

LLM 1648

ITEM NO. CA17

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT  
PUBLIC MEETING DATE: February 26, 2103**

REGULAR \_\_\_\_\_ CONSENT X EFFECTIVE DATE \_\_\_\_\_ N/A \_\_\_\_\_

DATE: February 19, 2013

TO: Public Utility Commission

FROM: Kay Marinos <sup>KM</sup>

THROUGH: Jason Eisdorfer and Bryan Conway <sup>J</sup> <sup>BC</sup>

**SUBJECT:** OREGON PUBLIC UTILITY COMMISSION STAFF: Request to Review and Consider Updates to Requirements Applicable to Telecommunications Carriers Eligible to Receive Federal Universal Service Support.

**STAFF RECOMMENDATION:**

Staff recommends that the Commission open a docket to review and consider updates to its requirements for initial designation and annual recertification of telecommunications carriers eligible to receive Federal Universal Service Fund (FUSF) support. Such a review is necessitated by recent changes in requirements mandated by the Federal Communications Commission (FCC) and may reduce regulatory burdens on Oregon carriers.

**DISCUSSION:**

Background

In June of 2006, the Commission established requirements for the initial designation and annual recertification of telecommunications carriers eligible to receive FUSF support. See Docket No. UM 1217, Order No. 06-292. These carriers are commonly referred to as Eligible Telecommunications Carriers or ETCs. The Federal Communications Act of 1934, as amended by the Telecommunications Act of 1996, (the Act) empowers state commissions to designate carriers as ETCs for FUSF and includes general requirements that must be met by ETCs. The related, but more detailed, requirements established by the Commission in Docket UM 1217 were based on the requirements in the Act and recommendations made by the FCC in 2005.<sup>1</sup>

<sup>1</sup> See *In the Matter of Federal-State Joint Board on Universal Service*, FCC 05-46, 20 FCC Rcd 6371 (released March 17, 2005).

Late in 2011, the FCC issued an order transforming the FUSF and changing the types of high-cost support available to ETCs (*USF/ICC Transformation Order*).<sup>2</sup> The Order significantly increased the FCC's role in the ETC designation and recertification process, and implemented new mandatory annual reporting requirements for ETCs receiving FUSF high-cost support. In addition, early in 2012, the FCC issued a separate order<sup>3</sup> reforming its Lifeline program for low-income support and implementing new requirements for ETCs that provide Lifeline services (*Lifeline Reform Order*). The *Lifeline Reform Order* requires ETCs receiving Lifeline support to submit new annual reports to the FCC.

#### Objectives and Recommendations

The FCC's actions necessitate a review of the Commission's existing ETC requirements to harmonize as necessary the Commission requirements with the new FCC mandatory requirements and modifications to the FUSF program. The review would address the two types of requirements - initial ETC designation requirements and annual reporting requirements - separately, and in phases, for reasons of urgency and complexity.

Staff recommends that the first phase address annual reporting requirements. The Commission currently requires Oregon ETCs to file Oregon-specific annual reports by July 15 of each year.<sup>4</sup> These reports were designed to provide sufficient information to enable the Commission to recertify Oregon ETCs to the FCC by October 1 of each year. However, the FCC now requires all ETCs to submit new annual reports directly to them by July 1 of this year.<sup>5</sup> The ETCs must also share copies of these reports with the relevant state commissions. Given the due dates for the reports and the commonalities in information contained in both the Oregon and FCC reports, the objective of the first phase of the docket would be to determine whether the new FCC reports contain information sufficient to meet the Commission's needs for annual ETC recertifications for this, and following, years. If that is the case, the Commission reports can be replaced by the FCC reports, thereby eliminating duplication and lessening the regulatory burdens placed on Oregon ETCs. Commission staff would work with the affected ETCs and interested parties to quickly recommend a course of action in this regard.

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<sup>2</sup> See *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. November 18, 2011) (*USF/ICC Transformation Order*).

<sup>3</sup> See *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC. Dkt. Nos. 11-42 *et al.*, CC Dkt. 96-45, FCC 12-11 (rel. Feb. 6, 2012) (*Lifeline Reform Order*).

<sup>4</sup> See page 18 of Order No. 06-292, Docket No. UM 1217, entered June 13, 2006.

<sup>5</sup> The *USF/ICC Transformation Order* originally required that reports be filed by April 1 of each year, but the FCC changed the date to July 1 in its *Third Order on Reconsideration*, FCC 12-52 (rel. May 14, 2012).

Staff recommends that the second phase of the docket address updates to initial designation requirements that may be needed to achieve consistency with the new FCC requirements and definitions. Because the new types of high-cost support funds available are being phased in over time, and are likely to go to carriers that already have ETC designation, the need for changes in the Commission's initial ETC designation requirements for high-cost support is not as urgent as the upcoming annual reports. Furthermore, numerous appeals of the FCC's *USF/ICC Transformation Order* are currently pending before the U.S. Court of Appeals for the Tenth Circuit.

The second phase of the docket would also address changes to the initial designation requirements for carriers that seek ETC designation only to provide Lifelines services. The ETC requirements adopted by the Commission in Order No. 06-292 did not contemplate the increase in the number of Lifeline-only ETCs that has occurred since the requirements were established in 2006. Requirements for the designation of these types of ETCs are closely related to requirements for participation in the Oregon Telephone Assistance Program (OTAP) and are best considered in concert with those requirements.

**PROPOSED COMMISSION MOTION:**

A docket be opened to review and consider changes to the requirements for designation and annual recertification of telecommunications carriers eligible to receive Federal Universal Service Fund support. Phase I of the docket will address ETC annual reporting requirements and Phase II will address initial requirements for ETC designation.