

ORDER NO.

12 325

ENTERED

SEP 22 2014

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1688

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

2014 Annual Certification of Eligible
Telecommunications Carriers.

ORDER

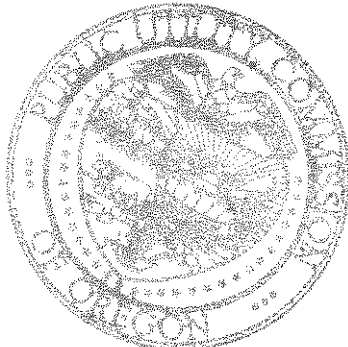
DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

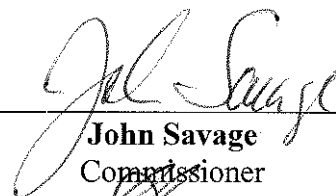
This order memorializes our decision, made and effective at the public meeting on September 22, 2014, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.


Dated this 22nd day of Sept., 2014, at Salem, Oregon.

COMMISSIONER ACKERMAN WAS
UNAVAILABLE FOR SIGNATURE

Susan K. Ackerman
Chair




John Savage
Commissioner


Stephen M. Bloom
Commissioner

A party may request rehearing or reconsideration of this order under ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

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ITEM NO. CA4

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT**

PUBLIC MEETING DATE: September 22, 2014

REGULAR **CONSENT** X **EFFECTIVE DATE** September 22, 2014

DATE: September 16, 2014

TO: Public Utility Commission

FROM: Kay Marinos *KM*

THROUGH: Jason Eisdorfer *JE* and Bryan Conway *BC*

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1688) 2014 Annual Certification of Eligible
Telecommunications Carriers.

STAFF RECOMMENDATION:

Staff recommends that the Commission:

1. Certify, pursuant to the requirements of 47 C.F.R. § 54.314, to the appropriate use of federal Universal Service Fund (USF) high-cost support in Oregon, and to the continuing eligibility of the carriers listed in Exhibit A to receive such support; and
2. Accept the 2014 annual reports of all eligible telecommunications carriers (ETCs) required by Commission Order No. 06-292, as amended by Order No. 14-198.

DISCUSSION:

A. Background

Section 214(e)(2) of the Telecommunications Act of 1996 (Act) authorizes state public utility commissions to designate telecommunications carriers eligible to receive federal USF support. The Commission first exercised this authority in December 1997 when it designated Oregon's incumbent local exchange carriers (ILECs) as ETCs.¹ Since then, the Commission has designated several wireless carriers and non-ILEC wireline carriers (collectively referred to as competitive ETCs or CETCs) to receive federal USF high-

¹ See Order No. 97-481, Docket No. UM 873.

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cost and Lifeline (low-income) support.² The Commission has also granted limited designations to several carriers for the purpose of receiving only Lifeline support.³ These carriers are commonly referred to as Lifeline-only ETCs.

Section 54.314(a) of the FCC rules requires states to file annual certifications with the FCC to enable the continuation of high-cost support to their state-designated ETCs. The certification must state that all federal high-cost support provided to ETCs within the state "was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." The state must provide this annual certification to the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) by October 1 of each year.

Every year since 2006, ETCs have submitted reports to support the Commission's annual certification for the use of high-cost funds, as well as to demonstrate their ongoing compliance with ETC designation requirements. The Commission established requirements for the reports in Docket No. UM 1217, Order No. 06-292. The order requires each ETC to formally file specific information designed to demonstrate that it: offers the supported services; will provide, and advertise, the supported services throughout its designated service area; offers and advertises low-income services (Lifeline and Oregon Telephone Assistance Program – OTAP); is able to remain functional in emergencies; is committed to service quality and consumer protection; and uses support funds for their intended purposes.

B. ETC Reports Related to High-Cost Support

In its Order 11-161 released November 18, 2011 (FCC Transformation Order),⁴ the FCC made significant changes to the types of support available under the federal USF high-cost program. The FCC also changed its rule 54.314 governing state certification of

² Currently, the wireless carriers designated for federal high-cost support in Oregon are AT&T Mobility LLC, United States Cellular Corporation, and Eagle Telephone System, Inc. dba Snake River PCS. The wireline competitive carriers designated for high-cost support are Comspan Communications, Inc. and Warm Springs Telecommunications Company.

³ The current Lifeline-only ETCs are Cricket Communications, Virgin Mobile, TracFone Wireless, and T-Mobile West LLC. Several applications for designation by other carriers (all prepaid calling providers) are pending.

⁴ See *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90 et al., FCC 11-161, released November 18, 2011.

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ETCs. Under the previous rule, states were required to certify only the ETCs receiving high-cost support in the serving areas of the rural ILECs. Under the revised rule, and for certification this year, states must certify the eligibility of all ETCs that receive numerous types of federal high-cost support in the state. Per the new definition in Section 54.5 of the FCC rules, high-cost support now includes not only the ILEC "rural" high-cost support, but price-cap ILEC frozen support, phased-down CETC high-cost support, interstate-access related support for which ETCs previously self-certified, and new support provided through the Connect America Fund (CAF) and Mobility Funds.

For the calendar year 2014, Oregon ILECs will receive approximately \$60 million of federal high-cost support and CETCs will receive approximately \$11 million.⁵ The ILEC high-cost support amount does not include CAF Phase I Incremental Support that was also made available to price-cap ILECs. This additional support is to be used over a three-year period to deploy broadband-capable infrastructure. CenturyLink is expected to receive approximately \$3.3 million and Frontier is expected to receive approximately \$9.4 million to be spent in Oregon. Additionally, Snake River PCS qualified to receive approximately \$7,500 in the Mobility Phase I auction to upgrade to 3G services in Keating, Oregon.

As part of its Transformation Order and a subsequent order reforming the Federal Lifeline program,⁶ the FCC established new annual reports that all ETCs must file regardless of any existing state requirements for reporting. These reports were formalized by USAC and made available on the USAC website. Beginning last year, ETCs were required to complete the reports on-line and submit copies to the FCC and the states. ETCs receiving CAF or frozen high-cost support must complete a form identified as "Form 481" while recipients of Mobility Fund support must complete a different form identified as "Form 690."

Given the changes in the federal USF programs and the new reporting requirements, Staff requested last year that the Commission open a docket to review and consider changes to the ETC requirements established in Order No. 06-292. Phase I of that docket (UM 1648) addresses reporting requirements for annual certification and Phase II addresses initial designation requirements.

Staff concluded last year in Phase I of UM 1648 that many of the items included in the reports required by Commission Order No. 06-292 were also included in the new FCC reports. In an effort to eliminate duplication and ease reporting burdens on the ETCs,

⁵ Based on data from USAC report to FCC for the fourth quarter of 2014.

⁶ See *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 11-42 et al., FCC 12-11, released February 6, 2012.

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Staff reached a partial stipulation with parties in Docket UM 1648 to modify the reporting requirements in Order No. 06-292 for last year's reporting. On June 19 of last year, the Commission issued Order No. 13-228 adopting the partial stipulation and amending Order No. 06-292 to provide for modified annual reporting requirements for the 2013 reporting year only. The order did not adopt permanent changes to the Commission's annual reports because the FCC reports were still under development at that time. Permanent changes were to be considered later based on an assessment of the first year's experience with the new FCC reports.⁷

Accordingly, the parties in docket UM 1648 met again in April of this year to assess last year's reporting experience and consider impacts of subsequent changes to FCC reporting requirements. On May 15, the parties filed a second partial stipulation as well as a motion to amend the reporting requirements of Order No. 06-292. The Commission adopted the second partial stipulation in Order No. 14-198, entered June 5, 2014. Due to continuing fluctuations in FCC requirements, the parties agreed that the proposed requirements apply only to the 2014 reporting period. Parties plan to reconvene after the 2014 reporting cycle to assess this year's reporting experience and develop a recommendation regarding next year's reporting.

In addition to copies of the FCC reports, Order No. 14-198 also requires that each ETC receiving federal high-cost support in Oregon submit an affidavit attesting to appropriate use of the support funds. A sample of the affidavit is included as Exhibit B to this memo.

Due dates for this year's annual reports were set to coincide with the FCC's corresponding due dates. Reports on the CAF/ICC data were due on the date the ILEC filed its interstate access tariff with the FCC. Form 481 reports and the Oregon-specific affidavits were due by July 1. Because this was the first year that Mobility Fund recipients had to file Form 690 and some problems were encountered, the FCC pushed the due date out by a few weeks.⁸

This is the first year that ILECs were required by the FCC to include information in the Form 481 that relates to broadband services. Most notably, rate-of-return ILECs (which in Oregon are all ILECs except CenturyLink and Frontier companies) were required for the first time to file five-year network improvement plans as part of their Form 481

⁷ See October 1, 2013, Letter from Staff Attorney Johanna Riemenschneider to ALJ Arlow in Docket No. UM 1648 regarding plans to revisit ETC report requirements in early 2014.

⁸ Snake River PCS is the only Oregon ETC to be awarded support from the Mobility Fund, and hence the only one that filed the Form 690 this year. However, there are still problems with the on-line reporting system and Snake River PCS continues to work with USAC to meet all requirements.

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submission.⁹ Unfortunately, state staff members received no guidance from the FCC or USAC regarding the structure and specific contents of the required plans. Based on the variations in content across ILEC plans, it appears that the ILECs did not receive consistent advice from the FCC or USAC either. Staff has no way of knowing whether the plans filed this year by the Oregon ILECs meet FCC requirements and expectations. Although the Commission required its Oregon CETCs to provide network plans in the past, the structure and types of information to be included in those plans were specified by the Oregon Commission – not by the FCC. Staff intends to meet with ILECs in the upcoming months to discuss and understand their plans, and will also attempt to gain FCC guidance regarding its requirements for the network plans.

The Form 481 contains other reporting items that have caused confusion despite the instructions provided with the form. It is apparent that ETCs have interpreted some of the requirements differently. Unfortunately, Staff cannot determine which interpretations are correct or if the information filed by each ETC meets the requirements of the FCC and USAC. For all these reasons, Staff's recommendation for this year's annual high-cost certification rests largely on the affidavits submitted by the carriers attesting to their appropriate use of federal high-cost funds.

Based on the affidavits submitted by the ETCs and because the continued receipt of federal high-cost support is vital to Oregon carriers' abilities to provide affordable service throughout the state, Staff recommends that the Commission certify that the ETCs listed in Exhibit A to this memo are authorized to receive federal USF high-cost support pursuant to 47 C.F.R. § 54.314, and that the support received was and will be used for the intended purposes.

C. ETC Reports Related to Lifeline (Low-income) Support

All ETCs that receive federal high-cost support funds must also offer Lifeline services per 47 C.F.R. § 54.422. However, a carrier can be designated as an ETC to receive only Lifeline support, and not high-cost support. In Oregon, the carriers in this category are currently Cricket Communications, Virgin Mobile dba Assurance Wireless, TracFone Wireless dba SafeLink Wireless, and T-Mobile. By the end of 2014, these carriers will have received over half of the \$8.3 million of annual federal Lifeline funding granted to all Oregon ETCs, including the ILECs.

The FCC requires all ETCs offering federal Lifeline support to complete relevant portions of the Form 481 and to submit copies to the states. However, for Lifeline-only

⁹ Per Order No. 14-198, CETCs are no longer required to file network plans with the Commission as their funds are being phased out and used mainly for maintenance of towers built with funds received in previous years. Order No. 06-292 required only CETCs (and not ILECs) to file such plans.

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ETCs designated by the state (and not the FCC), the information to be submitted on the form is minimal. For that reason, the second partial stipulation adopted by the Commission in Order No. 14-198 requires Lifeline-only ETCs to complete the Form 481 as if it were subject to the FCC requirements. The information to be reported covers outages, unfulfilled service requests, service quality and consumer protection measures, and functionality in emergencies. All Lifeline-only ETCs submitted reports in compliance with Order No. 14-198. As with the reports related to high-cost support, this year's reports relating to Lifeline support will be reviewed as part of the continuing Docket No. UM 1648 activities. The Commission does not certify Lifeline providers to the FCC as part of the October 1 annual certification process, but does require the annual reports in order to monitor certain aspects of performance relative to the offering of Lifeline services in Oregon.

PROPOSED COMMISSION MOTION:

An order be issued in Docket No. UM 1688:

1. Certifying that all federal high-cost support provided to the ETCs listed in Exhibit A within Oregon was used in the preceding calendar year (2013) and will be used in the coming calendar year (2015) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, and that the ETCs listed in Exhibit A are eligible to receive federal universal service high-cost support pursuant to 47 C.F.R. § 54.314; and
2. Accepting the 2014 annual reports of all ETCs currently designated in Oregon.

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Exhibit A
Eligible Telecommunications Carriers
Certified to Receive Federal Universal Service Fund High-Cost Support

Company	USAC Study Area Code
1 Asotin Telephone Company	532404
2 Beaver Creek Cooperative Telephone Co.	532359
3 Canby Telephone Association	532362
4 Cascade Utilities, Inc.	532371
5 CenturyTel of Oregon, Inc. dba CenturyLink	532361
6 CenturyTel of Eastern Oregon, Inc. dba CenturyLink	532361
7 Citizens Telecommunications Company of Oregon.	533401
8 Clear Creek Mutual Telephone Company	532363
9 Colton Telephone Company	532364
10 Eagle Telephone System, Inc.	532369
11 Frontier Communications Northwest Inc.	532416
12 Gervais Telephone Co.	532373
13 Helix Telephone Company	532376
14 Home Telephone Company	532377
15 Molalla Communications Company	532383
16 Monitor Cooperative Telephone Company	532384
17 Monroe Telephone Company	532385
18 Mt. Angel Telephone Company	532386
19 Nehalem Telecommunications, Inc.	532387
20 North-State Telephone Company	532388
21 Oregon-Idaho Utilities, Inc.	532390
22 Oregon Telephone Corporation	532389, 533336
23 People's Telephone Company	532391
24 Pine Telephone System, Inc.	532392
25 Pioneer Telephone Cooperative	532393
26 Qwest Corporation dba CenturyLink QC	535163
27 Roome Telecommunications, Inc.	532375
28 Scio Mutual Telephone Association	532397
29 Stayton Cooperative Telephone Company	532399
30 St. Paul Cooperative Telephone Association	532396
31 Trans-Cascades Telephone Company	532378
32 United Telephone Co. of the Northwest dba CenturyLink	532400
33 AT&T Mobility LLC	539010
34 Comspan Communications, Inc.	539005
35 Eagle Telephone System, Inc. dba Snake River PCS	539007
36 United States Cellular Corporation	539002
37 Warm Springs Telecommunications Company	539012

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**Exhibit B
Sample Affidavit**

AFFIDAVIT CERTIFYING USE OF UNIVERSAL SERVICE FUNDS

I, _____ [name of company officer], being of lawful age and duly sworn, on my oath, state that I am the _____ [title] of _____ [Company name] and that I am authorized to execute this Affidavit on behalf of the Company, and the facts set forth in this Affidavit are true to the best of my knowledge, information and belief.

Pursuant to the requirements of the Federal Communications Commission, 47 C.F.R. § 54.314, _____ [Company name] hereby certifies to the Public Utility Commission of Oregon that it is eligible to receive federal high-cost support for the program years cited.

I attest that all federal high-cost support provided to _____ [Company name] in Oregon was used in the preceding calendar year (2013) and will be used in the coming calendar year (2015) only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

DATED this _____ day of _____, 2014.

By: _____ (Officer's Name)

Its: _____ (Officer's Title)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2014.

Notary public in and for the State of _____

My Commission Expires: _____