

Proposed Rule on Capital Structure for Telephone Cooperatives and Telephone Corporations Regulated on Rate of Return Basis

R746-361. Capital Structure for Telephone Cooperatives and Rate of Return Regulated Telephone Corporations

R746-361-1. Purpose and Applicability

The purpose of this rule is to ensure that telephone cooperatives and telephone corporations regulated on a rate of return basis are treated uniformly and consistently in rate cases and in calculating distributions made pursuant to R746-360 Universal Public Telecommunications Service Support Fund in selecting a capital structure. This rule only applies to telephone corporations whose rates are rate of return regulated and to telephone cooperatives.

R746-361-2. Rate Case or Increased Distribution Triggers Rule

After this rule becomes effective, the issuance of the final Commission order in a rate case for a telephone corporation or a change approved by the Commission in the distribution to a telephone corporation or a telephone cooperative made pursuant to R746-360 Universal Public Telecommunications Service Support Fund shall trigger the effect and time periods of this rule for the affected telephone corporation or telephone cooperative.

R746-361-3. Capital Structure of the Regulated Entity

In establishing the capital structure of a telephone cooperative and a telephone corporation, the Commission shall consider the capital structure of the regulated certificate holder and not the capital structure of the regulated certificate holder's parent, subsidiary, affiliate or any combination thereof, or any proxy not provided for by this rule to determine revenue requirement or to calculate distributions made pursuant to R746-360 Universal Public Telecommunications Service Support Fund.

R746-361-4. Capital Structure for Rate of Return Regulated Telephone Corporations.

A. In a rate case of a telephone corporation regulated on a rate of return basis, the Commission shall use the actual capital structure of the telephone corporation to determine the revenue requirement of the telephone corporation if the telephone corporation has at least 35 percent equity but no more than 65 percent equity in its capital structure.

B. If the capital structure of a telephone corporation is comprised of more than 65 percent in equity capital, the Commission shall impute 65 percent in equity to the capital structure to determine the revenue requirement of the telephone corporation.

C. Except as otherwise allowed in R746-361-4 C 2, if the capital structure of a telephone corporation is comprised of less than 35 percent in equity, the Commission shall impute 35 percent in equity to the capital structure to determine the revenue requirement of the telephone corporation.

1. A telephone corporation with less than 20 percent in equity capital in its capital structure shall file up to a one-page report in its first annual report

following a triggering event under R746-361-2 and in each annual report thereafter until the telephone corporation's equity capital meets or exceeds 20 percent. Each report shall explain the measures the telephone corporation is taking to increase its equity capital.

2. If the equity capital of a telephone corporation with less than 20 percent in its capital structure remains the same or decreases for four consecutive years, the Division of Public Utilities may recommend an alternative capital structure to the Commission as part of the telephone corporation's next rate case or next change in its universal service fund distribution.

D. The Commission shall use the same capital structure the Commission uses to determine revenue requirement in a rate case of a telephone corporation regulated on a rate of return basis to calculate the distributions to the telephone corporation made pursuant to R746-360 Universal Public Telecommunications Service Support Fund.

R746-361-5. Capital Structure for Telephone Cooperatives.

A. In calculating the distributions to a telephone cooperative made pursuant to R746-360 Universal Public Telecommunications Service Support Fund, the Commission shall use the actual capital structure of the telephone cooperative if the telephone cooperative has at least 35 percent equity but no more than 65 percent equity in its capital structure.

B. If the capital structure of a telephone cooperative is comprised of more than 65 percent in equity capital, the Commission shall impute 65 percent in equity to the capital structure to determine the distributions made pursuant to R746-360 Universal Public Telecommunications Service Support Fund.

C. Except as otherwise allowed in R746-361-5 C 2, if the capital structure of a telephone cooperative is comprised of less than 35 percent in equity, the Commission shall impute 35 percent in equity to the capital structure to determine the revenue requirement of the telephone cooperative.

1. A telephone cooperative with less than 20 percent in equity capital in its capital structure shall file up to a one-page report in its first annual report following a triggering event under R746-361-2 and in each annual report thereafter until the telephone cooperative's equity capital meets or exceeds 20 percent. Each report shall explain the measures the telephone corporation is taking to increase its equity capital.

2. If the equity capital of a telephone cooperative with less than 20 percent in its capital structure remains the same or decreases for four consecutive years, the Division of Public Utilities may recommend an alternative capital structure to the Commission as part of the next change in the telephone cooperative's distribution from the universal service fund.

R746-361-6. Calculation of the Capital Structure

A. The capital structure of a telephone corporation or a telephone cooperative is comprised of the telephone corporation's or the telephone cooperative's total long term debt and total stockholder equity which equates to total capital. Long term debt means debt instruments with maturities exceeding 12 months and long term debt includes the current portion of the long term debt.

B. The debt portion of the capital structure of a telephone corporation and a telephone cooperative is calculated by dividing long term debt of the telephone corporation or the telephone cooperative by its total capital.

C. The equity portion of the capital structure of a telephone corporation is calculated by dividing total stockholder equity of the telephone corporation by its total capital. The equity portion of the capital structure of a telephone cooperative is calculated by dividing member equity and patronage capital of the telephone cooperative by its total capital.