



**6712-01**

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 32, 54 and 65**

**[WC Docket Nos. 10-90, 14-58, 07-135, CC Docket No. 01-92; FCC 18-176]**

**Connect America Fund, ETC Annual Reports and Certifications, Establishing Just and Reasonable Rates for Local Exchange Carriers, Developing a Unified Intercarrier Compensation Regime**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) seeks comment on how to implement an auction mechanism for competitive overlapped legacy rate-of-return areas, broadband only line conversions, and legacy support in Tribal areas.

**DATES:** Comments are due on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and reply comments are due on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this document, you should advise the contact listed below as soon as possible.

**ADDRESSES:** Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments and reply comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the ECFS: <http://apps.fcc.gov/ecfs/>.

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
  - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
  - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
  - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

**FOR FURTHER INFORMATION CONTACT:** Suzanne Yelen, Wireline Competition Bureau, (202) 418-7400 or TTY: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in WC Docket Nos. 10-90, 14-58, 07-135, CC Docket No. 01-92; FCC 18-176, adopted on December 12, 2018 and released on December 13, 2018. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12<sup>th</sup> Street SW., Washington, DC 20554 or at the following Internet address: <https://docs.fcc.gov/public/attachments/FCC-18-176A1.pdf>. The Report and Order and Order on

Reconsideration that was adopted concurrently with the FNPRM is published elsewhere in this issue of the Federal Register.

## **I. INTRODUCTION**

1. In the FNPRM, the Commission is seeking comment on how to implement an auction mechanism for competitive overlapped legacy rate-of-return areas, broadband-only line conversions, and legacy support in Tribal areas.

## **II. FURTHER NOTICE OF PROPOSED RULEMAKING**

2. In the FNPRM, the Commission seeks comment on rules for implementing its determination that support in areas overlapped or almost entirely overlapped by unsubsidized competition should be awarded through an auction. In addition, the Commission seeks comment on whether it needs to take steps to ensure that the budget for legacy carriers is sufficient and to address the different amounts of support provided for voice-only or voice/broadband lines as compared to broadband-only lines. The Commission also seeks comment on additional support for legacy carriers serving Tribal areas.

3. In the concurrently adopted Report and Order, the Commission determines that the use of an auction is a more efficient way to award support in areas that are overlapped or almost entirely overlapped by unsubsidized competition. Here, the Commission seeks comment on how this decision should be implemented, including auction design. In general, the Commission proposes that the auction process would operate in substantially the same way as the Connect America Fund (CAF) Phase II auction, which concluded on August 28, 2018, but seek comment on whether changes to account for any differences unique to this overlap auction are necessary and appropriate. Further information regarding the CAF Phase II auction (Auction 903) is available on the FCC's website.

4. Affected study areas. Initially, the Commission seeks comment on what percentage it should use to determine those study areas that are almost entirely overlapped according to FCC Form 477. Should support in legacy study areas that are less than 100% overlapped by unsubsidized competition, e.g., 99% or 95%, also be awarded through competitive bidding? Currently, there are eight legacy study areas with 100% overlap and seven legacy study areas with at least 95% overlap with approximately \$12 million

in unconstrained projected claims for all 15 study areas for 2018. Rather than solely rely on FCC Form 477 data, should the Commission then also conduct a challenge process to verify the affected study areas? Is such a challenge process necessary given that the areas will be subject to auction?

5. Eligible areas. The Commission proposes to break each study area into a census geography, such as census block groups, with each unit as the minimum geographic bidding area. The Commission previously used census block groups but declined to auction units as small as census blocks or as large as counties or census tracts for the CAF Phase II auction. Given that there are likely to be fewer total eligible areas in this auction, should the Commission instead use census blocks as the minimum geographic bidding area? The Commission expects to adopt the bidding unit in the pre-auction process.

6. The Commission proposes to establish the reserve price—the maximum amount of support available for each bidding unit prior to the auction—by proportionally allocating the incumbent’s legacy support across each eligible study area using the costs for each census block as determined by the cost model in order to account for the relative costs of providing service among areas. Should the Commission instead establish reserve prices based on Alternative Connect America Cost Model (A-CAM) costs, or on some percentage of the incumbent’s prior year’s legacy claims? The Commission notes that the CAF Phase II auction began with an aggregate reserve price for all eligible areas based on the Commission’s cost model, but cleared at 78.35% of the reserve price. Thus, the CAF Phase II auction reduced the amount of support needed for these areas to substantially less than the reserve price. How can the Commission create similar competition in auctions offering support to overlap areas?

7. Public interest obligations. The Commission proposes to accept bids in technology neutral service tiers with varying speed and usage allowances similar to those used in the CAF Phase II auction but eliminating speeds below 25/3 Mbps, and for each tier will differentiate between bids that would offer either lower or higher latency. The following charts summarize the performance tiers and latency (including the weights as adopted by the Commission for the CAF Phase II auction):

Performance Tier	Speed	Monthly Usage Allowance	Weight
Baseline	$\geq 25/3$ Mbps	$\geq 150$ GB or U.S. median, whichever is higher	45
Above Baseline	$\geq 100/20$ Mbps	$\geq 2$ terabytes (TB)	15
Gigabit	$\geq 1$ Gbps/500 Mbps	$\geq 2$ TB	0

Latency	Requirement	Weight
Low Latency	$\leq 100$ ms	0
High Latency	$\leq 750$ ms & MOS $\geq 4$	25

8. Are there any reasons to accept different performance tiers or different latency metrics?

The Commission notes that 99.75% of locations awarded through the CAF Phase II auction were at speeds of 25/3 Mbps or higher.

9. Winning bidders would be required to serve all locations within each census block group, with interim and final deployment milestones similar to those of recipients of CAF Phase II auction support. Should the Commission make any changes to that framework?

10. Eligibility to participate. The Commission seeks comment on what entities should be eligible to participate. The Commission proposes that the auction not be limited only to the incumbent and the competitors that report coverage within the study area, but open to any eligible provider. The Commission notes that more auction participants are more likely to lead to market-based support levels. The Commission also recognizes the possibility that limiting eligibility could result in only one or two bidders per study area.

11. The Commission proposes to adopt a two-stage application filing process for participants in this auction, similar to that used in other Commission universal service auctions. Specifically, in the pre-auction “short-form” application, a potential bidder must establish its eligibility to participate, providing, among other things, basic ownership information and certifying to its qualifications to receive support. After the auction, the Commission would conduct a more extensive review of the winning bidders’ qualifications to receive support through “long-form” applications. Such an approach balances the need to collect essential information with administrative efficiency and will provide the Commission with assurance that interested entities are qualified to meet the relevant terms and conditions if awarded support.

12. In the CAF Phase II auction, the Commission required applicants to demonstrate that they had provided voice, broadband, and/or electric distribution or transmission services for at least two years. The Commission also adopted an alternative pathway for entities that could not demonstrate service for two years by instead submitting 1) audited financial statements for that entity from the three most recent consecutive fiscal years, including balance sheets, net income, and cash flow, and 2) a letter of interest from a qualified bank with terms acceptable to the Commission that the bank would provide a letter of credit to the bidder. Should the Commission adopt the same or similar requirements for this auction?

13. Auction design. The Commission also seeks comment on the appropriate auction design for offering support in overlap areas. The Commission already has competitive bidding rules that allow for the subsequent determination of specific final auction procedures based on additional public input during the pre-auction process. The Commission proposes to use the same auction design as it did in the CAF Phase II auction—a multi-round, descending clock auction in which bidders selecting different performance levels will compete head-to-head in the auction, with weights to take into account the Commission’s preference for higher speeds over lower speeds, higher usage allowances over lower usage allowances, and low latency over high latency. The Commission proposes to auction all affected study areas nationwide in the same auction. The Commission seeks comment on whether any auction design changes should be made to take into account any differences between the nature of competition in the CAF

Phase II auction and an auction of support for overlap areas. If so, the Commission asks that commenters identify and describe recommended changes with specificity. Consistent with prior practice, the Commission proposes to develop the specific details of the auction as part of the pre-auction process.

14. Transition for incumbent provider. The Commission proposes that any incumbent that does not apply to participate in the auction shall have its support reduced, regardless of whether other carriers apply or bid. The Commission infers that by not applying to participate in the auction the incumbent is demonstrating that it does not need any of its limited universal service funds to continue providing service to its area.

15. The Commission seeks comment on what should happen to the legacy rate-of-return support mechanisms for an incumbent local exchange carrier (LEC) when it, but no other carrier, bids in the incumbent's area. The Commission also seeks comment on whether, if the incumbent LEC is the sole applicant to bid in its service area, and no other carriers apply to bid, the incumbent should continue to receive support pursuant to the legacy rate-of-return support mechanisms? Should the Commission infer that by not applying to participate in the auction the competitors are demonstrating that they are not capable of providing service to the entire study area?

16. If the incumbent LEC does not win at auction, what, if any, transitional support should be provided to the incumbent, and how should the Commission best ensure customers who are currently served by the incumbent do not lose access to voice service or existing broadband service prior to the deployment of service to those locations by the winning bidder?

17. Oversight and accountability. The Commission proposes that the same oversight and non-compliance framework as used in the CAF Phase II auction would apply to auctions offering support to overlap areas. Are there any modifications that should be made and, if so, why?

18. Frequency of auctions. The Commission's previous 100% overlap process was conducted every other year. Should the Commission conduct these auctions on a similar schedule, based on the most recent FCC Form 477 data?

19. As described in the concurrently adopted Report and Order, the Commission is concerned

that as carriers move from offering voice and voice/broadband lines to broadband-only lines, the amount of support required from the Fund will increase. To address this concern, the Commission has adopted a minimum of a 7% budgetary increase in 2019. The Commission anticipates that this 7% increase should exceed any increases to the budget due to conversions of lines from voice or voice/broadband to broadband-only. The Commission previously recognized the importance of giving consumers the flexibility to purchase broadband-only lines, which may provide an opportunity to move from “plain old telephone service” (POTS) to new IP-based services. Nonetheless, the Commission understands concerns that some carriers may be moving consumers onto broadband-only lines for the purpose of artificially increasing the support they receive from the Fund. The Commission seeks comment on whether other measures are necessary or advisable to address this issue.

20. The Commission seeks comment on whether the Commission should adopt limits on the number of converted lines for which a carrier may seek broadband-only support. Several parties have informally suggested this may be a useful method of limiting increases to the budget. Although this approach would allow for a planned and smooth increase to the budget, it puts an artificial constraint on conversions. More and more customers want broadband-only lines, with interconnected VoIP or wireless service for voice. Such limitations could also lead to arbitrage opportunities as carriers seek to adjust their line counts. The Commission seeks comment on whether the benefits of such a limitation would exceed the burdens.

21. The Commission also seeks comment on other methods of addressing the increased funding needs as lines convert to broadband-only. First, the Commission notes that when a line converts to broadband-only, the carrier immediately begins receiving the increased Connect America Fund Broadband Loop Support (CAF BLS) but also continues to receive High-cost Loop Support (HCLS) for two years even though there is no longer intrastate voice service on the line because of the manner in which HCLS is calculated. Should carriers immediately lose HCLS for any lines converted to broadband? Given that CAF BLS support for broadband-only lines is typically greater than total HCLS and CAF BLS for voice and voice/broadband lines, eliminating HCLS for converted lines would still provide carriers

with sufficient support.

22. Some suggest carriers are switching consumers from traditional telephone service to interconnected VoIP service for the sole purpose of maximizing overall support amounts. The Commission seeks comment on how to encourage the transition to broadband networks while preventing carriers from using the transition as a way to artificially inflate their support amounts.

23. Is there a way the Commission can adjust its CAF ICC rules to discourage any arbitrage? The Commission created CAF ICC support to aid carriers in the transition to bill-and-keep for their traditional voice services, and legacy carriers are eligible to receive such support. To calculate a carrier's CAF ICC support, a carrier subtracts its Access Recovery Charge (ARC) assessed on voice end-users from its "Eligible Recovery"—the total funding a carrier is entitled to receive from any source under the Commission's rules for the transition. Importantly, the rules generally require carriers to impute an amount on broadband-only lines equal to the ARCs they would have assessed on voice and voice/broadband access lines. Notably, CAF ICC support comes with limited deployment obligations and is subject to a fixed annual reduction of 5% to reflect decreasing demand due to line loss. Meanwhile, CAF BLS comes with particularized deployment obligations and increases to reflect additional interstate costs when carriers migrate customers onto broadband-only lines. What measures can the Commission take to prevent carriers from gaming this apparent mismatch in its universal service and intercarrier compensation rules? Specifically, is there a way to determine whether a legacy carrier is migrating its customers to broadband only lines as part of the desired transition to all broadband networks or to benefit from increased high-cost support? Are there circumstances under which a legacy carrier that converts a line to broadband-only but retains that voice customer with interconnected VoIP service should have to impute some portion of those revenues against its CAF ICC support? If so, how much should be imputed? Are there other measures the Commission should consider to address these concerns?

24. To address the unique challenges of deploying high-speed broadband to rural Tribal communities, the Commission incorporates a Tribal Broadband Factor into the A-CAM II offer. In recognition that many rural, Tribal areas contain a high concentration of low-income individuals and few

business subscribers—and thus have lower take rates and potential average revenues per subscriber than non-Tribal areas—the Tribal Broadband Factor reduces the high-cost funding threshold by 25% to a benchmark of \$39.38 for locations in Indian Country. As a result, carriers opting for the A-CAM II offer will receive more funding and be required to deploy to more locations than they would have without the Tribal Broadband Factor. In recent weeks, NTTA and Gila River have proposed applying the Tribal Broadband Factor from the A-CAM II offer to legacy carriers. NTTA suggests addressing legacy support by reducing the CAF BLS “\$42 per month per line funding threshold by 25 percent to \$31.50 . . . [and] revising the HCLS algorithm using a similar 25 percent factor.”

25. The Commission seeks comment on this proposal as well as other ways to appropriately incorporate a Tribal Broadband Factor into the legacy system. First, the Commission seeks comment on whether to incorporate a Tribal Broadband Factor into the legacy program. How do the differences between the A-CAM II offer and legacy support impact the Commission’s analysis? For example, the A-CAM II offer is based on the estimated take rates and potential revenues per subscribers, whereas the legacy program is based on actual take rates and imputed revenues per subscriber. Does this difference suggest a different means of implementing a Tribal Broadband Factor in the legacy program? If so, in what way? Also, do the newly increased legacy budget, along with elimination of the capital investment allowance and earlier opex limitation relief, mitigate to a degree the need for a Tribal Broadband Factor for legacy carriers? If so, how much?

26. Second, if the Commission were to proceed with a Tribal Broadband Factor for CAF BLS, how should it be structured? For CAF BLS, should the Commission reduce the \$42 per line funding threshold to \$39.38 (the high cost funding threshold for the A-CAM II offer), to \$31.50 (as suggested by NTTA), or to some other amount? How should the structural differences between the CAF BLS program and the A-CAM II offer impact the Commission’s decision? Should the Commission adopt a Tribal Broadband factor that applies to all carriers serving Tribal lands (as the Commission has defined that for the purposes of the A-CAM II offer), or should the Commission target it based on the level of existing deployments, whether by the legacy carrier or its competitors? What additional deployment obligations

should the Commission apply to carriers receiving the benefit of a Tribal Broadband Factor? And what other rules, if any, would the Commission need to amend to make a Tribal Broadband Factor a reality for CAF BLS?

27. Third, should the Commission proceed with a Tribal Broadband Factor for HCLS? Whereas the A-CAM II offer is designed to support broadband-capable networks and requires concrete buildout obligations in exchange for support, the HCLS component of the legacy program is designed to offset the intrastate costs of voice networks without any corresponding buildout obligations. Given that context, would a Tribal Broadband Factor make sense applied to HCLS? If so, how could the Commission revise the HCLS algorithm to incorporate a Tribal Broadband Factor? What would the impact be on other carriers participating in these programs given the Commission's decision to maintain the separate HCLS funding cap? Should the Commission create new broadband deployment obligations tied to any increase in HCLS funding from a Tribal Broadband Factor, and if so, how should the Commission do so? And what other rules, if any, would the Commission need to amend to make a Tribal Broadband Factor a reality for HCLS?

28. Finally, the Commission seeks comment on whether there are any other approaches the Commission should consider in creating a Tribal Broadband Factor for legacy rate-of-return carriers. And if so, what are those approaches and how should they work?

### **III. PROCEDURAL MATTERS**

#### **A. Paperwork Reduction Act**

29. This document contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

30. Ex Parte Presentations. The proceeding shall be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

31. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities from the policies and rules proposed in the FNPRM. The Commission requests written public comment on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the FNPRM. The Commission will send a copy of the FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

32. The proposals in this FNPRM seek to build on efforts to modernize the high-cost

program by targeting support efficiently and providing market-based mechanisms to award support. In the FNPRM, the Commission seeks comment on issues related to auction design and service requirements stemming from the decision to use competitive bidding in study areas that are subject to a certain amount of competitive overlap from unsubsidized providers. The Commission also seeks comment whether the Commission should adopt limits on the number of converted lines for which a carrier may seek broadband-only support. Finally, the Commission seeks comment on additional support for legacy carriers serving Tribal areas.

33. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small-business concern” under the Small Business Act. A small-business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

34. Small Businesses, Small Organizations, Small Governmental Jurisdictions. The Commission’s actions, over time, may affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA’s Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9 percent of all businesses in the United States which translates to 28.8 million businesses.

35. Next, the type of small entity described as a “small organization” is generally “any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.” Nationwide, as of Aug 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

36. Finally, the small entity described as a “small governmental jurisdiction” is defined generally as “governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.” U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37, 132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data the Commission estimates that at least 49,316 local government jurisdictions fall in the category of “small governmental jurisdictions.”

37. In the FNPRM, the Commission seeks comment on what the deployment obligations should be for areas subject to competitive bidding in terms of what locations should be served and at what minimum speeds. The Commission also seeks comment on whether additional measures are needed to address the increase in the demand for high-cost USF that results from lines converting from voice or voice/broadband to broadband-only. The Commission also seeks comment on additional support for legacy carriers serving Tribal areas and accompanying obligations.

38. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. The Commission expects to consider all of these factors when it has received substantive comment from the public and potentially affected entities.

39. In the concurrently adopted Report and Order, the Commission adopts changes whereby

support in certain legacy areas will be awarded through competitive bidding. In the FNPRM, the Commission seeks comment on several auction related issues. The questions the Commission asks, in part, aim to reduce economic impacts on the incumbent LECs and help with the overall efficiency of the competitive bidding process. Furthermore, in seeking comment whether the Commission should adopt limits on the number of converted lines for which a carrier may seek broadband-only support, it asks about ways to minimize the impact on carriers. The Commission also seek comment on additional support for legacy carriers serving Tribal areas, accompanying obligations, and possibly targeting Tribal areas with lower levels of deployment.

40. More generally, the Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the FNPRM and this IRFA, in reaching its final conclusions and taking action in this proceeding. The proposals and questions laid out in the FNPRM were designed to ensure the Commission has a complete understanding of the benefits and potential burdens associated with the different actions and methods.

#### **IV. ORDERING CLAUSES**

41. Accordingly, IT IS ORDERED that, pursuant to the authority contained in sections 1-4, 5, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, and 405 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151-155, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 403, 405, and 1302, the Further Notice of Proposed Rulemaking IS ADOPTED, effective thirty (30) days after publication of the text or summary thereof in the Federal Register, except for those rules and requirements involving Paperwork Reduction Act burdens, which shall become effective immediately upon announcement in the Federal Register of OMB approval, and the rules adopted pursuant to section III.C.8 of this Report and Order shall become effective on January 1, 2020. It is the Commission's intention in adopting these rules that if any of the rules that the Commission's retains, modifies, or adopts herein, or the application thereof to any person or circumstance, are held to be unlawful, the remaining portions of the rules not deemed unlawful, and the application of such rules to other persons or circumstances, shall remain in effect to the fullest extent permitted by law.

42. IT IS FURTHER ORDERED that, pursuant to the authority contained in sections 1, 2, 4(i), 5, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, and 1302 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i), 155, 201-206, 214, 218-220, 251, 252, 254, 256, 303(r), 332, 403, 1302, NOTICE IS HEREBY GIVEN of the proposals and tentative conclusions described in the Further Notice of Proposed Rulemaking.

FEDERAL COMMUNICATIONS COMMISSION

Marlene Dortch,  
Secretary.

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