

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
National Exchange Carrier Association, Inc. and)	
Universal Service Administrative Company)	
)	
2011 Modification of Average Schedule Universal)	
Service Support Formulas)	
)	
High-Cost Universal Service Support)	WC Docket No. 05-337

ORDER

Adopted: January 9, 2012

Released: January 9, 2012

By the Chief, Wireline Competition Bureau:

I. INTRODUCTION

1. Each year, the Wireline Competition Bureau (Bureau) reviews and approves or modifies any proposed modifications to the formulas used to calculate universal service high-cost loop support (HCLS) and local switching support (LSS) for average schedule companies.¹ Pursuant to section 69.606(b) of the Commission’s rules, the National Exchange Carrier Association, Inc. (NECA) files the annual average schedule company formula modifications for HCLS.² Pursuant to section 54.301(f) of the Commission’s rules, the Universal Service Administrative Company (USAC) submits the proposed formula for LSS.³ The Commission’s rules require that these formulas “simulate the disbursements that would be received ... by a company that is representative of average schedule companies.”⁴

2. On August 30, 2011, NECA filed proposed modifications to the current HCLS universal service formula for average schedule companies, and requested that they take effect on January 1, 2012, and remain in effect through December 31, 2012.⁵ On September 28, 2011, USAC filed proposed modifications to the current LSS formula for average schedule companies which, if approved, will be effective from January 1, 2012, through December 31, 2012.⁶ On October 3, 2011, the Bureau issued a public notice seeking comment on NECA’s and USAC’s proposed formulas for HCLS and LSS,

¹ See 47 C.F.R. §§ 69.606, 54.301(f).

² 47 C.F.R. § 69.606(b); see also *National Exchange Carrier Association, Inc. 2005 Modification of Average Schedule Universal Service Formulas*, CC Docket No. 96-45, Order, 19 FCC Rcd 24998, 25002, para. 7 (Wireline Comp. Bur. 2004) (*2005 Order*) (requiring NECA to file high-cost loop support formula and supporting data no later than September 1 of every year).

³ 47 C.F.R. § 54.301(f).

⁴ See 47 C.F.R. §§ 69.606, 54.301(f).

⁵ See 2012 NECA Modification of the Average Schedule Universal Service High-Cost Loop Support Formula, WC Docket No. 05-337 (filed Aug. 30, 2011) (NECA 2012 August Filing).

⁶ See Letter from Karen M. Majcher, USAC, to Marlene H. Dortch, FCC, WC Docket No. 05-337 (filed Sept. 28, 2011) (USAC 2012 Filing) (attaching 2012 average schedule local switching support formula).

respectively.⁷ No comments were received.

3. On November 18, 2011, the Commission released the *USF/ICC Transformation Order* modernizing the universal service and interstate carrier compensation systems, including reforming HCLS and LSS.⁸ The Commission modified the corporate operations expense limit for HCLS effective January 1, 2012 and implemented additional changes impacting HCLS that will be effective July 1, 2012, including setting benchmarks that will establish limits on costs carriers may seek recovery for under HCLS.⁹ Effective July 1, 2012, LSS will be eliminated as a separate support mechanism. From January 1, 2012 until June 30, 2012, however, LSS payments will be frozen at 2011 levels.¹⁰ On December 15, 2011, NECA revised its August 30, 2011 proposed modifications to the HCLS formula¹¹ to reflect the Commission's revised corporate operations expense limitation formula adopted in the *USF/ICC Transformation Order and FNPRM*.¹²

4. For the reasons discussed below, we approve NECA's proposed HCLS formula, subject to revisions that may be necessitated by implementation of the *USF/ICC Transformation Order*, and we do not approve USAC's proposed LSS formula.

II. HIGH-COST LOOP SUPPORT FORMULA

5. Pursuant to Part 36 of the Commission's rules, HCLS, also known as the loop expense adjustment, is intended to provide universal service support to carriers with high loop costs based on the degree that an individual company's cost per loop (CPL) exceeds the national average.¹³ Because average schedule companies are not required to perform company-specific cost studies – the basis upon which a carrier's expense adjustment is calculated – the Commission has permitted expense adjustments for average schedule companies to be calculated pursuant to formulas developed by NECA and approved or modified annually by the Bureau.¹⁴ These formulas are developed by NECA using data from a sample group of average schedule carriers and from similarly situated companies that file cost data, and are used to determine support amounts for all average schedule carriers.

⁷ See *Comment Sought on the 2012 Modification of Average Schedule Company Universal Service High-Cost Loop Support and Local Switching Support Formulas*, WC Docket No. 05-337, Public Notice, DA 11-1664 (Wireline Comp. Bur. rel. Oct. 3, 2011).

⁸ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, paras. 196-259 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order and FNPRM*).

⁹ See *USF/ICC Transformation Order and FNPRM*, FCC 11-161, paras. 196, 203, 235-247.

¹⁰ See *id.*, paras. 199, 253-257.

¹¹ See 2012 NECA Further Modification of the Average Schedule Universal Service High-Cost Loop Support Formula, WC Docket No. 05-337 (filed December 15, 2011) (NECA 2012 December Filing).

¹² See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, paras. 227-233 (rel. Nov. 18, 2011) (*USF/ICC Transformation Order and FNPRM*).

¹³ See 47 C.F.R. Part 36, subpart F.

¹⁴ See *National Exchange Carrier Association, Inc. Proposed Modifications to the 1998-99 Interstate Average Schedule Formulas*, ASD 98-96, Order, 15 FCC Rcd 1819, 1819-20, para. 2 (1999). Average schedule companies have been permitted by the Commission to estimate their access settlements and universal service support through the use of average schedules to avoid company-specific cost studies. See, e.g., *ALLTEL Corp. v. FCC*, 838 F.2d 551, 553 (D.C. Cir. 1988).

6. Consistent with HCLS formulas approved in prior years, for 2012, NECA proposes calculating HCLS payments for average schedule companies based on a formula that relates CPL data of sample companies to their loops per exchange values (CPL formula).¹⁵ The proposed CPL formula for 2012 has been developed using the same methodology as used and approved in prior years.¹⁶ The current approved HCLS formula is expected to provide \$23.4 million in payments for 2011 to 286 study areas.¹⁷ NECA's proposed formula for 2012 filed on August 30, 2011 and revised on December 15, 2011 would provide an estimated \$15.7 million payable to 258 study areas for 2012, a decrease of 17.8 percent over 2011 payments.¹⁸

7. Consistent with our prior orders, we approve NECA's proposed CPL formula for purposes of calculating average schedule company expense adjustments for 2012. As in our prior orders, we find that the appropriate HCLS formula should reasonably approximate the CPL of the sample average schedule companies and allocate funds accurately to average schedule companies.¹⁹ NECA's submission of the results derived from the CPL formula filed on August 30, 2011 and revised on December 15, 2011 appear to be accurate and complete; therefore, we approve the CPL formula as provided in NECA's August 30, 2011 submission and revised on December 15, 2011. As we have done previously, we direct USAC to provide support to average schedule carriers consistent with this Order

¹⁵ See NECA 2012 Filing at 1-27; see, e.g., *National Exchange Carrier Association, Inc. and Universal Administrative Company 2011 Modification of Average Schedule Universal Service Formulas*, CC Docket No. 96-45, Order, 25 FCC Rcd 17520, 17522, para. 5 (Wireline Comp. Bur. 2010) (2011 Order); *National Exchange Carrier Association, Inc. and Universal Administrative Company 2010 Modification of Average Schedule Universal Service Formulas*, CC Docket No. 96-45, Order, 24 FCC Rcd 14748, 14750, para. 5 (Wireline Comp. Bur. 2009) (2010 Order); *National Exchange Carrier Association, Inc. and Universal Administrative Company 2009 Modification of Average Schedule Universal Service Formulas*, CC Docket No. 96-45, Order, 23 FCC Rcd 17876, 17878, para. 5 (Wireline Comp. Bur. 2008) (2009 Order); *National Exchange Carrier Association, Inc. and Universal Administrative Company 2008 Modification of Average Schedule Universal Service Formulas*, CC Docket No. 96-45, Order, 22 FCC Rcd 21806, 21808, para. 5 (Wireline Comp. Bur. 2007) (2008 Order).

¹⁶ According to NECA, it uses regression analyses to develop the CPL formula. NECA collects account data from a sample group of average schedule carriers. To estimate current year costs, NECA applies forecasted growth factors to data collected from sample average schedule carriers one and two years prior to the current year. NECA then applies cost allocation factors—developed from the cost studies of similarly situated cost companies—to the account balances of each sample average schedule company to estimate a CPL for each of the sample companies. NECA then uses regression analyses to predict CPLs for all average schedule carriers. Each average schedule company's derived CPL is then used to calculate the appropriate support amount. See NECA 2012 Filing at 1-27.

¹⁷ We note that the current amount of \$19.1 million is less than the amount that was indicated in NECA's 2011 filing using the CPL formula. See 2011 NECA Modification of the Average Schedule Universal Service High Cost Loop Support Formula, CC Docket No. 96-45 (filed Aug. 24, 2010) (NECA 2011 Filing). In its 2011 filing NECA estimated that the CPL formula would result in total payments of \$23.4 million. Due to adjustments made to the national average cost per loop to ensure that the amount of high-cost loop support disbursed remains under the indexed cap, however, payments to all cost companies and average schedule companies were reduced. See NECA 2012 August Filing at 1.

¹⁸ See NECA 2012 August Filing at 1. For 2008, 2009, and 2010, approved high-cost loop average schedule formulas produced total payments of \$48.1 million, \$39.9 million and \$23.4 million, respectively. See 2008 Order, 22 FCC Rcd at 21808, note 12; 2009 Order, 23 FCC Rcd at 17878, note 12; 2010 Order, 25 FCC Rcd at 17522, note 12.

¹⁹ See, e.g. 2008 Order, 22 FCC Rcd at 21808, para. 5; 2009 Order, 23 FCC Rcd at 17878, para. 5; 2010 Order, 24 FCC Rcd at 14750, para. 5; 2011 Order, 25 FCC Rcd at 17522, para. 5.

retroactive to January 1, 2012.²⁰ As noted above, however, the *USF/ICC Transformation Order* made several significant changes to HCLS, which will take effect during 2012. Therefore, to the extent that any of these changes affect the HCLS CPL formula we approve today, we will require NECA to submit proposed revisions to its 2012 formula. The Bureau is in the process of establishing benchmarks for limiting reimbursement for capital and operating expenses within HCLS, which is the final step that must occur before NECA can determine what revisions are necessary, if any. Should NECA determine that no revisions are necessary, it shall submit a letter to the Bureau advising accordingly.

III. LOCAL SWITCHING SUPPORT FORMULA

8. The LSS formula is used to determine the amount of support for switching costs that will be provided to average schedule companies from the Commission's universal service high-cost support mechanism.²¹ The current interstate LSS formula was approved on December 20, 2010.²² In its September 28, 2011 filing, USAC proposed a formula for 2012 that would increase total annual payments for LSS to average schedule companies from approximately \$49.3 million in 2011 to approximately \$52.4 million in 2012, an increase of approximately 6.3 percent.²³ As discussed above, however, the *USF/ICC Transformation Order* eliminated LSS as a separate support mechanism effective July 1, 2012 and froze LSS at 2011 levels from January 1, 2012 to June 30, 2012.²⁴ Accordingly, we do not approve USAC's proposed formula for 2012. Instead, as required by the *USF/ICC Transformation Order*, USAC will freeze LSS payments to average schedule companies at 2011 levels for the first six months of 2012 and eliminate LSS for average schedule companies effective July 1, 2012. Average schedule companies will instead recover such costs pursuant to the revised intercarrier compensation regime adopted in the *USF/ICC Transformation Order*.²⁵

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the average schedule cost per loop formula proposed by the National Exchange Carrier Association, Inc. on August 30, 2011 and revised on December 15, 2011 for high-cost loop support IS ADOPTED, as described herein, effective retroactively as of January 1, 2012.

10. IT IS FURTHER ORDERED, pursuant to sections 0.91 and 0.291 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, that the universal service support formula proposed by the Universal Service Administrative Company on September 28, 2011, for local switching support IS DENIED, as stated herein, effective retroactively as of January 1, 2012.

FEDERAL COMMUNICATIONS COMMISSION

²⁰ See *National Exchange Carrier Association, Inc. 2006 Modification of Average Schedule Universal Service Formulas*, CC Docket 96-45, Order, 21 FCC Rcd 188 (Wireline Comp. Bur. 2006) (*2006 Order*) (Order adopted and released January 12, 2006 directing USAC to provide support retroactive to January 1, 2006).

²¹ Local switching support is a portion of the settlements that average schedule companies receive for providing interstate local switching access service. Average schedule companies recover the remaining costs of providing interstate local switching access service through NECA's local switching access charges.

²² See *2011 Order*, 25 FCC Rcd at 17522, para. 6.

²³ See USAC 2012 Filing.

²⁴ See *USF/ICC Transformation Order and FNPRM*, FCC 11-161, para. 199.

²⁵ See *id.*, para. 257.

Sharon E. Gillett
Chief
Wireline Competition Bureau