

FCC Plans to Eliminate Rural “Rate Floor,” Heading Off Potential Price Hikes

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The FCC plans to adopt an order [eliminating](#) the controversial rural “[rate floor](#)” that restricts the amount of Universal Service Fund (“USF”) support received by some carriers to build and maintain networks in underserved areas at its [next meeting](#) scheduled for April 12, 2019. The rural rate floor, which requires carriers receiving Connect America Fund (“CAF”) support to charge a minimum monthly rate or risk losing subsidies, has been a [longstanding target](#) of criticism by Chairman Pai as well as consumer groups, Tribal authorities, and rural carriers. The proposed order follows a nearly [two-year freeze](#) in the rate floor implemented soon after Chairman Pai assumed leadership and would avoid an almost 50% increase in the rate floor scheduled to take effect in July 2019. Rate floor elimination would provide significant regulatory relief to rural carriers by increasing flexibility over service rates, while reducing associated reporting and customer notification requirements.

The FCC imposed the rate floor in 2011 due to concerns that rural carriers could use USF support to offer rates below those found in urban areas for comparable services. The agency found such action would undermine its duty to support “reasonably comparable” services between rural and urban areas. The rate floor reduces the USF support for carriers whose basic voice rates (plus state-mandated fees) fall below a FCC-set floor based on charges for comparable service in urban areas. However, the rural rate floor continued to increase following its adoption, eventually surpassing the charges for service in some urban areas. In response, the FCC froze the rate floor in 2017 (at \$18) while it considered reforms to the policy. In the absence of further action by the agency, the rate floor would jump to nearly \$27 in July 2019, likely leading to concomitant price increases for rural customers.

In support of the rate floor elimination, the FCC plans to conclude that the policy created a perverse incentive for carriers to raise rural rates to avoid losing USF support. The agency also would find that this incentive particularly hurt older consumers and Tribal area residents by hampering access to affordable telecommunications services. The FCC anticipates finding that the rate floor places unnecessary regulatory burdens on rural carriers, who must seek authorization from state authorities and satisfy customer notification requirements for rate hikes. Finally, the agency would question prior claims that rural carriers used USF support to offer artificially low rates and note that CAF recipients must meet strict buildout obligations that prevent carriers from failing to put their subsidies to use.

The rural rate floor would be eliminated 30 days after publication of the proposed order in the Federal Register. All rural carriers subject to the rate floor, as well as consumer advocacy groups, should closely review the proposed order and work with counsel to assess its impact. It remains to be seen what level of support the proposed order receives at the meeting. Both Republican Commissioner O’Rielly and former Democratic Commissioner Clyburn strongly [opposed](#) eliminating the rural rate floor when the FCC froze it in 2017. At the time, the Commissioners argued that rural

carriers should recoup some revenue from their subscribers first before relying on USF support and called for means-testing CAF support in lieu of eliminating the rate floor. While there is no indication that Commissioner O’Rielly has softened his views or whether current Democratic Commissioners Rosenworcel and Starks oppose the elimination of the rate floor, it is likely that the proposed order will draw at least some dissent. Such dissent may fuel calls for reconsideration or subsequent appeals of the rural rate floor elimination following the April meeting.