

ORDER NO. 15 290

ENTERED SEP 22 2015

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1726

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

2015 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, 2015, to adopt Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

Dated this 22nd day of September, 2015, 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 Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. CA10

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: September 22, 2015

REGULAR _____ CONSENT X EFFECTIVE DATE September 22, 2015

DATE: September 15, 2015

TO: Public Utility Commission

FROM: Kay Marinos *KM*

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

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 1726) 2015 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 2015 annual reports of all eligible telecommunications carriers (ETCs) required by Commission Order No. 06-292, as amended by Order No. 15-169.

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. 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.

As part of its *Transformation Order* and a subsequent order reforming the Federal Lifeline program,³ 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 in 2013, ETCs were required to complete the reports on-line and submit copies to the FCC and the states. All ETCs receiving high-cost or low-income support must complete a form identified as "Form 481" while recipients of Mobility Fund support must complete a different form identified as "Form 690."

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., Warm Springs Telecommunications Company (WSTC), and Douglas FastNet (DFN). WSTC and DFN are not included for certification this year because they are currently not receiving any federal high-cost funds.

³ 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 et al., released November 18, 2011 (*Transformation Order*), and *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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Given the changes in the federal USF programs and related new FCC reporting requirements, Staff requested in 2013 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 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, Staff reached a partial stipulation with parties in Docket UM 1648 to modify the reporting requirements for 2013. On June 19 of 2013, 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. The parties in Docket UM 1648 met again in 2014 to assess the 2013 reporting experience and consider impacts of subsequent changes to FCC reporting requirements. On May 15, 2014, 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 reconvened after the 2014 reporting cycle to assess the previous reporting experience and develop a recommendation regarding reporting for 2015. Discussions resulted in a recommendation to adopt the 2014 reporting requirements on a continuing basis. The parties filed a Motion to that effect on May 13, 2015. The Commission issued Order No. 15-169 adopting the recommendation and amending the annual reporting requirements previously set forth in Order Nos. 06-292, 13-228 and 14-198.

In addition to copies of the FCC reports, each ETC receiving federal high-cost support in Oregon must submit an affidavit attesting to appropriate use of the support funds. A sample of the affidavit is included as Exhibit B to this memo.

Docket No. UM 1726 was opened to address the reports submitted this year, as well as to accomplish annual certification to the FCC. Due dates for the reports are keyed to the dates such reports are to be filed with the FCC. This year all reports were due no later than July 1.

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B. ETC Reports Related to High-Cost Support

For the calendar year 2015, Oregon ILECs will receive approximately \$60 million of federal high-cost support and CETCs will receive approximately \$11 million.⁴ In May of this year, the Commission granted designation to Douglas FastNet to receive Rural Broadband Experiment funding, but the FCC has not yet officially granted that funding.⁵ Within the last several months, Frontier and CenturyLink agreed to accept Connect America Funds (CAF) Phase II funds totaling \$21.7 million to fund the deployment of broadband-capable networks in their service territories. Over the next several years, these funds will replace much, if not all, of the high-cost funding these two carriers currently receive as the federal fund transitions to support broadband as well as voice services.

The FCC now requires ETCs receiving high-cost support to include information related to broadband services, as well as voice services, in their Form 481 reports. Most notably, rate-of-return ILECs (which in Oregon are all ILECs except CenturyLink and Frontier companies) were required last year to file five-year network improvement plans describing their intended use of high-cost support funds.⁶ In this year's reports, the same carriers are required to file progress reports for the first several months of 2015. Next year they will file progress reports covering the entire 2015 calendar year. The ILECs that accepted CAF II funding this year will file network plans and other related information with their 2016 reports.

Staff reviewed each of the ETC reports submitted in Docket No. UM 1726, and contacted several carriers regarding unclear or missing information. All ETCs receiving high-cost support now have met the filing requirements, including submission of affidavits attesting to the appropriate use of support funds. On this basis, 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.

⁴ Based on data from USAC report to FCC for the fourth quarter of 2015.

⁵ See Order No. 15-159 entered May 19, 2015, in Docket No. UM 1721.

⁶ Previously, only CETCs were required to file network plans and annual progress reports. However, Order No. 14-198 eliminated that requirement for CETCs as funds received by these carriers are being phased out. They are now being used for maintenance of towers and other facilities built with funds received in previous years.

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

All ETCs that receive high-cost support funds must also offer Lifeline services to qualifying low-income consumers 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 the former category are currently Virgin Mobile dba Assurance Wireless and TracFone Wireless dba SafeLink Wireless. Staff estimates that for 2015, these two carriers will receive almost 60 percent of the nearly \$8 million of total annual federal Lifeline funding to all Oregon ETCs, including the ILECs.⁷

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 ETCs designated by the state (and not the FCC), the information to be submitted on the form is minimal. For that reason, the amended reporting requirements adopted by the Commission in Order No. 15-169 require Lifeline-only ETCs to complete the Form 481 as if they were subject to the FCC designation requirements. The information 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 the amended requirements in Order No. 15-169. 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 1726:

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 (2014) and will be used in the coming calendar year (2016) 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 2015 annual reports of all ETCs currently designated in Oregon.

⁷ Two former Lifeline-only ETCs - Cricket Communications and T-Mobile - relinquished their designation this year as part of their nationwide decision to exit the Lifeline market. Several petitions by other carriers for Lifeline-only designation are currently pending before the Commission. Those carriers are not required to file annual reports this year.

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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

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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 (2014) and will be used in the coming calendar year (2016) only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

DATED this _____ day of _____, 2015.

By: _____ (Officer's Name)

Its: _____ (Officer's Title)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2015.

Notary public in and for the State of _____

My Commission Expires: _____