement and collaboration between the Commission and tribal authorities. As a general matter, we seek comment on how we can increase Indian participation in the Commission's decision-making process. At a more specific level, we seek comment throughout this section on issues unique to tribal lands that may affect the goals and incentives of federal universal service support mechanisms and consider additional, targeted assistance the Commission may want to provide to promote deployment and subscribership on tribal lands. As described, the trust relationship between the federal government and Indians as well as principles of tribal sovereignty suggest that the federal government may have the authority to implement particularized measures to address the factors causing the unusually low subscribership on tribal lands. We emphasize that these proposals are not meant to imply that the states have not, or will not, do their share in promoting the availability of universal service on tribal lands. In fact, many states have made significant efforts in this area. We commend them for doing so and we encourage them to continue. In this proceeding, however, we consider measures the Commission may take to fulfill its obligation to address telecommunications needs on tribal lands.

A. Jurisdiction

1. Issues for Comment

31. We recognize that principles of Indian law, including the trust relationship between the federal government and Indian tribes, tribal sovereignty, and tribal self-determination, must apply with equal force in the area of telecommunications. With respect to telecommunications services provided by tribal carriers on or off the reservation or by non-tribal carriers within tribal lands (all of which are referred to jointly as ''tribal telecommunications'') the parameters of federal, state and tribal authority, however, are not always clear. The Supreme Court, itself, has acknowledged that ''generalizations on this subject have become treacherous.'' Nonetheless, some of the proposals presented in this Further Notice necessitate an effort to evaluate these jurisdictional relationships. In this Further Notice, we seek comment to determine how best to give effect to principles of Indian law in the context of rule changes intended to benefit unserved and underserved tribal lands.

32. *State Jurisdiction.* Three of the proposals detailed later in this Further Notice deal with provisions of sections 254 and 214 of the Act, and of our existing rules that are triggered when the state lacks jurisdiction over a carrier providing telephone exchange or access service in a particular area. First, the determination of whether a state has jurisdiction over a common carrier providing telephone exchange service and exchange access is key in determining whether the Commission is required to designate telecommunications carriers as eligible to receive federal universal service support in high-cost areas. Second, in unserved areas where the state lacks jurisdiction the Commission, pursuant to section 214(e)(3) shall determine which common carrier or carriers are best able to provide service. Third, we propose that revisions to our Lifeline rules to address the situation faced by carriers not subject to state jurisdiction.

33. The issue of the extent to which tribal authorities or state governments have authority to regulate activities occurring on tribal lands, whether by tribal members or not, has a long and complex legal history, involving considerations of whether state regulation is preempted by federal regulation, whether state regulation is consistent with tribal sovereignty and self-determination, and whether tribes have consented to state jurisdiction, either in treaties or pursuant to the Indian Civil Rights Act of 1968. In addition, Indian law jurisprudence finds state law generally inapplicable when states attempt to regulate the conduct of Indians directly within reservation boundaries.

34. We recognize that some state commissions have asserted jurisdiction over carriers seeking to provide service on tribal lands and regulate certain aspects of the provision of telecommunications service on tribal lands. We seek comment, in particular from state commissions as well as any other interested parties, concerning the extent of state and tribal regulation of telecommunications provided on tribal lands and by tribally-owned or operated carriers. In particular, we seek comment on the appropriate jurisdictional authority in the following situations: (1) tribally-owned or operated carriers providing service within the reservation (a) to tribal members, (b) to non-tribal members, and (c) to non-tribal members living on non-native fee lands (within the reservation); (2) non-tribally owned or operated carriers offering service both inside and outside of the reservation; and (3) tribally-owned or operated carriers offering service outside of the reservation. We refer parties commenting on these issues to the various ways in which tribal lands could be defined, as discussed, and seek comment on how these definitions inform the jurisdictional analysis requested in this section.

35. In addition, we seek comment on the jurisdictional treatment of the following geographic entities, as classified by the Bureau of the Census: (1) American Indian Reservations, which are areas with boundaries established by treaty, statute and /or executive or court order; (2) Trust Lands, which are real property held in trust by the federal government that is associated with a specific American Indian reservation or tribe and which may be located within or outside the reservation; (3) Tribal Jurisdiction Statistical Areas, which are delineated by those Federally-recognized tribes in Oklahoma that no longer have a reservation; (3) Tribal Designated

Statistical Areas, which encompasses federally and state-recognized tribes without reservation or trust lands; (4) Alaska Native Regional Corporations, which are corporate entities established under the Alaska Native Claims Settlement Act of 1972 (ANCSA) to conduct the commercial and nonprofit business of Alaska Natives; and (5) Alaska Village Statistical Areas, which are tribes, bands, clans, groups, villages, communities, or associations in Alaska that are recognized pursuant to the ANCSA.

36. We seek comment on whether there are any other kinds of tribal relationships that would inform our jurisdictional analysis. We seek comment on whether the state commission has jurisdiction over telecommunications in the situations described, the legal authority for such jurisdiction (*e.g.* the state constitution, state statute, Indian treaty, etc.); and the extent to which the particular state commission exercises that jurisdiction. We also seek comment on the existence of any concurrent jurisdiction.

37. In addition, we observe that wireline telephone calls between Indian tribal lands and the state in which tribal land is located are currently treated as intrastate calls, subject to state jurisdiction. We seek comment on whether this treatment is consistent with principles of tribal sovereignty and the Indian law jurisprudence regarding the limits of state authority, referenced. We also seek comment on whether the treatment of these calls as intrastate is consistent with the division of jurisdiction between the Commission and the states under section 2 of the Act. We seek comment as well on the need, impact, and Commission's authority to reclassify these calls as interstate for the purpose of giving effect to principles of tribal sovereignty.

38. We observe further that state jurisdiction may be preempted by the operation of federal law ''if it interferes with or is incompatible with federal and tribal interests reflected in federal law, unless the state interests at stake are sufficient to justify the assertion of state authority.'' An express Congressional statement of preemption is not required. Instead, a preemption analysis ''requires a particularized examination of the relevant state, federal and tribal interests.'' We seek comment on state interests in regulating telecommunications on tribal lands, including the ability to ensure reasonable rates, quality service, and the continued viability of local exchange carriers (LECs). We also seek comment from each tribal government, and any other interested parties, on the extent to which the state's exercise of jurisdiction over telecommunications on tribal lands and over tribal carriers that serve areas both inside and outside Indian sovereign territory is warranted.

39. *Tribal Regulation.* We seek comment from each tribal government, and any other interested parties, on the extent of tribal authority over regulation of telecommunications on tribal lands. As a threshold matter, we note that the Commission has previously spoken to some aspects of this issue in the *A.B. Fillins Order,* in which the Commission considered the extent of tribal regulatory authority over the provision of cellular service within a tribal reservation. In that order, the Commission held that under well-settled case law, the Communications Act applies with equal force to tribal reservations as to other areas, and that the Commission has sole authority under Title III of the Act with respect to management and licensing of radio spectrum in tribal areas. The Commission also concluded, however, that the Communications Act does not preempt tribal authority over access by telecommunications carriers to tribal lands, because the provisions of the Act that preempt state and local impediments to entry do not apply to tribal authorities.

40. In light of this statutory framework, we seek comment on the current extent to which tribal authorities have engaged in telecommunications regulation and on any future plans of tribal authorities to regulate telecommunications in tribal areas. We seek comment on the extent to which tribal authorities consider regulation of tribal telecommunications important to the right to self-government and self-determination. We also seek comment on whether tribal authorities should be considered as comparable to state authorities for purposes of regulating telecommunications services, and the degree to which the federal-tribal relationship on communications matters is similar or dissimilar to the federal-state relationship. Finally, while we have determined in the *A.B. Fillins Order* that tribal authorities are not subject to preemption under provisions of the Act applicable to state and local governments, we seek comment on what authority, if any, the Commission has to preempt tribal regulations that may be inconsistent with our federal regulatory scheme.

41. *Tribal Self-determination and Universal Service Goals.* We seek comment to determine how principles of Indian law and federal support for tribal self-determination affect the Commission's statutory mandate to ensure that consumers in all regions of the nation have access to the services supported by federal universal service support mechanisms. Pursuant to the Act, the Commission is bound by its statutory mandate to promote the availability of the services supported by federal universal service support mechanisms in all regions of the Nation. We seek comment on whether this statutory obligation is affected or constrained by any contrary interests, for cultural or other reasons, of certain tribal authorities. We seek comment, in particular from tribal authorities, to ascertain whether tribal authorities share the goals established by the 1996 Act, which the Commission is bound to implement. We seek comment on the extent to which tribal authorities seek to promote the availability of telecommunications services and competition among telecommunications providers.

42. We also seek comment on whether the services supported by federal universal service support mechanisms are consistent with the interests of tribal authorities in promoting service in tribal lands. We recognize that some tribal authorities may prefer a different mix of services to be supported. For example, some tribes may prefer support for terrestrial wireless or satellite services, rather than wireline services. Other tribes may want to prioritize the ability for each member to receive basic telecommunications service, rather than the entire package of services included in the definition of universal service. We seek comment on whether the Commission has the authority to and whether it should develop a procedure by which the Commission, the Joint Board and the sovereign Indian tribes could identify a single alternative definition of the services supported by federal universal service support mechanisms in tribal lands. We seek comment on additional administrative burdens that would be associated with implementing this procedure.

B. Defining ''Tribal Lands''

43. The definition we adopt of ''tribal lands'' will be used to identify those areas in which, for reasons based on principles of Indian sovereignty, the Commission seeks comment to determine whether possible modifications to our federal universal service policies and rules may be warranted. In defining tribal lands, we seek to ensure that we limit the reach of these proposals to those areas in which principles of tribal sovereignty and tribal self-determination apply. We also seek to balance the reasonable exercise

of federal jurisdiction with appropriate deference to state sovereignty and jurisdiction.

44. We seek comment on defining tribal lands as all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation. Alternatively, we seek comment on defining tribal lands to have the same meaning as the term ''Indian country,'' as that term is defined by the Bureau of Indian Affairs. ''Indian country'' means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

45. In addition, we seek comment on whether the geographic entities, as classified by the Bureau of the Census, should be included in the definition of tribal lands: (1) American Indian Reservations, which are areas with boundaries established by treaty, statute and/or executive or court order; (2) Trust Lands, which are real property held in trust by the federal government that is associated with a specific American Indian reservation or tribe and which may be located within or outside the reservation; (3) Tribal Jurisdiction Statistical Areas, which are delineated by those Federally-recognized tribes in Oklahoma that no longer have a reservation; (4) Tribal Designated Statistical Areas, which encompasses federally and state-recognized tribes without reservation or trust lands; (5) Alaska Native Regional Corporations, which are corporate entities established under the ANCSA to conduct the commercial and nonprofit business of Alaska Natives; and (6) Alaska Village Statistical Areas, which are tribes, bands, clans, groups, villages, communities, or associations in Alaska that are recognized pursuant to the ANCSA.

46. We observe that, with the exception of the first category, American Indian Reservations, the listed classifications used by the Bureau of the Census would not be encompassed in a definition of tribal lands that is limited to ''all land within the limits of any Indian reservation under the jurisdiction of the United States Government.'' We recognize that tribes encompassed by these classifications may face obstacles in obtaining telecommunications services that are similar to those faced by tribes in living in American Indian Reservations. Commenters supporting the inclusion of any of these categories should explain the source of the Commission's authority to implement the additional measures proposed in this item with respect to these areas, including noting any jurisdictional arguments provided in response to questions raised.

C. High-Cost Support Mechanisms

1. Federal Share of High-Cost Support

47. As discussed, because the trust relationship creates a unique relationship between the federal government and Indian tribes, the federal government may have authority to undertake additional measures to promote deployment and subscribership on tribal lands and to provide universal service support necessary to offset the particular challenges facing these areas. With respect to high-cost support on tribal lands, we seek comment on the extent to which states currently support the costs of universal service in tribal lands and whether the Commission should provide an additional portion of the universal service support calculated by the federal support methodology in high-cost, tribal lands. For instance, with regard to the forward-looking high-cost support mechanism for non-rural carriers, we seek comment on whether, rather than providing support for costs that exceed both a national cost benchmark and the individual state's resources to support those costs, the mechanism should provide support for all costs in unserved tribal lands that exceed the national benchmark.

2. Separate Study Areas Option for Tribal Lands

48. In order to provide additional high-cost support to tribal lands, we seek comment on modifications to our study area rules. Our study area rules provide a mechanism through which the Commission has controlled the growth of the high-cost universal service support mechanism. Universal service support for high-cost areas is determined on the basis of average loop costs throughout a study area. Averaging costs on a study-area wide basis spreads the burden of serving high-cost areas among all of the telecommunications subscribers in that study area. As a result, however, carriers with relatively low average loop costs in a particular study area receive no support for serving additional customers in a high-cost portion of that study area if the loop costs in the high-cost portion do not raise the overall average loop costs for the study area above a specific national benchmark, currently 115% of the national average cost per loop. By freezing study area boundaries, the Commission sought to eliminate incentives for carriers to place high-cost exchanges in separate study areas in order to receive additional support for providing service to those study areas. As a result of these two policies, however, certain carriers may experience strong financial disincentives to serving unprofitable high-cost customers in their study areas and other carriers may lack incentives to purchase those unserved exchanges.

49. In order to promote the deployment of universal services on tribal lands, we seek comment on modifying our rules to permit carriers to treat tribal lands as a distinct study area. We seek comment on whether, by providing an exception to our study area rules, we can eliminate regulatory requirements that may deter carriers from serving high-cost, tribal lands. For example, one option may be that the tribal study area for a carrier will consist of all of the tribal lands served by the carrier within the borders of a single state. This means that carriers may have a tribal study area in each state in which it provides service on tribal lands. We seek comment on whether the tribal study area should include all of the tribal lands in a state (rather than, for example, a single nationwide tribal study area) because states use study areas for purposes of determining intrastate revenue requirements.

50. We emphasize that the proposal to allow tribal study areas is not related to the issue of the area over which costs are averaged to determine support using the new high-cost mechanisms, which is pending in the high-cost proceeding. We seek comment on how allowing a separate tribal study area could affect whether the carrier serving that area falls within the statutory definition of a rural carrier for providing service to that area. If a carrier designates the tribal lands within a state as a separate study area, the number of access lines or inhabitants in that newly created study area may qualify the carrier as a rural carrier with respect to that study area. We seek comment on whether this may result in some carriers, currently designated as non-rural, being considered rural for purposes of receiving universal service support in certain tribal study areas.

3. Interim Cap on the High-Cost Fund

51. In the *First Report and Order,* the Commission concluded that it would maintain the cap on the existing high-cost loop support mechanism until all carriers receive support based on the new high-cost funding mechanism. The cap on the high-cost loop fund was initially intended as an interim measure. Commission rules require that if total support, based on each carrier's actual costs, is above the total allowed capped amount, each recipient of high-cost loop support will receive a reduced amount of support to keep the total fund at the capped amount. The cap has served its purpose in controlling excessive growth in the size of the fund during the past six years as the Commission has reformed its universal service support mechanisms. We have stated that the rural carriers will receive support based on the new high-cost funding mechanism no earlier than January 1, 2001. The Commission has not established a timetable for moving rural carriers to a forward-looking high-cost support mechanism. Rather, this undertaking is on hold pending the Rural Task Force making its recommendation to the Joint Board; the Joint Board may recommend that the Commission conduct further proceedings on certain issues.

52. Allowing carriers to designate separate tribal study areas, as proposed, could mean that additional carriers may be entitled to a portion of the high-cost support fund. We seek comment on the need for the Commission to provide additional high-cost support under the existing mechanisms to tribal lands. In order to do so, the Commission may either lift the cap on the high-cost fund to allow for growth in the size of the fund attributable to the separate study area proposal or reallocate the existing funds among the expanded category of recipients. We seek comment on these options. We also seek comment on any other options that may assist the Commission in achieving the goal of targeting additional federal high-cost support to tribal lands.

D. Revisions to Lifeline

53. The Commission's Lifeline support program for low-income consumers is designed to reduce the monthly billed cost of basic service for low-income consumers, which we anticipate will increase telephone penetration. Lifeline provides carriers with three elements of universal service support. The support must be passed through to each qualifying low-income consumer by an equivalent reduction in his or her monthly bill for telephone service. All carriers receive a baseline amount of $3.50 per month per Lifeline customer in the form of a waiver of the federal subscriber line charge (SLC). An additional $1.75 per month is available per Lifeline customer if ''the state commission approves an additional reduction of $1.75 in the amount paid by consumers * * *'' Finally, carriers can receive federal matching funds of fifty percent of the amount of state Lifeline support, up to a maximum of an additional $1.75 per month, as long as the entire amount is passed on to subscribers. Federal Lifeline support per qualifying low-income consumer is capped at $7.00 per month.

1. State Commission Approval

54. The Commission has received petitions for waiver of our Lifeline rules to allow carriers not subject to the jurisdiction of a state commission to receive the second tier of federal support where no regulations issued by local authorities (including state commissions and tribal authorities) exist that would prevent an equivalent reduction in the monthly telephone bills of qualifying low-income consumers. In drafting our rule, we did not consider the situation faced by carriers not subject to the jurisdiction of a state commission. Based on these waiver petitions, it appears that our rule has given rise to certain situations that we did not anticipate. The requirement of state consent prior to making available the second tier of federal Lifeline support was intended to reflect deference to the states in such areas of traditional state expertise and authority. We did not intend to require carriers not subject to state commission jurisdiction to seek either state commission action or a Commission waiver in order to receive the additional $1.75 available under federal support mechanisms, where that additional support would be passed through to consumers. For these reasons, we propose to modify our rule to state that an additional $1.75 per qualifying low-income consumer will be provided to the carrier where the additional support will result in an equivalent reduction in the monthly bill of each qualifying low-income consumer. This proposed revision maintains deference to the state commission because the additional support will not be provided where a state commission with jurisdiction to do so has not permitted an equivalent reduction in the consumer's bill. The proposed revision is intended to eliminate the need for carriers not subject to the jurisdiction of a state commission to seek state commission action or a Commission waiver. We seek comment on the proposed revision.

2. Federal Support on Tribal Lands

55. In addition, in keeping with principles of tribal sovereignty, we seek comment on modifying our rule to provide that the third tier of federal support, a maximum of $1.75 per month per low-income consumer, is available to customers on tribal lands. As described, the federal government has a special trust relationship with Indian tribes, and this entails special responsibilities, particularly where tribal reservations appear to be particularly disadvantaged by a lack of important resources, like telecommunications. With respect to tribal lands, we seek comment on the extent to which states currently provide the support necessary to qualify for matching funds for the third tier of Lifeline support. We also seek comment on whether the federal government, in light of its trust relationship with Indian tribes, should provide carriers serving tribal lands the third tier of Lifeline support, $1.75 per qualifying Lifeline customer, as long as all such Lifeline customers receive an equivalent reduction in their bills. Unlike in other areas, this federal support amount would not be contingent upon the state in which the tribal lands are located providing support.

3. Amendments to Consumer Qualification Criteria

56. We seek comment on whether the Commission should expand the consumer qualifications for Lifeline assistance to ensure that low income consumers on tribal lands are able to participate fully in the Lifeline assistance program. Under our current rules, in states that provide intrastate matching funds, a consumer must meet the criteria established by the state commission to receive federal Lifeline support. In most states, a consumer can meet the criteria by demonstrating or certifying that he or she participates in one of several narrowly targeted low income assistance programs. We are concerned that some state commissions have established Lifeline criteria that may inadvertently exclude low income consumers on tribal lands because the criteria do not include low income assistance programs that are specifically targeted toward Indians living on tribal lands. Similarly, in those states that do not provide intrastate matching funds (and thus do not establish the consumer qualifications for Lifeline participation), a consumer seeking Lifeline support must certify his or her participation in one of the following Commission-

designated low income assistance programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or Low-Income Home Energy Assistance Program.

57. We seek comment on how the Commission might expand the consumer qualifications for Lifeline support to enable low income consumers on tribal lands to participate in the Lifeline assistance program. In particular, we seek comment about whether we should amend our rules to allow low income consumers on tribal lands to qualify for Lifeline support by certifying their participation in additional means tested assistance programs, such as the programs administered by the Bureau of Indian Affairs or Indian Health Services. We encourage commenters to indicate whether there might be other suitable criteria—based solely on income or factors related to income—that should be used to determine qualification for low income members of tribal lands. We ask commenters to indicate whether providing Indians living on tribal lands with greater access to Lifeline assistance might increase incentives for eligible telecommunications carriers to serve these tribal lands. Finally, we seek comment on whether the Commission could apply any new criteria specifically targeted to low income Indians living on tribal lands both to states that do not provide matching funds and states that do provide such funds.

IV. Designating Eligible Telecommunications Carriers Pursuant to Section 214(e)(6)

58. Pursuant to section 254(e) of the 1996 Act, not all telecommunications providers are eligible for federal universal service support. For purposes of the universal service support mechanisms for high-cost areas and low income consumers ''only an eligible telecommunications carrier designated under section 214(e) shall be eligible'' to receive federal universal service support. To be designated as an eligible telecommunications carrier, a carrier must:

> (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
>
> (B) advertise the availability of such services and the charges therefor using media of general distribution.

59. Under section 214(e), the primary responsibility for designating a prospective carrier as an eligible telecommunications carrier lies with the state commission. In a situation where there is no common carrier willing to provide supported services to an unserved community that requests such services, section 214(e)(3) states that:

> [T]he Commission, with respect to interstate services * * * or a State commission, with respect to intrastate services, shall determine which common carrier or carriers are best able to provide such service to the requesting unserved community or portion thereof and shall order such carrier or carriers to provide such service for that unserved community or portion thereof.

In the event that a common carrier is not subject to the jurisdiction of a state commission, section 214(e)(6) authorizes the Commission, upon request, to designate the carrier as an eligible telecommunications carrier, for a service area designated by the Commission, if the carrier meets the qualifications for eligible telecommunications carrier status.

60. Section 214(e) of the Act states that only an ''eligible telecommunications carrier'' designated under section 214(e) shall be eligible to receive federal universal service support. Pursuant to section 214(e)(2) and (e)(5) of the Act, state commissions are generally responsible for designating eligible telecommunications carriers and for designating service areas for such carriers. Initially, section 214(e) did not include a provision for designating carriers not subject to the jurisdiction of a state commission. The Act was amended in 1997 to address this ''oversight.'' Section 214(e)(6) authorizes the Commission to designate as an eligible telecommunications carrier ''a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State Commission.'' We tentatively conclude that, by adding section 214(e)(6), Congress sought to ensure that carriers serving all regions of the United States have access to a mechanism that will allow them to be designated as eligible telecommunications carriers, if they meet the statutory requirements. Recognizing that the designation of eligible telecommunications carriers is primarily a state commission function, Congress granted this Commission the authority for this task in the event that a carrier is not subject to the jurisdiction of a state commission.

61. Although some of the legislative history of section 214(e)(6) focuses on the ability of tribally-owned carriers to be designated as eligible telecommunications carriers, the statutory language and other legislative history is not so limited. The other legislative history states that ''the intent of this bill is to cover such situations where a State commission lacks jurisdiction over a carrier, in which case the FCC determines who is eligible to receive federal universal service support.'' The legislative history also makes clear that ''nothing in this bill is intended to impact litigation regarding jurisdiction between State and federally recognized tribal entities'' or to ''expand or restrict the existing jurisdiction of State commissions over any common carrier or provider in any particular situation.'' In the following paragraphs, we seek comment on how section 214(e)(6) should be interpreted and implemented with respect to carriers (whether tribally owned or otherwise) that provide telecommunications services to tribal areas.

62. First, however, we seek comment identifying other situations in which carriers providing telephone exchange and exchange access services to areas other than tribal lands are not subject to state commission jurisdiction and thus must seek designation as eligible telecommunications carriers from the Commission. In this context, we seek comment on whether the Commission, rather than state commissions, has the jurisdiction to designate terrestrial wireless or satellite carriers as eligible telecommunications carriers. If such carriers submit applications for designation pursuant to section 214(e)(6) during the pendency of this proceeding, we will consider them on a case by case basis in light of the statutory language and the showings made by the affected parties. We also note that our analysis of the scope of the designation provision of section 214(e)(6) is not intended to affect any other decision with respect to the authority of state commissions or tribal authorities to regulate telecommunications on tribal lands or over terrestrial wireless or satellite carriers.

63. The statutory language of section 214(e)(6) is ambiguous with respect to when the Commission's authority to designate eligible telecommunications carriers is triggered. It is not clear whether the Commission's authority is triggered when a carrier is not subject to the jurisdiction of a state commission or when the service or access the carrier provides is not subject to the jurisdiction of a state commission. Thus, the initial question in interpreting section 214(e)(6) with respect to the provision of telecommunications service

in tribal lands is under what circumstances the Commission may designate carriers as eligible telecommunications carriers. The title of section 214(e)(6), ''Common Carriers not Subject to State Commission Jurisdiction,'' suggests that the triggering inquiry is whether the carrier is subject to state commission jurisdiction. We tentatively conclude, however, that the better interpretation of section 214(e)(6) is that the determination of whether a carrier is subject to the jurisdiction of a state commission depends in turn on the nature of the service provided (*e.g.* telephone exchange or access service provided by wire, satellite or terrestrial wireless) or the geographic area in which the service is being provided (*e.g.* tribal lands). This interpretation is supported by the legislative history of section 214(e)(6). Representative Tauzin stated that ''S.1354 makes a technical correction to the Act that will make it possible for telephone companies serving *areas* not subject to the jurisdiction of a State Commission, to be eligible to receive federal Universal Service support.'' Our tentative conclusion that the nature of the service or the geographic area in which the carrier provides it should be the basis for distinguishing between the designation authority of the Commission and state commission under section 214(e)(6), is consistent with other provisions of the Act. Section 2 of the Act similarly distinguishes between federal and state jurisdiction over telecommunications services based on the geographic area in which the service is provided. Section 332(3) of the Act limits state authority on the basis of the service provided (*i.e.* commercial and private mobile service). We seek comment on this analysis and on any other factors which may be relevant to this determination.

64. Our next question then is under what circumstances are telecommunications carriers providing telecommunications services on tribal lands subject to state commission authority? We seek comment on the extent to which a state commission has jurisdiction over tribally-owned carriers seeking to provide telecommunications service on tribal lands and over non-tribally-owned carriers seeking to provide such service on tribal lands. The answer to these questions will determine whether the Commission may designate carriers seeking to provide service on tribal lands as eligible telecommunications carriers. With respect to tribally-owned carriers seeking to provide telecommunications service on tribal lands, we note that state law is generally inapplicable when states attempt to regulate the conduct of tribal members directly within reservation boundaries, except in ''exceptional circumstances.'' We seek comment on whether, for the purpose of eligible telecommunications carrier designation, tribally-owned carriers providing telecommunications services within tribal reservations would be subject to state regulatory authority.

65. We further recognize that when states seek to regulate non-tribal members and their activities conducted within a reservation, the appropriateness of the state's assertion of regulatory authority is determined by a ''particularized inquiry'' into the nature of the state, federal, and tribal interests at stake. Specifically, the analysis turns ''on whether state authority is pre-empted by the operation of federal law; and '[s]tate jurisdiction is pre-empted * * * if it interferes or is incompatible with federal and tribal interests reflected in federal law, unless the state interests at stake are sufficient to justify the assertion of state authority.' The inquiry is to proceed in light of traditional notions of Indian sovereignty and the congressional goal of Indian self-government, including its 'overriding goal' of encouraging tribal self-sufficiency and economic development.'' We recognize that this inquiry is a particularized one, and thus specific to each state and the facts and circumstances surrounding the provision of telecommunications services by non-tribal members within those tribal lands. However, we seek comment on whether there are any general federal, state and tribal interests at stake which might inform the inquiry and help provide general guidance on the proper boundaries of state authority in this case. Specifically, we seek comment on the federal government's interest in assuming authority over the designation of eligible telecommunications services, and the extent to which state authority would be preempted by the operation of federal law—namely section 214 or other relevant provisions or other federal or tribal interests reflected in federal law.

66. We also seek comment on the states' interests in designating eligible telecommunications carriers, as well as the implications of state designation on Indian sovereignty, self-government and ''tribal self-sufficiency and economic development.'' We recognize, however, that some state commissions have asserted jurisdiction over carriers seeking to provide service on tribal lands, and that these commissions regulate certain aspects of a carrier's provisions of service on tribal lands.

67. In implementing section 214(e)(6), we are concerned that the fact intensiveness and the legal complexity of determining whether a state has jurisdiction over carriers seeking designation as an eligible telecommunications carrier may lead to confusion, duplication of efforts and needless controversy among carriers, tribal authorities, state commissions and this Commission, which could undermine efforts to achieve our universal service goals. For these reasons, we propose the following process to treat applications for the Commission's designation of eligible telecommunications companies eligible to receive universal service support for serving tribal land. Carriers seeking designation as an eligible telecommunications carrier from this Commission, whether to serve tribal lands or on the basis of other jurisdictional arguments, should consult with the relevant tribal authority, where appropriate, and the state commission on the issue of whether the state commission has jurisdiction to designate the carrier. In situations where the tribal authority and the state commission agree that the state has jurisdiction, we anticipate that the state would conduct the designation proceeding. In instances where the tribal authority challenges the state's exercise of jurisdiction, we encourage the carriers, with the support of the tribal authority, to apply to this Commission for designation. In the public comment period subsequent to a carrier's application for designation as an eligible telecommunications carrier, the carriers and tribal authorities would be expected to demonstrate why Commission designation is appropriate. Interested parties, including the state commission, that disagree with the Commission's exercise of jurisdiction would also be expected to raise their challenges in that proceeding. We seek comment on this proposal and suggestions for other ways in which the determination of whether the designation must be performed by the Commission or a state commission could be simplified or streamlined.

V. Unserved Areas—Implementation of Section 214(e)(3)

A. Defining ''Unserved Area''

68. In order to determine whether an allegedly unserved community is eligible for relief pursuant to section 214(e)(3), we must first decide whether the area at issue is unserved. Only after making this initial determination can

we proceed with the rest of the analysis required by section 214(e)(3). We propose defining an unserved area as ''any area in which facilities would need to be deployed in order for its residents to receive each of the services designated for support by the universal service support mechanisms.'' In the *First Report and Order,* we identified the services that would be supported by universal service support mechanisms as: single-party service; voice grade access to the public switched network; DTMF signaling or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation services for qualifying low-income consumers. These services were identified based on the statutory directive embodied in section 254(c)(1)(A)–(D), requiring the Joint Board and the Commission to ''consider the extent to which * * * telecommunications services'' included in the definition of universal service: (1) Are essential to education, public health, or public safety; (2) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers; (3) are being deployed in public telecommunications networks by telecommunications carriers; and (4) are consistent with the public interest, convenience and necessity.

69. The proposed definition is based on whether facilities would need to be deployed to provide the supported services to distinguish unserved areas from areas in which a large percentage of the population does not subscribe to available services. This definition is intended to help further our statutory mandate to promote the availability of services supported by federal universal service support mechanisms. We recognize that this definition may result in certain areas being deemed unserved, even though those areas are receiving some level of service that includes less than all of the services designated for support by the universal service support mechanisms. We also recognize that this definition may result in the existence of relatively small unserved areas within larger areas that are currently receiving service. We seek comment on whether this definition will enable us to appropriately target our efforts to those areas that do not receive all of the services supported by federal universal service support mechanisms.

70. We emphasize, however, that determining whether a particular area meets the definition of unserved area is only the beginning of the analysis under section 214(e)(3). To obtain relief pursuant to section 214(e)(3), each of the steps discussed must be followed. We seek comment on this analysis and we invite commenters to propose alternative definitions.

B. Determining When a Community Is Unserved

71. The language ''or any portion thereof'' in section 214(e)(3) suggests that we are not meant to impose minimum size requirements on the number of potential subscribers needed to invoke the authority of section 214(e)(3). We seek comment on whether the language should be interpreted differently or suggests a particular definition.

C. Determining When No Common Carrier Will Provide Service

72. By its terms, the relief afforded in section 214(e)(3) is not triggered until a determination is made that ''no common carrier will provide'' the services supported by the federal universal service support mechanisms. Therefore, we seek comment on the meaning of the phrase ''no common carrier will provide'' the supported services.

73. As an initial matter, section 214(e)(3) does not specify whether the request for service must be received from members of the unserved community or whether state, local, or tribal authorities must make an official request for service from the carrier on behalf of the unserved members of the community. We tentatively conclude that limitations on who may issue the request are not warranted by the terms of the statute or the goals it seeks to achieve. We seek comment on this tentative conclusion.

74. We tentatively conclude that the language ''no common carrier will provide'' the services supported by the federal universal service support mechanisms means something more than no common carrier is actually providing the supported services. We seek comment on how we can determine that no common carrier is willing to provide the supported services. We seek comment on which common carriers must be asked in order to reach the conclusion that no common carrier will provide the service. We seek comment on how a satellite services provider should be treated for this issue, given that they can potentially provide service to these unserved areas. We also seek comment on whether the reasons for the common carrier's refusal to provide service are relevant to a determination that the area is unserved. For example, what if the refusal to provide service is based on the poor credit histories of the individuals requesting service or an existing overdue debt? Given the extremely low annual incomes, on average, on tribal lands, it seems possible that inadequate credit histories of the potential customers may cause a carrier to be unwilling to provide service.

D. Identifying Carrier or Carriers Best Able To Serve Unserved Areas

75. Section 214(e)(3) authorizes the Commission, with respect to interstate service or an areas served by a carrier to which section 214(e)(6) applies, and state commissions, with respect to intrastate service, to determine which carrier or carriers are best able to provide service to the requesting, unserved community and order that carrier or carriers to provide service. We seek comment on the relative roles that the Commission and the states should play in determining which carriers are best able to provide the supported services in unserved areas, including any coordination that should occur in making this determination.

76. We seek comment on whether the Commission is authorized to and whether it should establish national guidelines by which states may or must make this determination, when they have jurisdiction to do so. We recognize that the selection of the carrier to serve some unserved areas pursuant to section 214(e)(3) of the Act is to be made by state commissions. We seek comment on whether a consistent, national approach is necessary to further the universal service goals of the Act or to provide certainty to carriers regarding the possible application of this important provision. We seek comment on whether, in situations where the state has jurisdiction to designate eligible telecommunications carriers, all aspects of this decision should be left to the states because states have more familiarity with the areas in question. We also seek comment on the role of tribal authorities with respect to the Commission's determination of the carrier or carriers best able to serve unserved, tribal lands. We also seek comment to determine whether the Commission's obligation to identify and order a carrier to provide service in tribal lands should be affected by the interests of the tribal authorities.

77. One approach for making a determination pursuant to section 214(e)(3) would be to conduct a fact-intensive inquiry, polling common carriers serving nearby or surrounding areas to determine where existing facilities are deployed, to estimate the costs for each carrier to provide the supported services, and to consider other possible factors that may be

relevant to the conclusion that a carrier is ''best able.'' We tentatively conclude, however, that our preferred approach would be to adopt a competitive bidding mechanism for identifying the carrier or carriers best able to provide service in unserved areas for which the Commission has authority to order carriers to provide service. We seek comment on the use of a competitive bidding mechanism. We seek comment on whether it is within our authority to require states to adopt a competitive bidding mechanism to determine which carrier or carriers will be ordered to provide intrastate service in unserved areas to which section 214(e)(6) does not apply.

78. If the competitive bidding mechanism does not give rise to a carrier willing and able to provide the supported services in the unserved area at a reasonable cost, we seek comment on whether the Commission should then initiate an inquiry to determine the carrier or carriers best-able to provide service to the area. We seek comment on whether the following factors would be relevant in making that determination: (1) Whether the area falls within the designated service area of an existing carrier; (2) the extent to which a carrier has deployed facilities capable of providing supported services in the surrounding area; (3) the cost for that carrier to build facilities capable of providing the supported services; (4) the quality of services that would be provided; (5) the financial strength of the carrier; (6) the proportionate impact serving the area would have on the number of lines and the geographic area served by the carrier; (7) the amount of time required for the carrier to deploy facilities; and (8) a carrier's status as either an incumbent LEC or a competitive eligible telecommunications carrier. We seek comment on any other factors that may be relevant. We also seek comment on whether our inquiry must be limited to incumbent LECs and competitive eligible telecommunications carriers or whether we may also include other competitive LECs, interexchange carriers, terrestrial wireless or satellite service providers, or providers of cable or electric services that would be capable of providing the supported services to the unserved area. We seek comment on whether to exclude certain carriers from consideration, for example, carriers that are considered small entities for purposes of the Regulatory Flexibility Act. Finally, we seek comment on whether the preferences of the unserved community for a particular carrier or technology should be considered in making a determination of which carrier is best able to provide service to the area.

1. Competitive Bidding Proposal

79. We tentatively conclude that we should adopt a competitive bidding mechanism to identify the carrier or carriers best able to provide the supported services in unserved tribal lands and to set the level of support provided for serving the area. We are hopeful that we may be able to design a competitive bidding mechanism that will generate public awareness of the needs of a particular area for service and elicit proposals from one or more carriers that could be compared before determining which carrier or carriers should be designated as an eligible telecommunications carrier for the area. We seek comment on this proposal.

80. We seek comment on whether the possibility that a carrier will be ordered to provide service pursuant to section 214(e)(3) will provide incentives for carriers to participate in the competitive bidding mechanism in order to be able to set the terms on which they will provide service. We seek comment on whether the competitive bidding mechanism could bring unserved areas to the attention of carriers previously unaware of the need for telecommunications services in those areas and thus identify carriers that would be willing to provide service to the area for a support amount equal to or lower than the amount that would be provided under existing federal universal service support mechanisms. In addition, we seek comment on possible negative incentives and distortions that may be created by using a competitive bidding mechanism. For example, we seek comment on whether a competitive bidding approach will likely lead carriers to provide the lowest-cost, lowest-quality service that meets the definition of supported services, unfairly depriving residents of higher quality or advanced services.

81. We also seek comment on whether the Commission should conduct a trial to determine whether a competitive bidding mechanism is the most efficient means of identifying the carrier or carriers best able to provide the supported services in unserved areas. We seek comment on how large a service area would be appropriate for such a trial. We seek comment on whether the Commission should solicit volunteers from Indian tribes that currently have large unserved areas.

(a) *Participants.* 82. We seek comment on the possible participants in a competitive bidding proceeding. Section 214(e)(3) states that any carrier ordered to provide service pursuant to this section shall meet the requirements necessary and be designated an eligible telecommunications carrier for the unserved area. We seek comment on whether a carrier must first be designated an eligible telecommunications carrier for the area prior to participating in the competitive bidding mechanism. We seek comment on whether any carrier that can demonstrate that it can meet the requirements of section 214(e)(1) may participate in the competitive bidding mechanism. We seek comment on what kind of showing is necessary to demonstrate that a carrier can meet the requirements of section 214(e)(1). We seek comment on whether terrestrial wireless or satellite providers will be able to participate in the competitive bidding mechanism. We also seek comment on the number of bidders we should anticipate for auctions in the universal service context, and the extent to which we should consider that number in deciding the type of auction that should be used, as discussed.

(b) *Number of Winners.* 83. We seek comment on whether the characteristics of the unserved tribal lands may be such that it is not economically practical to support more than one provider to serve unserved, tribal lands. To the extent that supporting a single provider is more economical, permitting multiple providers to receive federal universal service support may not be in the public interest. In addition, if all carriers were entitled to receive support at the level determined in the competitive bidding auctions, bidders would have no incentive to bid below the opening level; that is, competitive bidding would not reveal the minimum amount of support necessary to provide service to the area. For these reasons, we propose that qualified eligible telecommunications carriers bid to secure an exclusive right to receive universal service support for serving the unserved tribal area. That is, the winning bidder would be the only carrier designated as an eligible telecommunications carrier for providing the supported services to the unserved, tribal lands subject to competitive bidding.

84. We seek comment on whether the Commission has the authority to and whether we should try to attract carriers by agreeing to designate only one carrier to serve the unserved tribal land or permitting only one carrier to receive federal universal service support for serving the area. We seek comment on whether a decision to limit support to a single carrier is consistent with the universal service provisions and pro-

competitive goals of the Act. We observe that, in the case of an area served by a rural carrier, the Commission ''may'' designate more than one eligible telecommunications carrier but must make a specific showing that an additional eligible telecommunications carrier would serve the public interest. With respect to all other carriers, the Commission ''shall'' designate more than one common carrier as an eligible telecommunications carrier. We seek comment on whether these provisions apply with respect to an unserved area. We seek comment on whether the statutory language that the Commission ''shall determine which carrier or carriers are best able to provide such service'' indicates that the Commission may determine that a single carrier shall be designated. Finally, we seek comment concerning the ability of bidders to accurately estimate the possible future challenges from other carriers for the more profitable customers in the previously unserved, tribal lands.

85. As an alternative to a single winner, we consider the possibility of supporting two or more winning bidders. We generally believe that customers benefit most when multiple providers are available, because competition leads to lower prices and provides an alternative where service quality is unsatisfactory. Supporting two winning bidders means that a second carrier would be able to compete vigorously with the lowest bidder. We seek comment on whether to use the competitive bidding mechanism to identify a level of support which would be provided for serving the area and to allow any carrier with a bid within a specific range of the winning bidder, who also satisfies the requirements of section 214(e)(1) of the Act, to receive that level of support for providing service to the area. We seek comment on whether the possibility of having multiple carriers receive support for these previously unserved areas would substantially diminish or even eliminate any incentives carrier might have to participate in competitive bidding. We seek comment on whether providing support sufficient to allow competing carriers to build the necessary infrastructure would generate customer benefits over the long-term that would offset the additional cost associated with supporting two carriers. In making this determination, we must consider the duration of the service term and the rate of change in network technology. For example, if technological change were so rapid that both the new entrant and incumbent carrier would need to install and recover the cost of new facilities for each contract term, the benefits of creating competing carriers would be significantly reduced. We seek comment on these issues.

(c) *Term of Exclusivity Period.* 86. If the Commission determines that a bidder should win the exclusive right to federal universal service support, we would seek to establish an exclusivity period that is of an adequate length to provide incentives for carriers to deploy facilities yet does not result in unnecessary support being provided. We seek comment on the appropriate duration of any exclusivity period. After the exclusivity period has ended, we could choose to re-auction the service obligation and consider multiple providers if the costs of providing service decreased or market conditions improved so that multiple providers became practical. we anticipate that the length of the exclusivity period will affect the bids for monthly support levels. In addition, the length of the exclusivity period will affect the average administrative and transaction costs for conducting the auction. Granting exclusivity periods that are too short could be harmful because the winning carrier is likely to need time to establish its network, and to amortize its investments. In addition, more frequent auctions entail increased administrative costs. Granting periods that are too long, however, also could be harmful. Technological advances over time can create more efficient means of providing communications, which would enable firms to offer service at a lower cost. To the extent that the winning bidder is shielded from competition during the exclusivity period, the benefits of adopting a more efficient technology will accrue to the carrier, rather than the customer. In addition, with longer contract terms, the carriers' prediction of their costs at later stages in the contract becomes more speculative, which could translate into higher bids in the auction. We seek comment on this analysis and the appropriate length of the exclusivity period. We suggest that commenters review the competitive bidding proposals and mechanisms summarized that may assist in determining the length of the exclusivity requirement.

(d) *Bidding Process.* 87. We seek comment on whether to use a single-round, sealed bid process or a descending, multi-round auction. Each bidder would submit an amount of support necessary per line given our universal service technical specifications. We observe that the Commission has successfully implemented multi-round auctions in other contexts. We seek comment on whether a descending multi-round bidding system would be preferable to a single-round sealed bid auction.

88. We also seek comment on how to establish the reservation price—the highest bid that would qualify for support—for the competitive bidding mechanism. One option would be to use the new high-cost mechanism to estimate the amount of support that would be available for providing the supported services in the unserved, tribal area and set that as the reservation price. We seek comment on what incentives carriers would have, if any, to bid an amount lower than the reservation price determined by the model. Alternatively, we seek comment on whether we should set a reservation price that is some percentage above the support amount determined under the new high-cost mechanisms. We seek comment on whether a rational percentage can be identified. We also seek comment on whether of conduct an auction without establishing a particular reservation price or specifically identifying the amount that would be provided under the new high-cost mechanism in an effort to determine the amount of support each carrier believes is necessary. We seek comment on whether, if we were to proceed in this manner, the Commission should reserve the right to conclude that the competitive bidding mechanism was not successful and to proceed to the fact-based inquiry.

(e) *Support Amount.* 89. A well-designed auction should provide incentives for carriers to disclose the minimum amount of support they require, even though this information may be competitively sensitive. We seek comment on how to provide incentives for carriers to reveal the minimum amount of support necessary to provide service to the unserved area. We seek comment on whether we should employ a ''Second Price'' or ''Vickrey'' auction, in which the successful bidder gets support at the level of the lowest bid made by a non-successful bidder. In theory, this style of auction appears to induce bidders to reveal their actual costs and would thereby generate the same total support requirements as a first price, sealed bid auction. Another factor relevant in setting the support level is whether the federal support provided constitutes the entire amount of subsidy available to the carrier. We tentatively conclude that we would need to establish that the competitive bidding mechanism for unserved areas would be used to determine the entire amount of support to be divided and the relevant share of support would be

allocated to the federal and state authorities, in whatever proportion is established for the high-cost support mechanism in general. We seek comment on this analysis.

(f) *Obligations Assumed by Winning Bidder.* 90. We tentatively conclude that, pursuant to section 214(e), a successful bidder must provide the services supported by the universal service support mechanisms to all customers requesting service in the designated area and advertise the availability of such service throughout the service area. We seek comment on this tentative conclusion.

2. Other Proposals and Examples of Competitive Bidding

91. A number of parties submitted competitive bidding proposals in the universal service docket, the most detailed of which were submitted by GTE, consultants to Ameritech, and Frank Kelly and Richard Steinberg of Cambridge University, Great Britain. These proposals were designed to determine the carrier or carriers entitled to receive universal service support and the level of support to be provided. In addition, other government agencies have used competitive bidding systems that may have features relevant to the market at issue here. We seek comment on these other competitive bidding proposals, because aspects of these proposals may be preferable to the competitive bidding approach proposed.

E. Ordering Carriers To Provide Service

92. We seek comment on the ramifications of ordering a carrier to provide service in an unserved area. We tentatively conclude that this requirement entails an obligation to deploy the facilities necessary to provide the services supported by federal universal service support mechanisms, to offer the services to all customers requesting service in the designated area, and to advertise the availability of such service throughout the service area. These requirements are consistent with the language in section 214(e)(3) of the Act, stating that the carrier ordered to provide service shall meet the requirements of section 214(e)(1) of the Act. We seek comment on this tentative conclusion.

93. We also seek comment whether additional measures may be necessary to ensure that the carrier ordered to provide service is able to earn an appropriate return on its investment. For example, a carrier may deploy facilities, advertise the availability of services and offer service to all customers and yet an inadequate number of customers may subscribe to the service, rendering the operation unprofitable. This result may occur due to faulty estimations by the carrier, but it may also be the result of unpredictable demand. Similarly, it is possible that carriers may provide services to all requesting customers, yet the customers might default on their bills. If the carrier is ordered to provide service, to what extent must it retain customers who cannot pay overdue debts or with poor credit records? How will the carrier recover its investment on the facilities deployed to provide service to subscribers who do not pay their bills? We seek comment on these issues, including the appropriate role for the Commission and state commissions to play in addressing these issues.

VI. Underserved Areas

94. In this section of the Further Notice, the Commission considers whether additional support for low-income consumers is necessary to promote subscribership in unserved and underserved areas, including tribal and insular areas.

A. Defining ''Underserved Area''

95. In the *Thirteenth Order on Reconsideration,* the Commission observed that there may be inadequately served areas that are characterized by extremely low penetration, low population density, and high costs. We seek comment on the need for the Commission to establish a definition of ''underserved area'' that would be used in targeting supplemental universal service support to those areas. For example, a community may be considered underserved if the penetration rate of the community is significantly below the national average. In addition to the number of supported services available, and the percentage of the population receiving those supported services, there may be other identifying characteristics that describe an underserved area. We seek comment on an appropriate definition for underserved area. For example, we could define underserved area as a geographic area that meets certain statistical benchmarks, *i.e.,* a penetration rate below a certain percentage, a population density below a certain level, costs of providing supported services above a certain level, etc. We also seek comment on whether there is sufficient, readily available statistical data to make such a definitional approach viable.

B. Expanding LinkUp to Include Facilities-Based Charges

96. We seek comment on whether increasing federal support to offset initial connection charges may be necessary to increase the success of our universal service support mechanisms in underserved areas, including insular and tribal lands. In the proceeding leading up to the *Second Recommended Decision,* the Arizona Corporation Commission (Arizona Commission) submitted a proposal to use a portion of federal support to address the problem of unserved areas and the inability of low-income residents to obtain telecommunications service because they cannot afford to pay the required line extension or construction costs. The Arizona Commission's proposal was not intended to be a comprehensive alternative to the high-cost fund distribution model, but rather to address a discrete concern related to low-income residents in remote areas. We seek comment on the Arizona Commission's proposal and the extent to which the problem identified by the Arizona Commission is widespread. In particular, we seek further data on the cost of line extensions in rural areas and regarding the number of residents that are deprived of telecommunications services because of high line extension or construction costs and areas in which this problem is acute.

97. The Joint Board recognized that investments in line extensions historically have been an issue addressed by the states through intrastate proceedings that establish reasonable rates for line extension agreements and encourage carriers to minimize unserved regions of the states. The Joint Board suggested that these issues should continue to be dealt with by states, to the extent that the states are able to do so. We note that regulators generally require carriers to use rate averaging to reduce the rates for their highest-cost customers in rural and insular areas, but those regulators often still permit carriers to charge particularly isolated customers a supplementary ''initial connection'' charge for installing a new line. Moreover, while regulators also generally require carriers to amortize the cost of installing new lines, if there is a reasonable chance that those lines will not be used over their full life-span, regulators often permit carriers to charge most, if not all, of the initial connection charge up front. These charges can be prohibitive. We seek comment on whether states have the ability to address this problem, or, in the

alternative, whether federal assistance, in some instances, may be necessary.

98. We seek comment on what role the Commission might play in trying to alleviate this problem. We seek comment on whether we might provide additional support through the LinkUp America program—which provides federal support to reduce the price of initial connection charges—at least for locations with significantly lower than average telecommunications penetration rates, *e.g.*, below 75 percent. Commenters supporting such an approach should also explain whether support would be provided as a one-time payment or over a number of years. We also seek comment on what we might do to encourage carriers to offer installment loans for such extensions over a practical time frame. We seek comment on these and any other alternatives that might be more effective ways of addressing this problem. For example, we seek comment on whether the provision of telecommunication service to remote areas using terrestrial wireless or satellite technologies might allow service at lower cost compared to the cost of line extension or construction of wireline facilities. Commenters offering proposals should also explain how their proposals would avoid encouraging uneconomic investments in relatively high-cost technologies.

C. Support for Intrastate Toll Calling

99. We seek comment on the extent to which limited local calling areas impose a barrier to increased penetration in certain underserved areas. For example, the local calling area for the Jemez Pueblo in New Mexico includes only about half a dozen other towns. It does not include any other Pueblos or hospitals nor the cities of Albuquerque or Santa Fe, where most residents work. Similarly, the calling area for the Picuris Pueblo does not even include 911 calls. To the extent that limited local calling areas impose a barrier to increased penetration, we seek comment on how to remove this barrier. For example, expanding the local calling area to include the unserved or underserved area and the nearest metropolitan area or community of interest may entice more consumers to request service. Expanding local calling areas, however, would likely cause upward pressure on local rates. We seek comment on how expanded local calling areas would impact local rates, including rates for consumers living in communities outside of tribal lands. We seek comment on what role, if any, the Commission is authorized to and should play in seeking to address impediments caused by limited local calling areas.

100. We seek comment on whether federal universal service support mechanisms should provide additional support for low-income consumers living in remote areas or low-income consumers living on tribal lands. For example, the Commission could provide support for calls outside of the local calling area that fall within specified federally-designated support areas. Similarly, federal universal service support could be provided to pay for a foreign exchange (FX) line service from the remote or tribal area to the nearest metropolitan area or community of interest. We seek comment on whether such proposals would eliminate incentives for states to ensure affordable local rates. We also seek comment on whether the provision of service by terrestrial wireless or satellite providers would alleviate any problems associated with limited local calling areas.

D. Expanded Availability of Toll Limitation Devices

101. Many households may forgo telecommunications service because of past or anticipated future problems with high telephone bills. The general prevalence of this bill management problem was documented in a GTE-Pacific Bell commissioned survey done in 1993 by the Field Research Corp. for the California PUC. The Commission sought to address the problem, however, by requiring carriers offering low-income subscribers ''Lifeline'' service, to permit those subscribers to secure a ''toll limitation'' service—either toll blocking or toll control. We believe that our actions in this regard should alleviate this bill management problem. We seek comment on whether expanded options for toll-control or toll-blocking would make telecommunications service more desirable in unserved and underserved areas, including tribal lands. We ask that commenters identify any specific toll-control or toll-blocking features that would be useful, including, for example, the ability to require the use of a Personal Identification Number (PIN) in order to restrict access to toll calls. We also recognize that the benefits of these options are minimal if consumers are not aware of them. We seek comment on what additional measures, if any, the Commission should undertake to ensure consumers are educated about the availability of toll-limitation devices.

E. Publicizing Availability of Low-Income Support

102. We observe that customers may fail to subscribe to telecommunications service because they are unaware of the Commission's Lifeline and LinkUp programs, which are intended to make service more affordable, and the availability of toll-control and toll-blocking, which are intended to help low-income consumers control the amount of their monthly bills. Although the Commission's Lifeline and LinkUp programs have been providing universal service support to eligible customers for more than a decade, we are concerned that carriers may have failed to publicize the programs in some areas, particularly on Indian reservations. Unfortunately, it appears that in markets where carriers find it unprofitable to provide service, they have no particular incentive to publicize the availability of Lifeline and LinkUp. Thus, the Commission found that none of the representatives of the pueblos testifying in the January, 1999 Albuquerque field hearings were aware of the Lifeline and LinkUp programs. Furthermore, despite the 60-percent unemployment rate in the Cheyenne River Sioux Telephone Authority area, only about 10-percent of the subscribers there receive Lifeline service.

103. We seek comment on whether the Commission should play a role in ensuring the spread of information on tribal lands, or in other low-income, underserved areas, about the availability of low-income support that may make telecommunications service affordable. We recognize that carriers already have an incentive to convince potential customers of the value of their service—assuming the customers will be profitable to serve. We are concerned about those consumers whom carriers may consider unprofitable to serve. We tentatively conclude that a lack of information may contribute to the significantly low penetration rates on tribal lands.

104. We seek comment on what options the Commission may have to promote awareness of low-income support mechanisms on tribal lands. Section 214(e)(1)(B) of the Act requires an eligible telecommunications carrier to ''advertise the availability of'' the services supported by federal universal service support mechanisms ''and the charges therefor using media of general distribution.'' We seek comment on the possibility of amending our current universal service rules to require carriers to publicize the availability of Lifeline and LinkUp and toll-limitation options. For example, we could revise section 54.405 of our rules by adding the following italicized language:

All telecommunications carriers shall *(a)* make available Lifeline service, as defined in

§ 54.401, to qualifying low-income consumers, *and (b) publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the services.*

105. We seek comment on the costs and benefits of requiring carriers to publicize the availability of Lifeline, LinkUp and toll-control devices. Alternatively, the Commission could encourage and participate in other marketing and information dissemination efforts, such as preparing consumer information fact-sheets that would be distributed in local communities. We seek comment on whether there is, or should be, some entity that would collect and verify the accuracy of data on Lifeline rates for each reservation, the eligibility standards for Lifeline in the relevant state, and how individuals who desired Lifeline service could confirm their eligibility and how they could sign up for service. We also seek comment on the best ways to disseminate this information to the relevant audience of potential Lifeline subscribers. We seek comment on any research or other data that indicates the most effective way of marketing to this population, whether via broadcast, print, wireline, or other media; whether separately or in combination with the marketing efforts of other social programs seeking to reach this audience; and whether on a federal, state or tribal level. Commenters aware of a particularly effective program are requested to provide us with sufficient information to enable us to contact that program administrator.

F. Support for Rural Health Care Infrastructure

106. We seek comment on the technical limitations of the telecommunications services available to rural health care providers throughout the United States, including Alaska and insular areas. We ask commenters to provide as much detail as possible regarding the extensions or improvements needed in areas lacking adequate infrastructure. We ask that commenters identify the most urgent needs, such as those that would address threats to the health and safety of residents. We particularly encourage providers of fixed satellite services, geo-stationary satellites, and emerging technologies, to describe the capability of these technologies to serve Alaska and insular areas, and ask these providers to estimate the costs, provide a timetable for deploying particular technologies, and provide information regarding the capability of different technologies to support telehealth and telemedicine applications. We ask providers of other technologies, such as fixed wireless technology, to describe whether these technologies could effectively supplement the apparently inadequate infrastructure in the rural areas of Alaska, insular areas, and the mainland United States.

107. We seek comment on whether and to what extent improvements to the telecommunications network required to meet the telecommunications needs of rural health care providers should be supported by federal universal service mechanisms and whether other mechanisms exist that would provide support for improving infrastructure. We ask parties to submit detailed descriptions of any programs supporting infrastructure development that would assist rural health care providers. We specifically ask the sponsors of programs cited in the State Health Care Report and other commenters familiar with these programs to detail their scope, identify any needs that are unmet by existing programs, and explain why.

108. We invite commenters to submit specific proposals that they have already prepared for expanding the federal universal service support for rural health care providers to include infrastructure improvement costs of telecommunications carriers. Any commenter submitting a proposal should analyze the extent to which the proposal is competitively neutral, technically feasible, and economically reasonable, as required pursuant to section 254(h)(2). Commenters should also file detailed cost information for any proposal submitted. We recognize that some improvements to the telecommunications network made to provide service to rural health care providers may also be used to provide commercial services. We seek comment on whether and to what extent we should take account of such additional revenue sources in the event that support is provided to extend or improve telecommunications networks.

VII. Insular Areas

A. Defining ''Insular Area''

109. In articulating the principle that consumers in all regions of the nation should have access to telecommunications services, Congress explicitly included insular areas within this mandate. As the Joint Board noted in the *Recommended Decision*, however, the Act does not define the phrase insular areas. We tentatively conclude that we should adopt a definition of insular areas to provide clarity regarding the availability of universal service support in those areas.

110. We observe that, in other statutes, the term insular area generally refers to the island portions of the United States that are not states or portions of states. In addition, we observe that in common usage, the term insular area means ''of, or having the form of an island.'' Accordingly, we propose the following definition of insular areas: ''islands that are territories or commonwealths of the United States.'' By including the phrase ''territories or commonwealths,'' we intend to restrict the definition to areas that are populated islands that have a local government. We also observe that the proposed definition comports with publications of the Department of Interior's Office of Insular Affairs (OIA) and various provisions of the United States Code. We seek comment on this proposal.

111. We seek comment on whether the definition of insular areas should include only those areas that are subject to the laws of the United States, and for which carriers serving those areas would be required to contribute to our universal service support mechanisms, and, if so, we seek comment on whether the proposed definition satisfies this goal. We seek comment on whether the definition of insular areas should exclude sovereign states that are not subject to the laws of the United States nor eligible to receive universal service support under the Act, unpopulated islands, and insular areas subject to the jurisdiction of, and receiving telecommunications service from, the United States military. We tentatively conclude that Puerto Rico, American Samoa, CNMI, Guam, and the U.S. Virgin Islands are properly included in the definition of insular areas and seek comment on this tentative conclusion.

112. We seek comment on whether the Freely Associated States (FAS), including the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, should be included in the definition of insular areas. These islands are associated with the United States through the terms of a Compact of Free Association, which gives the Commission authority and jurisdiction over various telecommunications services in the FAS, but carriers are not subject to universal service contribution requirements for the services they provide on these islands. We also observe that Midway Atoll is being transferred from the jurisdiction of the United States Navy to the U.S. Fish & Wildlife Service of the Department of Interior and has a population of 450 persons. We seek comment on whether Midway Atoll should be included in the

definition of insular areas. We invite commenters to provide alternative definitions of ''insular areas'' and to describe which areas would and would not be included with any alternative definition.

113. We seek comment on whether similarities between the historical experience of Indians and persons living in insular areas warrant the extension of federal trust-type principles, including supplemental measures to promote the availability of universal service, to insular areas.

B. Rural Health Care Support

114. Parties have already submitted information to us demonstrating that insular areas may have few hospitals and substantial undeveloped terrain and that travel between insular areas and more developed states or countries nearest to them may be very expensive. For these reasons, we anticipate that telehealth and telemedicine initiatives may be particularly important in insular areas. We encourage interested parties to highlight previous comments they have made on this issue or present any relevant new information to us. We are particularly interested in the differences between the needs and opportunities of rural health care providers in insular areas and those located in the remainder of the United States.

115. *Urban Rates.* In the *First Report and Order,* the Commission adopted rules requiring carriers to provide rural health care providers with access to telecommunications services permitting speeds up to 1 Mbps at rates comparable to those offered in urban areas. Consistent with the statute, the Commission's rules for rural health care providers calculate support amounts on the basis of the difference between the ''urban rate'' and the ''rural rate'' for the supported service. The urban rate is determined with reference to the rates charged other commercial customers of a similar service in the nearest large city in the state. The nearest large city is defined as having a population of at least 50,000 people.

116. In the *First Report and Order,* the Commission found that the mechanism of using urban rates as a benchmark for reasonable rates may be ill-suited to certain insular areas that are relatively rural all over. The Commission concluded that it required additional information about whether telecommunications rates differ in urban and non-urban areas or insular areas, including areas of the Pacific Islands and the U.S. Virgin Islands. Accordingly, we seek comment on whether the rules concerning calculation of rural health care support need modifications to address the geographic or demographic situation in insular areas. We invite commenters to propose specific revisions in this regard.

117. *Nearest Large City.* Consistent with the statute, the Commission's rules for providing universal service support to rural health care providers limit the length of the supported service to the distance between the health care provider and the point farthest from that provider on the jurisdictional boundary of the nearest large city in the state. The Governor of Guam proposed that we modify this rule to provide support for telecommunications services between an insular area's medical facilities and a supporting medical center in an urban area outside the insular area, such as in Hawaii or on the west coast of the continental United States. We seek comment on this proposal. We encourage commenters supporting this proposal to present detailed estimates of the cost of such a proposal and steps that must be taken to implement it. Commenters favoring this proposal should also provide legal analysis explaining whether it would be consistent with section 254 to treat insular areas differently from the remainder of the United States, where support is only provided based on intrastate distances, as section 254(h)(1)(A) appears to require.

118. Finally, we seek comment on whether health care providers and telecommunications carriers that serve insular areas face unique challenges that have not been documented previously in the record of this proceeding, and, if so, how we should tailor additional support mechanisms to address those problems, consistent with the statute. We encourage commenters to present proposals for additional support mechanisms through which rural health care providers located in insular areas could have access to the telecommunications services available in urban areas of the nation at affordable rates.

C. Access to Toll-Free Services in Insular Areas

119. Because of their traditional treatment as international destinations, the Pacific Island areas have faced high rates for interexchange service and have had limited ability to obtain access to toll-free and advanced services. Calls between these insular areas and the remainder of the United States also required callers to use the ''011'' international access code. Recent changes have begun to address these problems. Specifically, the 1996 Act requires that insular areas become subject to rate integration and averaging, which means that interexchange carriers are required to offer domestic interstate service using a uniform rate structure throughout the United States. In addition, many insular areas have been integrated into the North American Numbering Plan (NANP). In the *First Report and Order,* the Commission permitted residents of CNMI and Guam to access toll-free (*e.g.,* 800) services by using 880 and 881 codes and paying the cost of reaching Hawaii where the calls could be connected thereafter toll-free to the called party until July 1, 1998, and that date was subsequently extended indefinitely.

120. In the *First Report and Order,* the Commission determined that ''these changes will have a significant impact on how residents of the[se] islands place interexchange calls and the rates that they, and toll-free access customers, will pay for the calls they place.'' Based upon the recommendation of the Joint Board, the Commission concluded that it should delay, until after July 1, 1998, consideration of whether the Commission should provide additional support for toll-free access and access to advanced and information services for insular areas so that the impact of rate integration and averaging and incorporation into the NANP could be evaluated. We seek comment on whether rate integration, rate-averaging, and incorporating insular areas into the NANP are leading toll-free customers to include insular areas in their toll-free calling areas. We seek comment on whether additional universal service support is needed to support toll-free calling from insular areas. We ask commenters to present any evidence that the marketplace will not fully solve this problem.

VIII. Procedural Matters

A. Ex Parte Procedures

121. The Further Notice is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

B. Comment Filing Procedures

122. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments as follows: comments are due November 29, 1999 and reply comments are due December 29, 1999. Comments may filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

123. Comments filed through the ECFS can be sent as an electronic file

via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic copy by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should include the following words in the body of the message: ''get form <your email address>.'' A sample form and directions will be sent in reply.

124. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All paper filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street S.W., Room TW–A325, Washington, DC 20554.

125. Parties who choose to file by paper should also submit their comments on diskette to Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street SW, Room 5–A523, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM-compatible format using WordPerfect 5.1 for Windows or a compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read-only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding, including the lead docket number in the proceeding (CC Docket No. 96–45), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase (''Disk Copy—Not an Original.'') Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters should sent diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th St. NW, Washington DC 20037.

C. Initial Regulatory Flexibility Act Analysis

126. The Regulatory Flexibility Act (RFA) requires a Regulatory Flexibility Act analysis whenever an agency publishes a notice of proposed rulemaking or 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. Pursuant to section 603 of the RFA, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and actions considered in this Further Notice. The text of the IRFA is set forth. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided. The Commission will send a copy of the Further Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, summaries of the Further Notice and IRFA will be published in the **Federal Register**.

IX. Ordering Clauses

127. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 214(e), and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 214(e), and 254, this Further Notice of Proposed Rulemaking is hereby adopted and comments are requested as described.

128. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Universal service.

Federal Communications Commission.

Shirley Suggs,

Chief, Publication Branch.

[FR Doc. 99–25479 Filed 9–29–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91–221, 87–8; FCC 99–240]

Comment Sought on Processing Order for Applications Filed Pursuant to the Commission's New Local Broadcast Ownership Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on how to resolve conflicts resulting from two or more applications being filed on the same day relating to stations in the same market pursuant to new rules in the local broadcast ownership proceeding. The intended effect is to determine a sufficient and fair method in determining the order in which applications filed on the same day will be processed.

DATES: Comments must be filed on or before October 4, 1999. Reply comments must be filed on or before October 12, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW–A306, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Vicki Phillips, Chief, Legal Branch, Policy and Rules Division, Mass Media Bureau. Alternatively, comments may also be filed by using the Commission's Electronic Comment Filing System (ECFS), via the Internet to http://www.fcc.gov.e-file/ecfs.html.

FOR FURTHER INFORMATION CONTACT: Vicki Phillips, (202) 418–2120, Policy and Rules Division, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Public Notice*, FCC 99–240, adopted September 8, 1999 and released September 9, 1999. The full text of the Commission's *Public Notice* is available for inspection and copying during normal business hours in the FCC Docket Branch (Room TW-A306), 445 12 St. S.W., Washington, D.C. The complete text of this *Notice* may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036. It is also available on the Commission's web page at www.fcc.gov/Bureaus/Mass__Media/Public__Notices/fcc99240.txt. This Proposed Rule is being republished because it was inadvertently published under the ''Notices'' rather than the