

## FCC Imposes Interim Cap on Universal Service Support Funding

On May 1, 2008, the Federal Communications Commission (“Commission”), acting on recommendations of the Federal-State Joint Board on Universal Service, released an *Order* imposing an interim, emergency cap on the amount of high-cost universal service support that competitive eligible telecommunications carriers (“ETCs”) may receive.<sup>1</sup> The cap, effective on the date of the *Order*, limits disbursements of high-cost universal support made to competitive ETCs to the amount of support that each state was eligible to receive during March 2008, applied on an annualized basis. The Commission claims that the cap is merely an interim measure pending release of a final order on comprehensive universal service reform. The Commission pledges to release the final order shortly after the comment cycle on three pending Public Notices closes on May 19, 2008.

To determine the annual amount of support for each competitive ETC under the interim cap, the Universal Service Administrative Company will:

- Calculate the level of support that each competitive ETC would have received under the existing (uncapped) per-line identical support rule;
- Determine whether the total state uncapped support is greater than the available state cap support amount;
- Reduce each competitive ETC’s support in equal proportion until the aggregate amount by state is under the interim cap, should the total uncapped sup-

port be greater than the available state cap support amount; and

- Pay the adjusted support amounts to eligible competitive ETCs.

Each state’s interim cap amount is twelve times the amount of support that all competitive ETCs were eligible to receive in March 2008. No support disbursements will be made during the interim period in states where there were no eligible competitive ETCs in March 2008.

The Commission adopted two limited exceptions to the cap: (1) the cap will not apply where a competitive ETC can demonstrate that its costs meet support thresholds that are consistent with those of incumbent local exchange carriers (“LECs”); and (2) the cap will not apply to competitive ETCs serving Alaska Native or tribal land designated regions. In addition, the Commission specifically excluded incumbent LECs from the cap based on the rationale that incumbent LEC high-cost loop support is already capped and interstate access for incumbent LECs is also already subject to a targeted limit.

Participation in the two limited exceptions to the interim cap are voluntary. However, support disbursements under the exceptions are limited to one payment per each residential account or, where both exceptions apply, competitive ETCs are required to submit applications to the universal service administrator. The universal service administrator will make arrangements

<sup>1</sup> *In the Matter of High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Alltel Communications, inc., et al. Petitions for Designation as Eligible Telecommunications Carriers; RCC Minnesota, Inc. and RCC Atlantic, Inc.; New Hampshire ETC Designation Amendment* (WC Docket No. 05-337, CC Docket No. 96-45) (rel. May 1, 2008).

to ensure that payments are made that are equivalent to the per-line support received by the incumbent LEC.

In addition, to ensure that the interim cap does not reduce the amount of interstate access support (“IAS”) received by incumbent LECs, the Commission directs that there should be separate rules for incumbent LECs and competitive ETCs for IAS, with separate cap amounts for each. For incumbent LECs, the annual amount of IAS available will be indexed for growth or loss based on the amount of IAS that an incumbent LEC was eligible to receive during March 2008, applied on an annualized basis. For competitive ETCs, the annual amount of IAS will be capped at the amount of IAS that an incumbent LEC was eligible to receive during March 2008 without indexing.

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