

APRIL 24, 2017

Client Memo

CIA – FCC Amendment

At the FCC's Open Meeting held on April 20, 2017, the Commission granted the Petition for Reconsideration filed by NTCA of the Commission's *Rate-of-Return Reform Order* with respect to the average per location, per project construction limitation on universal service support.

Background: In the *Rate-of-Return Reform Order*, the Commission adopted a Capital Investment Allowance (CIA) to limit universal service reimbursement of capital expenses associated with high cost locations for broadband deployment, with a goal to preserve funds for more efficient projects with deployment to a greater number of lower cost locations. As part of the CIA, the Commission adopted a rule prohibiting carriers from seeking universal service support for all capital expenses associated with any construction project that has average per location costs above a company specific "Maximum Average Per-Location Construction Project Limitation."

On May 26, 2016, The Rural Broadband Association (NTCA) filed a Petition for Reconsideration and/or Clarification of the portion of the *Rate-of-Return Reform Order* that adopts this capital construction limitation. The Commission received no oppositions or comments in response to NTCA's Petition for Reconsideration. Specifically, NTCA sought reconsideration of how the construction limitation is applied and contended that disallowing all costs associated with a construction project will cause carriers to exclude certain locations to reduce the average per-location cost of the project, with the possible consequence of permanently "stranding" some locations without broadband-capable service. NTCA therefore requested that, for the purpose of seeking universal service support, the rule only disallow the portion of a project's expenses that exceed the average per location threshold.

The Commission adopted a CIA to limit universal service reimbursement of capital expenses associated with high cost locations, while preserving funds for more efficient projects with deployment to a greater number of low cost locations. As part of the CIA, the Commission also adopted a rule precluding carriers from seeking universal service support for all capital expenses associated with any construction project with average per location costs above a company specific "Maximum Average Per-Location Construction Project Limitation."

The Commission noted in adopting the Capital Investment Allowance, "[a]lthough it is the Commission's goal to ensure broadband deployment throughout all areas, finite universal service resources must be used where they are most needed."¹ They found NTCA's proposed solution of retaining the average per location construction limitation as a maximum universal service reportable amount associated with a construction project will preserve the Commission's interests in promoting efficient use of universal service funds to maximize the number of high cost locations with broadband capable facilities, while avoiding leaving some locations without service when they might be efficiently included within another deployment project.

For example, if you are subject to a \$10,000 average per location limitation and developed a project costing \$105,000 to serve 10 locations, with an average cost per location of \$10,500 for this project, the entire project would have been disallowed. This is no longer the case and now you would report \$100,000 for universal support purposes and exclude the additional \$5,000.

¹ *Rate-of-Return Reform Order*, 31 FCC Rcd at 3129, para. 110.



The Commission anticipates that this rule will not affect a substantial number of carriers or small entities and will provide additional flexibility to undertake new construction projects that exceed their limit without risk of losing all universal support associated with the project.

If you have questions regarding the Capital Investment Allowance, please contact the following Vantage Point Staff:

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