F. Benefits of the Rule

The proposed revisions in this rule will maintain the requirements in the 2016 final rule that provide for transparency in the arbitration process for LTC residents. Specifically, we are proposing to maintain that the agreement must be explained to the resident or his or her representative in a form and manner they understand and that the resident acknowledges that he or she understands the agreement. We are also proposing to retain the requirement that the agreement must not contain any language that prohibits or discourages the resident or anyone else from communicating with federal, state, or local officials. This proposed rule will also increase transparency by adding a requirement that a facility must post a notice regarding its use of agreements for binding arbitration in an area that is visible to residents and visitors. With this increased transparency, we believe that many stakeholder concerns regarding the fairness of arbitration in LTC facilities will be addressed. We believe this proposal is consistent with our approach to eliminating unnecessary burden on providers, and supports the resident's right to make informed choices about important aspects of his or her healthcare.

G. Alternatives Considered

As discussed above, the district court granted a preliminary injunction against enforcement of the prohibition against pre-dispute agreement for arbitration. The district court's opinion clearly indicated that the court questioned CMS' authority to regulate arbitration. We considered proposing to remove all of the arbitration requirements and return to the position in the previous requirements, that is, the requirements would be silent on arbitration. However, we believe that transparency between LTC facilities and their residents in the arbitration process is essential, and that CMS may properly exercise its statutory authority to promote the health and safety of LTC residents by requiring appropriate measures to ensure that LTC residents receive adequate disclosures of their facility's arbitration policies. Removing all of the provisions related to arbitration would reduce transparency. Therefore, we have proposed retaining those requirements that provide for transparency and adding that the facility must post a notice regarding its use of arbitration in an area that is visible to residents and visitors. We believe the requirements we are proposing to retain, as well as the proposed revisions, will provide sufficient transparency to protect residents and alleviate many of the residents and advocates concerns about the arbitration process.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget. This proposed rule is not expected to lead to an action subject to Executive Order 13771 (82 FR 9339, February 3, 2017) because our estimates indicate that its finalization would impose no more than de minimis costs.

List of Subject in 42 CFR Part 483

Grant programs-health, Health facilities, Health professions, Health records, Medicaid, Medicare, Nursing homes, Nutrition, Reporting and recordkeeping requirements, Safety.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 483—REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES

■ 1. The authority citation for part 483 continues to read as follows:

Authority: Secs. 1102, 1128I, 1819, 1871 and 1919 of the Social Security Act (42 U.S.C. 1302, 1320a–7, 1395i, 1395hh and 1396r).

■ 2. Section 483.70 is amended by revising paragraph (n) to read as follows:

§ 483.70 Administration.

* * * * *

(n) *Binding arbitration agreements.* If a facility chooses to ask a resident or his or her representative to enter into an agreement for binding arbitration, the facility must comply with all of the requirements in this section.

(1) The facility must ensure that:

(i) The agreement for binding arbitration is in plain language. If an agreement for binding arbitration is a condition of admission, it must be included in plain language in the admission contract;

(ii) The agreement is explained to the resident and his or her representative in a form and manner that he or she understands, including in a language the resident and his or her representative understands; and

(iii) The resident acknowledges that he or she understands the agreement.

(2) The agreement must not contain any language that prohibits or discourages the resident or anyone else from communicating with federal, state, or local officials, including but not limited to, federal and state surveyors, other federal or state health department employees, and representatives of the Office of the State Long-Term Care Ombudsman, in accordance with § 483.10(k).

(3) When the facility and a resident resolve a dispute through arbitration, a copy of the signed agreement for binding arbitration and the arbitrator's final decision must be retained by the facility for 5 years and be available for inspection upon request by CMS or its designee.

(4) A notice regarding the use of agreements for binding arbitration must be posted in an area that is visible to residents and visitors.

* * * * *

Dated: May 2, 2017.

Seema Verma,

Administrator, Centers for Medicare & Medicaid Services.

Dated: May 4, 2017.

Thomas E. Price,

Secretary, Department of Health and Human Services.

[FR Doc. 2017–11883 Filed 6–5–17; 4:15 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 10–90; FCC 17–61]

Connect America Fund

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) seeks comment on whether the Commission should change the current rate floor methodology or eliminate the rate floor and its accompanying reporting obligation.

DATES: Comments are due on or before July 10, 2017 and reply comments are due on or before July 24, 2017. 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: You may submit comments, identified by WC Docket No. 10–90, 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/.* Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*

■ *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

• 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 9300 East Hampton Drive, Capitol Heights, MD 20743.

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

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

FOR FURTHER INFORMATION CONTACT: Alexander Minard, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket No. 10–90; FCC 17–61, adopted on May 18, 2017 and released on May 19, 2017. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th St. SW., Washington, DC 20554 or at the following Internet address: *https://www.fcc.gov/document/voice-rate-floor-nprm-and-order.*

I. Introduction

1. In 2011, the Commission adopted a rule intended to ensure that consumers across the country are not subsidizing the cost of voice service to rural customers whose rates are below a set minimum rate. This requirement is known as the ''rate floor.'' If a carrier chooses to charge its customers less than the rate floor amount for voice service, the difference between the amount charged and the rate floor is deducted from the amount of support that carrier receives through the Universal Service Fund (USF). Since July 1, 2016, this minimum amount has been $18, and the Commission previously scheduled increases to $20 on July 1, 2017 and $22 on July 1, 2018. After several years of experience with it, the Commission now revisits it to ensure the Commission's policies continue to further its statutory obligation to ensure ''[q]uality services . . . available at just, reasonable, and affordable rates.'' The Commission accordingly seeks comment on whether it should make any changes to the current methodology or eliminate the rate floor and its accompanying reporting obligation.

II. Discussion

2. The Commission seeks comment on whether it should change the current methodology or eliminate the rate floor and its accompanying reporting obligation.

3. In adopting the rate floor, the Commission determined that it is ''inappropriate to provide federal high-cost support to subsidize local rates beyond what is necessary to ensure reasonable comparability.'' The Commission further stated that ''[d]oing so places an undue burden on the Fund and consumers that pay into it'' and expressed the view that it would not be equitable ''for consumers across the country to subsidize the cost of service for some consumers that pay local service rates that are significantly lower than the national urban average.''

4. On the other hand, stakeholders ranging from the AARP to the National Tribal Telecommunications Association, from the National Consumer Law Center to small, medium, and large rural telephone companies, have raised concerns that the rate floor is inconsistent with the direction of section 254(b) of the Communications Act to advance universal service in rural, insular, and high cost areas of the country while ensuring that rates are just, reasonable, and affordable. These parties have argued that the rule makes basic voice service in rural areas less affordable, does not make voice service available at reasonably comparable rates to urban areas, and does not further the Commission's objective to ''minimize the universal service contribution burden on consumers and businesses.'' In that same vein, no one disputes that the rate floor has increased rates for voice service in rural areas, despite the Commission's goal to ''preserve and advance universal availability of voice service.'' Some parties have also asserted that price increases negatively affect rural consumers and ''could lead to some customers losing affordable access to basic service entirely.'' Others have noted that the increases caused by the rate floor rule could have a particularly deleterious effect on older Americans on fixed incomes and customers in Tribal areas.

5. In addition, some parties have raised concerns about the use of a single, national rate floor. Some have argued that incomes are often lower in rural areas and the rate floor incorrectly ''assumes that what's affordable in our country's largest cities must be affordable in our small towns.'' Others have suggested that the Commission should consider ''whether more localized survey data would better serve the goal of ensuring reasonably comparable service at reasonably comparable rates, and what flexibility the states need to serve users under the particular circumstances of each state.'' The Commission observes that nothing in the statute requires adoption of a single, national rate floor.

6. Accordingly, the Commission seeks comment on whether changes to the current methodology are needed to address these concerns. If so, what changes should be made? Should the Commission allow carriers to charge a rate that is one standard deviation below the average urban rate? Should the Commission replace the single, national rate floor with state or regional rate floors? Are there other ideas the Commission should consider? Alternatively, should the Commission eliminate the rate floor altogether?

7. As part of the Commission's consideration of possible changes to the methodology or elimination of the rate floor, it seeks comment on the intersection of the rate floor with state ratemaking and state universal service funds. The Commission also notes that states have historically regulated rates for local telephone service. Indeed, the Communications Act makes clear that ''nothing in this [Act] shall be construed to apply, or to give the Commission jurisdiction,'' over rates for ''telephone exchange service,'' *i.e.,* local service. States have historically relied on a variety of regulating methods (including the use of state universal service funds) to ensure just and reasonable rates for that service—and those methods already by law must not ''rely on or burden Federal universal service support mechanisms.'' The Commission seeks comment on these arguments. The Commission also seeks comment on the Tenth Circuit's suggestion that ''the FCC 'remains obligated to create some inducement . . . for the states to assist in implementing the goals of universal

service,' *i.e.,* in this case to ensure that rural rates are not artificially low.''

8. More generally, the Commission seeks comment on whether the rate floor is meeting the intended purposes. One party has argued that ''an increase in the local rate floor does not impact payment into the Universal Service Fund or the budget of the fund, but it does affect consumer choice, penalizes incumbent wireline providers and ultimately broadband deployment.'' On the other hand, the Commission notes that the Commission last year adopted a budget control mechanism for carriers within the legacy rate-of-return system, including those receiving high-cost loop support. As such, any funding reductions from the rate floor are generally redistributed to other carriers to mitigate the impact of the budget control mechanism, not returned to ratepayers as contributions relief. The Commission notes that the rate floor both reduces total high-cost loop support (HCLS) support and reduces the budget impact on all rate-of-return carriers for HCLS and Connect America Fund—Broadband Loop Support (CAF–BLS). Specifically, based on the data used to calculate the recently published rate-of-return budget control mechanism, the Commission estimates that the rate floor effectively reduced total HCLS by 1.3 percent and effectively increased CAF–BLS by 0.9 percent. The Commission seeks comment on the impact of this redistribution on broadband deployment, both with respect to carriers receiving higher total USF support and those impacted directly by the rate floor and thus receiving lower total USF support. The Commission also seeks comment on these arguments generally.

9. Finally, the Commission seeks comment on ways to reduce ongoing administrative and compliance costs on rural telephone companies, state commissions, the Commission, the National Exchange Carrier Association, and the Universal Service Administrative Company. Each year, federal staff must calculate a new rate floor, which rural telephone companies must then seek permission from their state commissions to implement, with oversight by several entities to ensure that rural rates are sufficiently high and universal service payments are appropriately withheld. Incumbent local exchange carriers (ILECs) subject to the rate floor must complete yet another form specifying each of the carrier's rates that fall below the rate floor and the number of lines for each rate specified. Stakeholders have previously detailed impediments to implementation in a number of states and have explained that carriers require time after a rate floor increase to pursue and implement rate increases. The Commission seeks comment on these arguments and whether modifying or eliminating the rate floor and the accompanying reporting obligations would reduce the complexity of the high-cost program and minimize the associated administrative and compliance costs that have stemmed from implementation of the rate floor. Alternatively, the Commission seeks comment on whether updating the rate floor on a biennial or triennial basis would accomplish similar goals while decreasing administrative burdens. More generally, the Commission seeks comment on the costs and benefits of the rate floor, and specifically on a cost-benefit analysis of the rule.

III. Procedural Matters

10. This document proposes modified information collection requirements subject to the PRA. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. As part of the Commission's continuing effort to reduce paperwork burdens, the Commission invites the general public and OMB to comment on the proposed information collection requirements contained in this document, as required by the PRA. In addition, pursuant to the Small Business Paperwork Relief Act, the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. The Commission describes impacts that might affect small businesses, which includes most businesses with fewer than 25 employees, in the Initial Regulatory Flexibility Analysis (IRFA) below.

11. In the NPRM, the Commission seeks comment on whether to modify or eliminate two rules: sections 54.313(h) and 54.318 of the Commission's rules. The Commission is seeking comment on whether it should modify or eliminate section 54.318, the rate floor rule, to better advance section 254 of the Commission's Act and the goals of the Commission's universal service reforms. Section 54.313(h) requires carriers to report on the number lines it serves with rates that fall below the rate floor. If the Commission modifies or eliminates the rate floor rule, there may be no need to for carriers report on rates that fall below the rate floor.

12. The legal basis for any action that may be taken pursuant to this NPRM is contained in sections 201, 219, 220 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 201, 219, 220 and 254.

13. 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 (SBA). 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 SBA.

14. This NPRM seeks comment on changes to the Commission's rules, which, if adopted, will result in reduced information collection and reporting requirements for ILECs.

15. In this NPRM, the Commission seeks public comment on modifying or eliminating sections 54.313(h) and 54.318 of the Commission's rules. Because the Commission actions here will likely result in reduced regulatory burdens, the Commission concludes that the changes on which it seeks comment will not result in any additional recordkeeping requirements for small entities.

16. *Permit-But-Disclose.* The proceeding this NPRM initiates 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.

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

IV. Ordering Clauses

18. Accordingly, *it is ordered,* pursuant to the authority contained in sections 201, 219, 220 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. 201, 219, 220, 254, this Notice of Proposed Rulemaking and Order *is adopted.*

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer, Office of the Secretary.

[FR Doc. 2017–11848 Filed 6–7–17; 8:45 am]

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