

## Subpart A—General Provisions

### § 532.1 Purpose.

The purpose of this Part, pursuant to the Commission's statutory authority, is to exempt licensed and bonded non-vessel-operating common carriers (NVOCCs) from the tariff rate publication and adherence requirements of the Shipping Act of 1984, as enumerated herein.

### § 532.2 Scope and applicability.

This Part exempts NVOCCs duly licensed pursuant to 46 CFR 515.3, holding adequate proof of financial responsibility pursuant to 46 CFR 515.21; and meeting the requirements of 46 CFR 532.4 through 532.7; from the following requirements and prohibitions of the Shipping Act and the Commission's regulations:

(a) The requirement in 46 U.S.C. 40501(a)–(c) that the NVOCC include its rates in a tariff open to public inspection in an automated tariff system;

(b) 46 U.S.C. 40501(d);

(c) 46 U.S.C. 40501(e);

(d) 46 U.S.C. 40503;

(e) The prohibition in 46 U.S.C. 41104(2)(A); and

(f) The Commission's corresponding regulation at 46 CFR 520.3(a) that the NVOCC include its rates in a tariff open for public inspection in an automated tariff system;

(g) The Commission's corresponding regulations at 46 CFR 520.4(a)(4), 520.4(f), 520.6(e), 520.7(c), (d), 520.8(a), 520.12, and 520.14. Any NVOCC failing to maintain its bond or license as set forth above, or who has had its tariff suspended by the Commission, shall not be eligible to invoke this exemption.

### § 532.3 Definitions.

When used in this part,

(a) "NVOCC Negotiated Rate Arrangement" means a written and binding arrangement between a shipper and an eligible NVOCC to provide specific transportation service for a stated cargo quantity, from origin to destination, on and after receipt of the cargo by the carrier or its agent (or the originating carrier in the case of through transportation).

(b) "Rate" means a price stated for providing a specified level of transportation service for a stated cargo quantity, from origin to destination, on and after a stated date or within a defined time frame.

(c) "Rules tariff" means the portion of a tariff, as defined by 46 CFR 520.2, containing the terms and conditions governing the charges, classifications, rules, regulations and practices of an NVOCC, but does not include a rate.

## Subpart B—Procedures Related to NVOCC Negotiated Rate Arrangements

### § 532.4 Duties of the NVOCC.

Before entering into an NRA under this Part, the NVOCC must:

(a) For each NRA, provide the prospective shipper all the applicable terms as set forth in its rules tariff; or

(b) Provide electronic access to its rules tariffs to the public free of charge.

### § 532.5 Requirements for NVOCC Negotiated Rate Arrangements

In order to qualify for the exemptions to the general rate publication requirement as set forth in section 532.2, an NRA must:

(a) Be in writing;

(b) Be agreed to by both shipper and NVOCC prior to the date on which the cargo is received by the common carrier or its agent (including originating carriers in the case of through transportation);

(c) Clearly specify the rate and to which shipment or shipments such rate will apply; and

(d) may not be modified after the time the shipment is received by the carrier or its agent (including originating carriers in the case of through transportation).

### § 532.6 Notices.

(a) An NVOCC wishing to invoke an exemption pursuant to this part must indicate that intention to the Commission and to the public by one or more of the following:

(1) A prominent notice on its rules tariff; or

(2) By so indicating on its Form FMC-1 on file with the Commission.

(b) [Reserved]

## Subpart C—Recordkeeping Requirements

### § 532.7 Recordkeeping and audit.

(a) An NVOCC invoking an exemption pursuant to this part must maintain original NRAs and all associated records including written communications for 5 years in a format easily produced to Commission.

(b) NRAs and all associated records and written communications are subject to inspection and reproduction requests under section 515.31(g) of this chapter. An NVOCC shall produce the requested NRAs and associated records, including written communications, promptly in response to a Commission request.

(c) Failure to keep or timely produce original NRAs and associated records and written communications will disqualify an NVOCC from the operation of the exemption provided pursuant to this part, regardless of

whether it has been invoked by notice as set forth above, and may result in a Commission finding of a violation of 46 U.S.C. 41104(1), 41104(2)(A) or other acts prohibited by the Shipping Act.

### § 532.91 OMB control number issued pursuant to the Paperwork Reduction Act

The Commission has received OMB approval for this collection of information pursuant to the Paperwork Reduction Act of 1995, as amended. In accordance with that Act, agencies are required to display a currently valid control number. The valid control number for this collection of information is [3072–XXX].

By the Commission.

**Karen V. Gregory,**  
*Secretary.*

[FR Doc. 2010–10476 Filed 5–6–10; 8:45 am]

**BILLING CODE P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket No. 05–337, CC Docket No. 96–45, WC Docket No. 03–109; FCC 10–57]

### High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Lifeline and Link-Up

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this document, the Commission proposes targeted rule changes to help eligible consumers in Puerto Rico take better advantage of existing universal service low-income support programs. Specifically, the Commission asks whether it should provide additional Link-Up support to help offset special construction charges incurred by consumers when facilities must be built to provide them with access to voice telephone service. By removing a remaining impediment to affordable voice telephone service, the Commission would hope to further close the gap in telephone subscribership between the Commonwealth and non-insular areas.

**DATES:** Comments on the proposed rules are due on or before June 7, 2010 and reply comments are due on or before June 21, 2010.

**ADDRESSES:** You may submit comments, identified by WC Docket No. 05–337, CC Docket No. 96–45, WC Docket No. 03–109, by any of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Federal Communications Commission's Web Site:* <http://fjallfoss.fcc.gov/ecfs2/>. Follow the instructions for submitting comments.

- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone: (202) 418-0530 or TTY: (202) 418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Ted Burmeister, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7389 or TTY: (202) 418-0484.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rulemaking in WC Docket No. 05-337, CC Docket No. 96-45, WC Docket No. 03-109, FCC 10-57, adopted April 16, 2010, and released April 16, 2010. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone (800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via the Internet at <http://www.bcpweb.com>. It is also available on the Commission's Web site at <http://www.fcc.gov>.

Pursuant to §§ 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 may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

- *Paper Filers:* 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, 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 (although we continue to experience delays in receiving 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 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes 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 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington, DC 20554.

*In addition, one copy of each pleading must be sent to each of the following:*

- The Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554; Web site: <http://www.bcpweb.com>; phone: 1-800-378-3160; and

- Charles Tyler, Telecommunications Access Policy Division, Wireline Competition Bureau, 445 12th Street, SW., Room 5-A452, Washington, DC 20554; e-mail: [Charles.Tyler@fcc.gov](mailto:Charles.Tyler@fcc.gov).

*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) or (202) 418-0432 (TTY). Contact the FCC to request reasonable accommodations for filing comments (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [fcc504@fcc.gov](mailto:fcc504@fcc.gov); phone: (202) 418-0530 or (202) 418-0432 (TTY).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC, 20554. Copies may also be purchased from the Commission's duplicating

contractor, BCPI, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI through its Web site: <http://www.bcpweb.com>, by e-mail at [fcc@bcpweb.com](mailto:fcc@bcpweb.com), by telephone at (202) 488-5300 or (800) 378-3160 (voice), (202) 488-5562 (TTY), or by facsimile at (202) 488-5563.

## I. Synopsis of the Notice of Proposed Rulemaking

1. Although the Commission declines to establish the universal service high-cost support mechanism proposed by Puerto Rico Telephone Company (PRTC), the Commission acknowledges that there may be a significant number of low-income consumers in Puerto Rico who remain unable to afford access to voice telephone service. Telephone subscribership in Puerto Rico has increased dramatically since the Commission released its notice of proposed rulemaking in 2005. Despite these gains, subscribership in Puerto Rico remains materially lower than in any other jurisdiction reported by the Census Bureau. In addition, a significantly higher percentage of Puerto Rican families are below the poverty threshold than the general U.S. population, with approximately 41 percent of Puerto Rican families reporting income below the poverty threshold between 2006 and 2008, as compared to approximately 10 percent of total U.S. families reporting income below the poverty threshold during the same time period. The State with the next highest percentage of families reporting income below the poverty threshold is Mississippi at 16.7 percent. Not only does Puerto Rico have the highest percentage of households with incomes below the poverty level of any jurisdiction reported by the Census Bureau, but it has the lowest median household income as well. Specifically, the median household income in Puerto Rico in 2007 was \$17,741 compared with a national median household income of \$50,740. The State with the next lowest median household income is West Virginia, with a median household income of \$37,060—over twice the median household income in Puerto Rico. Evidence in the record suggests that infrastructure does not yet reach some subscribers, so some people may not be subscribing because they cannot afford to pay the special construction charges associated with building facilities to reach them. The confluence of these two factors—a subscribership rate lower than any other reported jurisdiction's and an exceptionally high rate of poverty—causes us to believe that additional low-

income support may be appropriate in this jurisdiction. To address this situation and to ensure that low-income consumers in Puerto Rico can take advantage of the assistance available to them through the existing universal service Lifeline and Link Up low-income support programs, we propose to amend our rules to allow eligible low-income consumers in Puerto Rico additional support through the Link Up Program to offset special construction charges incurred if additional facilities are required to provide them with access to voice telephone service.

2. The Commission in the *Twelfth Report and Order*, 65 FR 47941, August 4, 2000, took measures to address impediments to telephone subscribership and infrastructure investment on Tribal lands, including the adoption of enhanced Link Up support. The Commission identified a number of factors that are primary impediments to subscribership on Tribal lands, including the cost of basic voice service, the cost of intrastate toll service, inadequate telecommunications infrastructure and the cost of line extensions, and the lack of competitive service providers offering alternative technologies. At that time, however, the Commission chose not to extend the actions taken in the *Twelfth Report and Order* to all high-cost areas and all insular areas, including Puerto Rico. Although the record demonstrated that subscribership levels were below the national average in other low-income, rural areas and in certain insular areas, the Commission found that the factors causing low subscribership on Tribal lands were not the same factors causing low subscribership in those other jurisdictions. We recognize that is still the case today: while Puerto Rico faces a lower telephone subscriber rate and a higher poverty rate than other jurisdictions, the Commonwealth does not appear to suffer from other impediments to subscribership that affect Tribal lands, notably higher cost to provide voice telephone service and a lack of competitive service providers offering voice service via alternative technologies. Moreover, Puerto Rico has a much higher telephone subscribership rate (approximately 92 percent in 2008) than the subscribership rate we found on reservations when we adopted the *Twelfth Report and Order* (approximately 47 percent).

3. Importantly, however, the Commission's decision in 2000 to limit the measures adopted in the *Twelfth Report and Order* to Tribal lands was driven by its "concern[] that to devise a remedy addressing all low subscribership issues for all unserved or

underserved populations simultaneously might unnecessarily delay action on behalf of those who are least served, *i.e.*, Tribal communities." In other words, the Commission placed higher priority on increasing telephone subscribership on Tribal lands—it did not determine that no further action was needed to assist other unserved or underserved populations. The Commission has long attributed Puerto Rico's historically lagging telephone subscribership penetration rate to low per-capita income. Thus, to the extent that parties have identified line extension and construction costs as obstacles to affordable telephone service in Puerto Rico, extending the enhanced Link Up support already available to Tribal lands could likewise "increase subscribership among qualifying low-income individuals [in Puerto Rico] by minimizing certain of these up-front costs." Indeed, by further reducing the initial connection charges and line extension charges for qualifying low-income customers in Puerto Rico, as we already have for consumers living on Tribal lands, we would hope to remove a remaining impediment to affordable voice telephone service and, thus, further close the gap in telephone subscribership between the Commonwealth and non-insular areas.

4. Specifically, for the benefit of consumers in Puerto Rico meeting the eligibility criteria for the Lifeline and Link Up Programs, we propose to amend our rules to increase the cap on Link Up support to cover special construction charges. The cap for these charges would be increased from the current \$30 limit to \$100. This additional \$70 in Link Up support would cap Link Up discounts at the same level as the enhanced Link Up available to eligible residents of Tribal lands. Link Up support would be available to eligible low-income consumers in Puerto Rico for up to 100 percent of the special construction charges, subject to the \$100 cap. Under our rules, Link Up support would continue to be available "for a single telecommunications connection at a consumer's principal place of residence." To ensure reasonable use of the support, this support would be available only when a low-income-eligible consumer in Puerto Rico has requested service under the Lifeline or Link Up Programs but such service could not be provided absent construction of additional facilities. Consistent with our rules, all ETCs in Puerto Rico would be required to offer and make available this additional Link Up support to eligible low-income

consumers. All ETCs in Puerto Rico also would be required to advertise the availability of this additional Link Up support using media of general distribution in Puerto Rico. In addition, all ETCs receiving Link Up support in Puerto Rico would be required to report the number of consumers that request such additional Link Up support, the number of consumers that receive such support, the reasons why any requesting consumers did not qualify for or receive such support, the cost of constructing the additional facilities, and a description of the additional facilities constructed. This information would be included in the annual report required by section 54.209 of our rules. We seek comment on these proposed revisions to the low-income support rules for eligible low-income consumers in Puerto Rico.

## II. Procedural Matters

### A. Initial Paperwork Reduction Analysis

5. This notice of proposed rulemaking contains proposed information collections that would apply to fewer than ten respondents and, as a result, is not subject to the Paperwork Reduction Act of 1995. In addition, it does not contain any new, modified, or proposed "information collection burden for small business concerns with fewer than 25 employees" pursuant to the Small Business Paperwork Relief Act of 2002.

### B. Initial Regulatory Flexibility Act Certification

6. The Regulatory Flexibility Act (RFA), *see* 5 U.S.C. 603, requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "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).

7. In this notice of proposed rulemaking, we propose to revise the Commission's rules to permit eligible telecommunications carriers serving Puerto Rico to recover additional universal service support under

specified circumstances. Currently, there are 7 eligible telecommunications carriers serving Puerto Rico, none of which qualify as a small entity. Accordingly, the proposed rule will not have a significant economic impact on a substantial number of small entities.

8. The Commission therefore certifies, pursuant to the RFA, that the proposals in this notice of proposed rulemaking, if adopted, will not have a significant economic impact on a substantial number of small entities. If commenters believe that the proposals discussed in the notice of proposed rulemaking require additional RFA analysis, they should include a discussion of these issues in their comments and additionally label them as RFA comments. The Commission will send a copy of the notice of proposed rulemaking, including a copy of this initial certification, to the Chief Counsel for Advocacy of the SBA. In addition, a copy of the notice of proposed rulemaking and this initial certification will be published in the **Federal Register**.

#### C. Ex Parte Presentations

9. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other requirements pertaining to oral and written presentations are set forth in § 1.1206(b) of the Commission's rules.

#### List of Subjects in 47 CFR Part 54

Communications Common Carriers, Low income, Puerto Rico, Reporting and record keeping requirements, Schools, Telecommunications, Telephone.

**Marlene H. Dortch**,  
Secretary, Federal Communications  
Commission.

#### Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 54 as follows:

#### PART 54—UNIVERSAL SERVICE

1. The authority citation continues to read as follows:

**Authority:** 47 U.S.C. 151, 154(i), 201, 205, 214, and 254 unless otherwise noted.

2. Section 54.411 is amended by revising the first sentence of paragraphs (a)(3), the second sentence of paragraph (b), and by adding paragraph (e) to read as follows:

#### § 54.411 Link Up program defined.

(a) \* \* \*

(3) For an eligible resident of Tribal lands or Puerto Rico, a reduction of up to \$70, in addition to the reduction in paragraph (a)(1) of this section, to cover 100 percent of the charges between \$60 and \$130 assessed for commencing telecommunications service at the principal place of residence of the eligible resident of Tribal lands or Puerto Rico. \* \* \*

(b) \* \* \* An eligible resident of Tribal lands or Puerto Rico may participate in paragraphs (a)(1), (a)(2), and (a)(3) of this section.  
\* \* \* \* \*

(e) In order to receive enhanced Link Up support for discounted connection charges provided to eligible residents of Puerto Rico pursuant to paragraph (a)(3) of this section, an eligible telecommunication carrier must comply with the following requirements:

(1) An eligible low-income consumer in Puerto Rico has requested service under the Lifeline or Link Up Programs but such service could not be provided absent construction of additional facilities.

(2) The eligible telecommunications carrier must report the number of consumers that request such additional Link Up support, the number of consumers that receive such support, the reasons why any requesting consumers did not qualify for or receive such support, the cost of constructing the additional facilities, and a description of the additional facilities constructed. This information must be included in the annual report required by section 54.209 of our rules.

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**BILLING CODE 6712-01-P**

#### DEPARTMENT OF DEFENSE

#### Defense Acquisition Regulations System

#### 48 CFR Part 207

RIN 0750-AG45

#### Defense Federal Acquisition Regulation Supplement; Preservation of Tooling for Major Defense Acquisition Programs (DFARS Case 2008-D042)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement section 815 of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009. Section 815 requires acquisition plans for major weapons systems to include a plan for the preservation and storage of special tooling associated with the production of hardware for major defense acquisition programs through the end of the service life of the related weapons system.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before July 6, 2010, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2008-D042, using any of the following methods:

• *Federal eRulemaking Portal:* <http://www.regulations.gov>.

Follow the instructions for submitting comments.

• *E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2008-D042 in the subject line of the message.

• *Fax:* 703-602-0350.

• *Mail:* Defense Acquisition Regulations System, Attn: Ms. Mary Overstreet, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary Overstreet, 703-602-0311.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This proposed rule affects all contracts for major weapons that will require special tooling associated with the production of hardware for major