

FCC Order DA 23-6

Telecom Program: Urban and Rural Rates

On January 26, 2023, the FCC released Order DA 23-6, waiving the requirement that HCPs and service providers participating in the Telecom Program use the Rates Database to calculate urban and rural rates for Funding Year (FY) 2024 and FY2025.

For FY2024 and FY2025, rules requiring rural rates to be calculated using Methods 1 through 3 and the pre-Rates Database calculation method for urban rates will be reinstated with the following minor changes:

- For FY 2024 and FY2025, applicants and service providers using Methods 1 and 2 to calculate rural rates are not permitted to use previously approved rates.
- For FY2024 and 2025, service providers will be permitted to use previously approved rates for rural rates that would otherwise be calculated under Method 3.
- If there are no comparable rural rates within 30 percent of the speed of the requested service, service providers may use the rate for a higher bandwidth service that is otherwise similar to the requested service to justify a rural rate.
- Similarly, if there are no comparable urban rates within 30 percent of the speed of the requested service, health care providers may use the rate for a higher bandwidth service that is otherwise similar to the requested service to justify an urban rate.

NOTE for Method 3: For all previously approved rural rates, applicants must provide USAC with the previous FRN associated with that approved rate and submit all documentation associated with that rate.

Rural Rate

There are three ways that the rural rate may be calculated in the Telecom program. You should work with your service provider to determine the appropriate method of calculating the rural rate for your funding request. Method 1 is the default for calculating the rural rate. If you cannot satisfy the requirements of Method 1, you must proceed to Method 2 and, finally, if neither Method 1 nor Method 2 is feasible, you must use Method 3.

Reviewers are looking for:

- A clear narrative describing why the method of calculation was chosen if Method 1 was not selected. If a narrative is not included and the applicant selects Method 2 or Method 3 to determine their rural rate, an Information Request will be sent asking why they were unable to use Method 1 as these methods must be used sequentially.
- Detailed math that was used to calculate the rural rate.

- Applicants must submit clear instructions about how they calculated the rural rate. They should include clear directions on where reviewers can find each element of the calculation in their supporting documentation. Source documentation must be submitted and clearly referred to in the narrative.
- Documents should be marked up to clearly show the reviewer where to find relevant information.
 - Do not submit a 500-page document that lacks explanation – in your email, indicate to the reviewer which pages the information can be found on.

Method 1

The FCC has determined that that “[t]he rural rate shall be the average of the rates actually being charged to commercial customers, other than health care providers, for identical or similar services provided by the telecommunications carrier providing the service in the rural area in which the health care provider is located.”

- Similar services are those that are functionally equivalent from the perspective of the end user with respect to bandwidth and whether the service is symmetrical and asymmetrical.

When collecting and submitting documents to support the rural rate calculation using Method 1, please keep in mind that the rates used to calculate must be:

- Charged by your telecommunications service provider
- Actually charged to customers
- Charged to commercial customers that are not healthcare providers, and
- For services in the same rural area as the HCP.

Reviewers will look at census tract data to verify this information. A certified letter from the selected service provider is not sufficient documentation as it does not show proof of rates actually charged to customers.

If you cannot use Method 1, proceed to Method 2:

Method 2

If the telecommunications carrier does not provide similar or identical service in the rural area where the HCP is located, “the rural rate shall be the average of the tariffed and other publicly available rates, not including any rates reduced by universal service programs, charged for the same or similar services in that rural area over the same distance as the eligible service by other carriers.”

To demonstrate compliance with Method 2, the applicant must submit tariff(s) and/or publicly available rate(s) from which to derive an average.

The services listed on each tariff or publicly available rate must be:

- The same or similar to the service requested and in the same rural area as the HCP.

If using Method 2 for an FCC Form 466 submission:

- The documentation must be dated prior to the submission of the relevant FCC Form 466.
- It must be evident to USAC that any documentation and information supplied was available to the applicant or service provider at the time the applicant submitted its FCC Form 466.
- It must be clear to USAC which rate(s) in the documentation were used to calculate the rural rate. For example, if you are submitting a tariff, please highlight or provide an explanation that clearly indicates where in the tariff document a reviewer can find the rate you used in your calculation.

If it is not possible to use Method 1 or 2, then proceed to Method 3:

Method 3

If there are no such tariffed or publicly available rates in the HCP's rural area, or the service provider "reasonably determines that this method for calculating the rural rate is unfair," the service provider must submit cost-based rates to the state commission (for intrastate rates) or the FCC (for interstate rates) for approval.

If using Method 3 for an FCC Form 466 submission:

- Supporting documentation submitted with the FCC Form 466 must show that the rates were submitted to the state commission or FCC before the applicant submitted the FCC Form 466.
- The applicant must demonstrate that the rate submitted to the FCC or state commission for approval matches the rural rate listed on its FCC Form 466 or explain any discrepancy.

Please work with your service provider to ensure compliance with the rural rate rule.

Urban Rate

Urban Rate Definition

"If a rural health care provider requests support for an eligible service to be funded from the Telecommunications Program that is to be provided over a distance that is less than or equal to the 'standard urban distance,' for the state in which it is located, the 'urban rate' for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service in any city with a population of 50,000 or more in that state, calculated as if it were provided between two points within the city.

If a rural health care provider requests an eligible service to be provided over a distance that is greater than the 'standard urban distance,' for the state in which it is located, the urban rate for that service shall be a rate no higher than the highest tariffed or publicly-available rate charged to a commercial customer for a functionally similar service provided over the standard urban distance in any city with a population of 50,000 or more in that state, calculated as if the service were provided between two points within the city."

Acceptable Urban Rate Documentation

Documentation provided must show that the urban rate provided is in compliance with the urban rate rule. Examples of rates that may be used to calculate the urban rate include:

- Rates in a current state, federal or NECA tariff for a functionally similar service in a city with a population of 50,000 or more in the state where the HCP is located.
- Rates charged to a commercial customer that are publicly available.

Elements that reviewers will look for when evaluating the urban rate include, but are not limited to:

- Whether the rate(s) used to calculate the urban rate are for a functionally similar service (for example, whether the rate quoted is a rate for a complete and functional circuit, not simply one component of the circuit), and
- Whether the rate(s) used to calculate the urban rate are charged in a city with a population of 50,000 or more in the state in which the HCP is located.