



floor increases by instituting an annual cap of \$2.00 on any increases.<sup>5</sup> Such measures would “protect consumers while ensuring swift implementation of the Commission’s statutory obligation to ensure reasonably comparable rates.”<sup>6</sup> Accordingly, USTelecom and ITTA urge the Bureau not only to immediately grant the Petition, but also to implement a \$2.00 annual cap on local rate floor increases.

**I. The Bureau Should Immediately Adopt the January 2, 2015 Certification Date and the New Schedule for Certifications**

No oppositions were filed to the Associations’ Petition. Thus, the Bureau should immediately grant the Petition in order to afford carriers more time to reasonably address the new local rate floor. Immediate grant of the Petition has become even more imperative due to the delay in finalizing the increase required for the next local rate floor filing created by the Bureau’s consideration of a potential phase-in. While USTelecom and ITTA strongly support phasing in the local rate floor by capping the annual increase, the lack of certainty as to whether an annual cap is adopted, and, if adopted, the amount of such a cap, delays carriers’ ability to begin pursuing and implementing local rate increases.

Under the existing rules, to avoid losing high-cost support, carriers must have in place rates that meet or exceed the local rate floor by June 1, 2014, and must certify to those rates on July 1, 2014. Even if the Bureau released an order in response to the Petition within a week, carriers would be required to complete all the steps necessary to implement a local rate increase in less than 60 days. Regardless of the level of the increase in the local rate floor ultimately adopted, the time has passed in which the increase could be implemented by June 1 in the vast

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<sup>5</sup> The cap therefore would be \$16.00 as of January 2, 2015, \$18.00 as of January 2, 2016, \$20.00 as of January 2, 2017, and a number to be determined for January 2, 2018, subject to the results of subsequent Urban Rate Surveys.

<sup>6</sup> See Notice at p. 3.

majority, if not all, states. As noted in the Petition, those steps may include notice to state regulatory bodies and consumers and votes by cooperative boards of directors. They certainly will include the need for expedited proceedings by state commissions, intensive work by all companies and their consultants to prepare the necessary filings, as well as billing system changes to implement the new local rate and potential impacts on other lines of the customer bill. In many states, this simply cannot be achieved within the time permitted, and phasing in the new rate floor beginning with rates in effect on December 1, 2014, for certification January 2, 2015, would give carriers, states, and, most importantly, consumers time to adjust to whatever rate floor the Commission adopts for 2014.<sup>7</sup>

Subsequent adjustments to the local rate floor, as needed, should then be made annually on January 2 and mid-year corrections should be permitted on July 1 of each succeeding year. This schedule logically follows adoption of the January 2, 2015 date for the local rate floor filing pursuant to the initial certification based on the urban rate survey, and also will provide sufficient time in future years for carriers to complete all the necessary steps subsequent to spring publication of new urban rate survey results.

## **II. Increases in the Local Rate Floor Should be Capped at \$2 Per Year**

The Bureau should phase-in increases to the local rate floor by capping the annual increase at \$2.00. This is similar to what was previously done for the interstate End User Subscriber Line Charge (SLC) and the more recent limitation on the annual increase to the Access Recovery Charge of \$0.50. The Notice mandates a one-step increase in the local rate floor of \$6.46 to \$20.46,<sup>8</sup> which is an increase of more than 40 percent above the current local

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<sup>7</sup> Accordingly, the upcoming July 1, 2014, local rate floor filing should be treated as a mid-year adjustment filing with a continued local rate floor of \$14.00.

<sup>8</sup> *Id.* at p. 2.

rate floor of \$14.00. For carriers to increase rates that are at or slightly above the current rate floor to rates that are at or above the new floor in a single step, to the extent that such increases are even permissible under state law, would create rate shock for consumers. Implementing such a significant rate increase all at once is likely to cause more consumers to simply forego these voice services in lieu of paying the increased rates. For rate-of-return carriers, this would exacerbate problems caused by the lack of a high-cost support mechanism for broadband-only lines. It would also make the work of state regulatory bodies and carriers more difficult and expensive in that many states require full-blown rate cases for local rate increases above a certain amount. In several instances that threshold is \$2.00.<sup>9</sup>

An annual \$2.00 cap on increases would limit rate shock for consumers.<sup>10</sup> In addition, a specified cap on annual increases is consistent with the framework of the annual local rate floor adjustment. Future changes to the local rate floor due to annual surveys of urban rates are unknown and unknowable. Basing a “phase-in” on the current rate of \$20.46 would presume knowledge of the future results of the urban rate survey. On the other hand, regardless of changes in the local rate floor due to future urban rate surveys, an annual cap of \$2.00 on increases required to meet the certification requirement would require no such knowledge.

In its consideration of monthly increases to residential consumer rates in the context of the SLC, the Commission has never ordered an increase of as much as \$2.00. While the previous increase in the local rate floor from \$10.00 to \$14.00 did exceed \$2.00, that rate increase can be justified as a catch up from relatively low consumer rates in effect prior to the adoption of the local rate floor requirement. Such is not the case now.

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<sup>9</sup> See Petition, n. 12.

<sup>10</sup> See Statement by Wireline Competition Bureau Chief Julie Veach on Extending the Phase-In of Phone Subsidy Reforms (rel. Mar. 20, 2014).

Finally, several states permit local rate increases of up to \$2.00 without a local rate case proceeding.<sup>11</sup> Those states have made the considered judgment that local rate increases in excess of \$2.00 require close regulatory scrutiny. Their adoption of a \$2.00 limit (even lower in other states),<sup>12</sup> reflects their view on an appropriate and acceptable annual local rate increase. Moreover, adoption of the \$2.00 increase in the local rate floor amount required for certification would allow some carriers and state regulatory bodies to avoid the time-consuming and expensive proceedings inherent in state rate cases.

By capping the annual increase at \$2.00, the Associations recognize that some carriers may prefer to move more quickly to the national average rate, that many carriers already have rates that will be above the annual Local Rate Benchmark and that nothing in the FCC rules prevents carriers from setting local rates at any level they choose.<sup>13</sup>

### **III. Capping the Annual Increase in the Local Rate Floor Does Not Impact Fund Size or the USF Contribution Factor**

There is no connection between the budget adopted in the *USF/ICC Transformation Order*<sup>14</sup> and local rate increases. The local rate floor was adopted based on concerns about fairness and to comply with the reasonable comparability standard in the statute.<sup>15</sup> It was not adopted to control the size of the high-cost universal service fund. Changes in local rates do not

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<sup>11</sup> See Petition, n. 12.

<sup>12</sup> *Id.*

<sup>13</sup> As an additional matter, for purposes of administrative simplicity, the Commission should consider in future years – to the extent subsequent rate surveys yield an average urban rate that is a *de minimis* level above the then-current rate floor – declining to increase the rate floor until it would require a 50 cent (\$0.50) or greater increase in local rates. \the repeated act of going back to consumers with “nickel and dime” rate increases each year can be frustrating for both consumers and carriers. Moreover, such a fifty cent threshold would not present material risk of deviation from “reasonable comparability” between rural and urban rates.

<sup>14</sup> See *USF/ICC Transformation Order* at ¶ 125.

<sup>15</sup> See *USF/ICC Transformation Order* at ¶¶ 234-238 and 47 U.S.C. § 254(b).

impact the size of the high-cost fund, nor do they affect in any way the universal service fund contribution factor. Therefore, adoption of an annual cap on the increase in the local rate floor for certification of compliance with the requirement does not impact payment into the universal service fund, the budget of the fund, or recipients of funding.

#### **IV. Calculation of the Local Rate Floor Should be a Transparent Process**

Transparency in explaining the results of the urban rate survey and calculation of the local rate floor therefrom is simply good government. The Notice provides no detail on how the Bureau arrived at its new local rate floor, other than to note that it was based on a survey of rates for 500 urban census tracts.<sup>16</sup> No information is provided as to how many of the 500 responded to the survey, what data was included in the rate calculation, what efforts were undertaken by the Bureau to validate the data provided, or even whether the average rate calculation was a straight average or weighted average. Yet, many customers could be impacted by higher rates, and the rate floor on which carriers' high-cost support is to be based is being increased by more than 40 percent. The Bureau should be required to make available the underlying data and census tract information and methodology used to calculate the new rate floor before it is allowed to take effect. In light of concerns that increases in the rate floor will "saddle rural Americans with rate increases" and potentially "divert scarce funds away from broadband deployment" without creating any savings for the Fund, the delay in implementation of the rate floor as requested in the Petition while this information is disclosed and evaluated will allow for a closer examination of whether the results are consistent with federal universal service policy.<sup>17</sup>

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<sup>16</sup> Notice at p. 2.

<sup>17</sup> See Statement by Commissioner Ajit Pai Opposing FCC-Initiated Increase in Rural Americans' Phone Bills (rel. Mar. 20, 2014) (suggesting that the Commission "freeze the rate floor indefinitely and reexamine this misguided policy").

**V. Conclusion**

The Bureau should promptly adopt the schedule for certification of compliance with the local rate floor requirement proposed by the Associations – that is, extension of the certification deadline to January 2, 2015, for rates in effect December 1, 2014, and use of January 2 as the initial certification date for all subsequent years along with July 1 for mid-year corrections. Increases in the local rate floor should be capped at \$2.00 per year, consistent with fairness to consumers and balanced against swift implementation of the Commission’s obligation to ensure reasonably comparable rates. In addition, the Bureau should disclose the underlying data and methodology used to calculate the new rate floor before it is allowed to take effect.

Respectfully submitted,

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