

ENTERED: DEC 01 2015

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1648

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,Staff Investigation into Eligible
Communication Carriers' Requirements.

ORDER

DISPOSITION: THIRD PARTIAL STIPULATION ADOPTED;
ORDER NO. 06-292 AMENDED TO CHANGE
INITIAL DESIGNATION REQUIREMENTS

In this order, we adopt the third partial stipulation of the parties which relates to the requirements for initial designation as an eligible telecommunications carrier (ETC) for both wireline and wireless carriers in all service areas. In so doing, we resolve all issues in this proceeding. We also amend our Order No. 06-292 to reflect changes in initial designation requirements adopted in this order and attach as Appendix A to this order a revised Appendix A to Order No. 06-292 incorporating all prior revisions.

I. THE FEDERAL REGULATORY BACKGROUND

The Telecommunications Act of 1996 (the Act) has, among its goals, the promotion of quality services at just, reasonable, and affordable rates, access to advanced telecommunications and information services and access to services in rural areas comparable to services in urban areas. Integral to the Act is a national policy that every household have, at a minimum, the equivalent of single-line, basic voice-grade, telephone service, often referred to as "Lifeline" service. To that end, it provides for the Federal Universal Service Fund (FUSF) which provides financial support to designated providers of telecommunications services in high-cost areas and to qualifying low-income consumers. A carrier that meets the standards necessary to receive FUSF support is designated an eligible telecommunications carrier (ETC). Section 214(e) of the Act sets forth the requirements for ETC designation.

II. PROCEDURAL HISTORY

Under federal law, states can also set standards for granting a carrier ETC status. Accordingly, in Order No. 06-292¹ we established guidelines for carriers seeking

¹ Docket No. UM 1217 (Jun 13, 2006).

certification as ETCs in Oregon. An itemized “checklist” was attached to the order as Appendix A. The checklist consists of two parts: the “Initial Designation—Application Requirements” and the “Annual Recertification Requirements.” Those requirements were generally based on requirements either mandated or recommended by the FCC for ETC designation. Since their adoption, these requirements were used by the Commission and Staff to assess ETC applications and to designate applicants.

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*). The *Transformation 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 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. The result of these two FCC orders was that the FCC now required all ETCs to submit new annual reports directly to them and to share copies of these reports with the relevant state commissions.

Given the due dates for the reports and the commonalities in the information contained in both the Oregon and FCC reports, we opened this docket to review our 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.

We addressed the issue of annual recertification first, and settled all recertification and reporting issues by amending Order No. 06-292 via the adoption of the first and second stipulations in Order Nos. 13-228, 14-198, and 15-169. In this final order, we address all initial certification issues and conclude this docket.

III. THE THIRD PARTIAL STIPULATION

On October 23, 2015, the stipulating parties² filed a Third Partial Stipulation and joint testimony in support. The stipulation is attached as Appendix B to this order. The testimony was supported by affidavits from each party’s witness. In this third partial stipulation, the parties propose a revised set of ETC designation requirements to incorporate changes related to, and reflected in, the current federal rules and related FCC orders. Any carrier requesting designation as an ETC in Oregon will be required to demonstrate in its application that it meets these proposed requirements.

² Oregon Telecommunications Association; Citizens’ Utility Board of Oregon; Boomerang Wireless, LLC; Warm Springs Telecommunications Company; and the Commission Staff. Several parties in the proceeding participated in the negotiations and no objections to the stipulation were filed with the Commission.

The stipulating parties address each of the changed initial designation requirements and provide support for those changes from the current requirements set forth in Appendix A to our Order No. 06-292.

We summarize the proposed changes and the parties' discussion, below:

1. Information regarding applicant and its common carrier status

The parties propose to add a new sub-requirement 1.1 to specify the name of the entity requesting designation and its corporate affiliations, and to renumber the previous sub-requirements 1.2 and 1.3, respectively. Sub-requirement 1.4 was added to include a demonstration that the applicant is financially and technically capable of providing the supported services in compliance with federal and state rules. Although the parallel FCC regulation, 47 C.F.R. § 54/201(h) specifically applies only to Lifeline-only applicants, the parties agree that this new sub-requirement should apply to all types of ETC applicants, not just to those offering Lifeline services.³

2. Type of federal universal service support for which designation is requested

- 2.1 For applicants awarded federal USF support conditional upon grant of ETC status: copies of relevant FCC documentation.

The second proposed requirement is new and requires identification of the type of support that the applicant seeks. This change is necessitated by the FCC's expansion in the types of support now available, *e.g.*, Mobility Fund, Connect America Fund, etc. It also requires submission of any FCC documents related to conditions of designation. For instance, applicants that do not own facilities and wish to provide Lifeline services must first be granted FCC approval of Lifeline compliance plans before states can grant ETC designation.⁴

3. Commitment and ability to provide all supported services

The third proposed requirement is similar to the current requirement 2 but modified to reflect FCC changes. Sub-requirement 3.1 relates to voice services and modifies current sub-requirement 2.1 to reflect the new definition of supported voice services in 47 CFR § 54.101(a). Sub-requirements 3.2 and 3.3 modify current sub-requirements 2.2 and 2.3 to explicitly refer to voice telephony services, as the FCC now requires the provision of broadband services in addition to voice services. In a similar vein, a new sub-requirement 3.4 is added to pertain specifically to broadband services associated with federal support. Current sub-requirements 2.4 (comparable local usage plan) and 2.5 (equal access obligations) are eliminated as these are no longer relevant and the FCC has dropped these requirements from its rules.⁵

³ Stipulating Parties/200, Marinos/Wolf/Jenks/Lehrman/Spellman/7-8.

⁴ *Id.* at 8.

⁵ *Id.*

4. and 4.1. Explicit identification and definition of proposed designated service area

The fourth proposed requirement corresponds to the current requirement 3 but is modified significantly to reflect the newer types of ETCs and changes in how designated service areas are defined. The designated service area must be well-defined because an ETC has a carrier-of-last-resort type of obligation to provide the supported services to any requesting customers within this area. Previously, service areas were defined by ILEC wire centers, but changes in technology and FCC requirements have made this standard less relevant and unnecessarily burdensome to non-ILEC ETCs.⁶ The proposed requirements still require a map of the applicant's licensed or certificated service area with identification of the area for which it proposes to be an ETC and the FCC still requires ILECs to continue designation by study area. However, under the proposed revisions to Appendix A of Order No. 06-292, other applicants may now use a variety of descriptive boundaries, such as a wire center, census block, or zip code while still maintaining FCC compliance, so long as they provide a rationale for their selection, which may depend on the type of support received.⁷

4.2 Commitment and ability to offer supported services throughout the proposed service area and to provide service to all requesting customers

The parties propose to delete the six-step process to fulfill a service request in the current section 3.2 because the FCC eliminated that requirement from its rules. The new 4.2 language proposed expands the required amount and type of information relating to the applicant's present and planned service coverage, depending on the types of high-cost support being sought. For wireless ETC applicants, the majority of which do not own their own facilities, the requirement will enable Staff to understand a carrier's coverage areas relative to its proposed designated service area and protect customers who may live in areas with inadequate coverage.⁸

5. Types of facilities used to offer supported services

The fifth proposed requirement expands the current requirement 4 to cover applicants who do not provide services over their own networks. Since the Commission first adopted Order No. 06-292, one of the most significant FCC actions to impact the designation process for Lifeline services was its issuance of blanket forbearance of the Act's facilities ownership requirement for any ETC applicants that request only low-income support.⁹ Section 214(e)(1)(A) of the Act requires that ETCs offer the supported

⁶ We have granted waivers of the service-area-designation-by wire-center requirement on previous occasions. See, e.g., Docket No. UM 1668, *In the Matter of Boomerang Wireless, LLC dba Entouch Wireless, Application for Limited Designation as an Eligible Telecommunications Carrier and Eligible Telecommunications Provider*, Order No. 15-280 (Sept 16, 2015).

⁷ Stipulating Parties/200 at 9-12; Appendix A at 1-2

⁸ *Id.* at 13-14.

⁹ See *Lifeline Reform Order*, at ¶¶ 361-381. Forbearance is subject to two conditions: applicants must comply with certain 911 requirements and obtain FCC approval of a compliance plan meeting certain specifications. Prior to this Order, the FCC had entertained forbearance requests on an individual case basis.

services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.”

New requirement 5.2 asks for specific information where applicants resell the facilities of others; it allows wireless resale carriers to explain the basis for depiction of coverage rather than show signal strengths when the underlying carriers have not provided access to signal strength maps.¹⁰

6. Commitment to use support funds in accordance with FCC and Commission rules

The sixth proposed requirement corresponds to the current requirement 5 but includes several changes. The update in 6.2 reflects new types of support and obligations in the updated FCC rules. New 6.3, which replaces the current subsection 5.3, reflects the phase out of funding to competitive ETCs. For the new types of high-cost funds, the FCC requires a network plan that applies to a different set of ETCs and parallels 47 CFR § 54.202(a)(1)(ii).¹¹

8. Commitment to offer and advertise Lifeline and Oregon Telephone Assistance Program (OTAP Services)

The eighth proposed requirement expands the current requirement 7 to incorporate several changes. First, the sub-requirements are clarified to indicate the Appendix’s applicability to OTAP as well as Lifeline Services; ETCs cannot be designated to provide federal Lifeline service without also agreeing to meet OTAP requirements.

Sub-requirement 8.2 expands on the required specifics regarding Lifeline service information that appears in current sub-requirement 7.2 with respect to promptly notifying both the Commission and customers regarding material changes in service offerings.

New sub-requirements 8.4 and 8.5 improve application review efficiency by incorporating the OTAP Eligible Telecommunications Provider (ETP) requirements into the ETC process. Sub-requirement 8.6 adds a requirement for filing information with the FCC after the Commission has approved an ETC’s application.¹²

9. Ability to remain functional in emergencies

The ninth proposed requirement expands the current requirement 8 by adding sub-requirement 9.3 which commits applicants to comply with Oregon’s 9-1-1 emergency system tax requirements.¹³

¹⁰ *Id.* at 14-15.

¹¹ *Id.* at 15.

¹² *Id.* at 16-17.

¹³ *Id.* at 17.

11. Designation on Tribal Lands

This new section sets down additional requirements applicable to ETC applicants that request designated areas on Tribal Lands. Applicants are required to notify and engage the affected Tribal authorities relative to the services to be offered and to obtain the support of those Tribal authorities for ETC designation. The new requirements parallel 47 CFR §§ 54.313(a)(9) and 54.1004(d). However, while the federal regulations appear to be primarily directed at ETCs receiving high-cost support, the stipulating parties agree that the same general approach is valid for Lifeline-only providers as well. This requirement acknowledges and respects the status of the nine federally recognized tribes in Oregon as sovereign nations, and promotes consultation on matters directly affecting their communities, by requiring initial engagement and evidence that the appropriate Tribal government or regulatory entity supports, or does not oppose, the application.¹⁴

12. Public Interest Showing

Proposed requirement 12, which corresponds to the current requirement 10, eliminates the “cream-skimming” analysis sub-requirement 10.2. This acknowledges the FCC determination¹⁵ that the cream-skimming test was no longer required for wireless Lifeline-only providers and the test’s irrelevance in light of census block-based mechanisms for awarding high-cost support.¹⁶

13. Commitment to provide reports as required

This new requirement makes explicit the previously assumed and understood obligation of applicants to provide annual ETC reports and such other reports as required by the Commission.¹⁷

V. DISCUSSION

We have reviewed the stipulation and supporting joint testimony and find that the proposed revisions to Appendix A of Order 06-292 achieve the objectives we set in Order No. 14-198 “to enable the Commission to acquire the data it needs to fulfill its oversight role and protect the public interest, while addressing the burdens of compliance on service providers.”¹⁸

We conclude that the requested order amendments in the third partial stipulation are reasonable and necessary to effectuate the stipulation. The third partial stipulation should be adopted.

¹⁴ *Id.* at 18.

¹⁵ See *Virgin Mobile USP, LP, Petition for Forbearance*, CC Docket No. 96-45, FCC 09-18, ¶ 39, fn 101 (Mar 5, 2009)..

¹⁶ Stipulating Parties/200 at 19.

¹⁷ *Id.*

¹⁸ Order No. 14-198 at 6 (Jun 5, 2014).

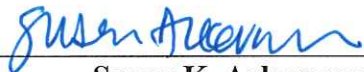
Furthermore, for the sake of clarity and to relieve potential applicants of the uncertainty and burden of reviewing multiple orders in order to obtain the information necessary to assure compliance, we attach, as Appendix A to this order, a revised Appendix to Order No. 06-292, which replaces, in its entirety, the prior Appendix A.

VI. ORDER

IT IS ORDERED that:

1. The third partial stipulation between Boomerang Wireless, LLC; Staff of the Public Utility Commission of Oregon; the Citizens' Utility Board of Oregon; Oregon Telecommunications Association; and Warm Springs Telecommunications Company, attached as Appendix B, is adopted;
2. Order No. 06-292, as amended by Order Nos. 13-228, 14-198, and 15-169 is further amended by deleting Appendix A in its entirety and replacing it with the language provided in Appendix A to this order.
3. The remainder of Order No. 06-292 as amended by Order Nos. 13-228, 14-198, and 15-169 is unchanged.

Made, entered, and effective DEC 01 2015.



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.

Initial Designation – Application Requirements

Requirements apply to all applicants (wireline and wireless) for initial designation as an eligible telecommunications carrier (ETC) in all service areas (rural and non-rural) regardless of type of federal universal service support sought unless specifically noted.

1. Information regarding applicant and its common carrier status
 - 1.1. Name of entity requesting designation and corporate affiliation.
 - 1.2. Demonstration of the applicant's common carrier status.
 - 1.3. Description of the general types of services and geographic area for which the applicant is authorized in the state of Oregon.
 - 1.4. Demonstration that applicant is financially and technically capable of providing the supported services in compliance with FCC and Commission rules. Relevant considerations include whether applicant previously offered services to non-Lifeline customers, how long the applicant has been in business, whether the applicant intends to rely exclusively on universal service fund (USF) disbursements to operate, whether the applicant receives or will receive revenue from non-USF sources, and whether the applicant has been subject to enforcement action or ETC revocation proceedings in any other jurisdiction.
2. Type of federal universal service support for which designation is requested
 - 2.1. For applicants awarded federal USF support conditional upon grant of ETC status: copies of relevant FCC documentation.
3. Commitment and ability to provide all supported services
 - 3.1. Statement of commitment to offer supported Voice Telephony services and description of each element required in 47 CFR §54.101(a) (voice grade access to the public switched network or its functional equivalent, local usage, access to emergency services, and toll limitation services to qualifying low-income consumers if the applicant's proposed Lifeline service distinguishes between toll and non-toll calls in the pricing of the service).
 - 3.2. Identification of any required supported Voice Telephony services that are not currently offered, and an explanation of when and how such services will be made available.
 - 3.3. Identification and description of each of applicant's voice telephony local service offerings (the name the plan is marketed under, the number of minutes and included calling area, and the price) within the proposed designated service area.
 - 3.4. Description of broadband services to be offered, if such services must be provided as a condition for receiving USF support.
4. Identification and definition of proposed designated service area
 - 4.1. Explicit identification of the proposed designated service area through:

- 4.1.1. Map showing boundaries of applicant's federally-licensed or state-certificated area within Oregon, or an explanation why such boundaries do not exist, and the boundaries of the requested designated service area. The map must also show the boundaries of the area for each geographic unit, e.g., wire center, census block, zip code, that will comprise the designated service area;
 - 4.1.2. Rationale for selection of the type of geographic unit to define the proposed designated service area;
 - 4.1.3. Listing of each and every specific geographic unit, e.g., ILEC wire center (by ILEC name, wire center name and code), census block (by ID number), or zip code (by number), etc., that will be included in the designated service area, with identification of any units for which service will not be provided throughout;
 - 4.1.4. Identification of specific Tribal Lands (as defined in 47 C.F.R. § 54.5 or 47 C.F.R. § 54.400(e) as appropriate) included in proposed designated service area, if any.
- 4.2. Commitment and ability to offer supported services throughout the proposed service area and to provide service to all requesting customers.
- 4.2.1. Statement indicating whether all requesting customers in the proposed service area will be provided services for which USF support is to be received, e.g., voice and/or broadband, upon initial designation.
 - 4.2.2. If applicant is unable to serve all customers in the proposed service area upon initial designation:
 - 4.2.2.1. For each geographic unit in the proposed designated service area with less than full coverage, a description of the extent of coverage and percent of the population that applicant has the present ability to serve, and a public interest rationale for partial coverage.
 - 4.2.2.2. Description of process that applicant will use to determine whether service can be provided to an individual when he/she inquires or makes a request for service.
 - 4.2.2.3. For Lifeline-only ETCs: Commitment to report to the Commission Staff the number of requests for service from potential eligible customers within the designated service area that could not be fulfilled due to lack of adequate service availability. The report must include each such customer's address and must be submitted on a semi-annual basis for the first two calendar years following ETC designation. Network facility owners must also report how they attempted to provide service to each potential customer.
 - 4.2.3. For wireless carriers only, commitment to make available coverage maps in accordance with CTIA-The Wireless Association's Consumer Code for Wireless Service at the point of sale and on the applicant's website upon designation.

5. Types of facilities used to offer supported services
 - 5.1. Description of types of network facilities currently used to provide service.
 - 5.2. If applicant resells network facilities of other carriers in the provision of supported services:
 - 5.2.1. A general description of such facilities and the company that owns the facilities.
 - 5.2.2. Commitment to file notice to Commission in designation docket at least thirty days before adding or eliminating an underlying carrier.
 - 5.2.3. Statement of whether the applicant qualifies for FCC forbearance as a reseller for Lifeline-only designation. If so, a copy of the FCC-approved compliance plan and the FCC order approving the compliance plan should be included in the application.
 - 5.3. Map showing extent of current coverage and, explanation of the basis for depiction of coverage.
 - 5.4. Identification of service providers with which applicant has current and relevant resale or interconnection agreements.
6. Commitment to use support funds in accordance with FCC and Commission rules
 - 6.1. Affidavit, signed by responsible corporate officer, certifying that universal service support funds received will be used only for the intended purposes.
 - 6.2. Certification that applicant will comply with the service requirements applicable to the support it receives, along with identification of such requirements by reference to specific FCC rules and relevant Orders.
 - 6.3. A five-year plan that describes with specificity proposed improvements or upgrades to applicant's network throughout its proposed service area, including estimates of the area and population that will be served as a result of the improvements. An applicant seeking designation only for the purposes of offering Lifeline services to low-income consumers is not required to submit such a five-year plan.
7. Commitment to advertise high-cost (non-Lifeline) supported services throughout the service area
 - 7.1. Statement of commitment to advertise supported services throughout the service area.
 - 7.2. Brief description of advertising plans for supported services (excluding low-income service offerings).
8. Commitment to offer and advertise Lifeline and OTAP services
 - 8.1. Commitment to offer and advertise Lifeline and OTAP services throughout the designated service area.
 - 8.2. Identification and description of specific service offerings that applicant will provide to qualifying Lifeline and OTAP customers (both on Tribal Lands and on non-Tribal Lands), including associated terms and conditions, applicable rates and charges, and the number of minutes provided in each plan.

- 8.2.1. For Lifeline services provided at no charge to the customer, applicant's commitment to submit any proposed reductions in minutes, units or other material terms of Lifeline service offerings to the Commission at least 90 days prior to the proposed effective date. Proposed increases in minutes, units or other material terms of Lifeline service offerings must be submitted at least ten days before changes become effective. Once changes become effective, the revised service offerings must be filed in the designation docket within ten days.
 - 8.2.2. For Lifeline services provided at no charge to the customer, applicant's commitment to notify existing customers within ten days following an increase in the minutes, units, or other material terms of Lifeline service offerings and to permit existing customers to immediately subscribe to the increased service offering if the customer does not automatically receive the benefit.
 - 8.3. Description of advertising plans designed to reach the target low-income population that applicant will implement after designation.
 - 8.4. Request for designation as an Eligible Telecommunications Provider (ETP) to participate in the OTAP, and commitment to follow all OTAP and RSPF requirements.
 - 8.5. Documentation showing the applicant's policies and procedures related to the training of third-party representatives and employees on Lifeline and/or OTAP requirements, as well as documentation showing internal quality control measures for actual applications received by the applicant.
 - 8.6. Applicants will file all necessary information with the FCC to fulfill any and all requirements of the Commission under 47 C.F.R. § 54.401(d) after ETC designation is granted by the Commission.
9. Ability to remain functional in emergencies
- 9.1. Demonstration of ability to remain functional in emergencies specifically addressing:
 - 9.1.1. Amount of backup power available.
 - 9.1.2. Ability to reroute traffic around damaged facilities.
 - 9.1.3. Ability to manage traffic spikes during emergency periods.
 - 9.2. Description of current status of E911 deployment and compliance; if full deployment has not been attained, describe plans to achieve full deployment.
 - 9.3. Commitment to comply with Oregon's 9-1-1 emergency reporting system tax requirements, currently ORS 403.200 to ORS 403.230.
10. Commitment to meet service quality and consumer protection standards
- 10.1. Commitment to specific, objective measures for service quality and consumer protection, e.g., the CTIA Consumer Code for wireless carriers or the applicable Commission rules for wireline carriers.
 - 10.2. Commitment to resolve complaints received by PUC, and designation of specific contact person to work with PUC's Consumer Services Division for complaint resolution.

11. Designation on Tribal Lands

Applicants requesting designation on Tribal Lands must notify and engage appropriate Tribal authorities in the proposed designated service area. Evidence of such notification and engagement must be provided in the application or in a supplemental filing, and include the information required in 11.1, 11.2 and 11.3 below. If the applicant does not submit such information for the relevant Tribal Lands prior to initial designation as an ETC, the applicant may submit a subsequent filing to request expansion of the designated service area to include Tribal Lands or additional Tribal Lands.

11.1. Copy of notice to appropriate Tribal government or regulatory entity of filing of ETC application, and identification of specific method and date of delivery.

This should include the name of person to whom notice was sent.

11.2. Summary of Tribal engagement efforts, e.g., dates and topics of meetings, participants, information shared, etc. and an explanation as to how the applicant addressed the following areas (as applicable):

1. Needs assessment and deployment planning with a focus on Tribal community anchor institutions;
2. Feasibility and sustainability planning;
3. Marketing services in a culturally sensitive manner;
4. Rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and
5. Compliance with Tribal business and licensing requirements. Tribal business and licensing requirements are as described in 47 CFR 54.313(a)(9)(v).

11.3. Results of Tribal engagement efforts with evidence that the appropriate Tribal government or regulatory entity either supports or does not oppose applicant's designation as an ETC on the relevant Tribal Lands.

12. Public interest showing

12.1. Demonstration that designation would be in the public interest; this must address:

- 12.1.1. Specific ways in which consumer choices will be increased.
- 12.1.2. Specific advantages and disadvantages of applicant's service offerings.
- 12.1.3. Any other specific criteria determined by the Commission.

13. Commitment to provide reports as required

13.1. Annual ETC reports as required by the Commission.

13.2. Special weekly, monthly, or quarterly reports that Commission Staff finds necessary based on program requirements and the circumstances of each applicant and which the applicant, in good faith, commits to provide to the Commission.

Annual Recertification Requirements**1. Types of reports to be filed**

- 1.1 Each carrier shall file annually with the Commission a complete (non-redacted) copy of each report pertaining to Oregon that the ETC files with the Federal Communications Commission (FCC) for the report year, pursuant to the following regulations as applicable:
- 1.1.1 47 CFR §54.304 (CAF ICC support)
 - 1.1.2 47 CFR §54.313 (high-cost support)—Form 481 and Rate Floor Data form
 - 1.1.3 47 CFR §54.422 (low-income support)—Form 481
 - 1.1.3.1. ETCs receiving only low-income support must file a report that includes all of the information specified in 47 CFR §54.422(b) even if the ETC does not submit Form 481 with this information to the FCC.
 - 1.1.4 47 CFR §54.1009 (mobility fund support)—Form 690
- 1.2 Each ETC receiving federal high-cost support shall file a notarized affidavit from an officer of the carrier company in a form approved by Commission Staff, certifying that all federal high-cost support received within Oregon was used in the preceding calendar year, and will be used in the coming calendar year only for the provision, maintenance and upgrade of facilities and services for which the support is intended.

2. Filing Dates

- 2.1 Copies of the foregoing FCC reports shall be filed with the Commission no later than the corresponding due dates for these types of reports as determined by the FCC.
- 2.2 Subsequent updates or revisions to such reports shall be filed no later than five (5) business days following the date such update or revision is submitted to the FCC.
- 2.3 The notarized affidavits certifying the use of high-cost support shall be filed no later than the due date of the Form 481.

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1648

In the Matter of

Staff Investigation into Eligible
Telecommunications Carriers' RequirementsTHIRD
PARTIAL STIPULATION

INTRODUCTION

1. The parties to this Stipulation are Boomerang Wireless, LLC, staff of the Public Utility Commission of Oregon ("Staff"), the Citizens' Utility Board of Oregon ("CUB"), Oregon Telecommunications Association ("OTA"), and Warm Springs Telecommunications Company, collectively referred to as "the Stipulating Parties."
2. No party opposes this stipulation. AT&T Corp., Teleport Communications America LLC, AT&T Mobility LLC, and Cricket Communications, Inc. (collectively "AT&T"), Budget Prepay, Inc., Frontier Communications Northwest Inc. and Citizen's Telecommunications Co. of Oregon dba Frontier Communications of Oregon, Nexus Communications Inc., CenturyLink companies (Qwest Corporation, United Telephone Company of the Northwest, CenturyTel of Oregon, and CenturyTel of Eastern Oregon, collectively "CenturyLink") participated in some of the activities in this phase of the docket, and have indicated that they do not oppose this Third Partial Stipulation. T-Mobile West LLC ("T-Mobile") and United States Cellular Corp. ("US Cellular") did not participate in the activity in this phase of the docket, and are not parties to this Third Partial Stipulation.
3. By entering into this Third Partial Stipulation, the Stipulating Parties intend to resolve the issue of revisions to initial application requirements for applicants to be

1 designated as telecommunications carriers eligible to receive federal Universal
2 Service Fund support, thus resolving Phase II of this proceeding.

3 **BACKGROUND**

4 4. In Order No. 06-292, the Commission adopted requirements for the initial designation
5 of telecommunications carriers eligible to receive federal Universal Service Fund
6 ("FUSF") support from the Federal Communications Commission ("FCC"),
7 commonly referred to as Eligible Telecommunications Carriers ("ETCs").

8 5. The federal Communications Act of 1934, as amended ("Act") provides that "only an
9 eligible telecommunications carrier [ETC] designated under section 214(e) shall be
10 eligible to receive specific Federal universal service support" for providing voice
11 telephony services. 47 U.S.C. § 254(e). Pursuant to section 214(e)(1) of the Act, a
12 common carrier may be designated as an ETC and will then be required to offer and
13 advertise the voice services supported by the federal universal service support. State
14 commissions have primary responsibility for designating ETCs under section
15 214(e)(2) of the Act, consistent with the public interest, convenience and necessity.

16 6. The Commission currently requires Oregon ETCs to comply with the application
17 requirements set forth in Appendix A of Order 06-292 and as further described in the
18 Order. These requirements were established based on a prior FCC decision, FCC
19 Order 05-46, and on additional basic eligibility requirements adopted by the
20 Commission.

21 7. Since Order 06-292 was issued, a number of changes have taken place at the federal
22 level. In November 2011, the FCC issued an order that transformed federal universal
23 service high cost funding and modified requirements for applicants seeking FCC
24 designation as an ETC. Report and Order and Further Notice of Proposed
25 Rulemaking, FCC 11-161 (November 18, 2011). In February 2012, the FCC issued
26 an order that reformed the federal lifeline program for low-income support, modified

1 program requirements, and made some changes to the definition of supported
2 services. Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11
3 (February 6, 2012). Numerous subsequent orders and rulemaking expanded on and
4 further implemented these two primary orders. General ETC designation
5 requirements at the federal level, which may inform the state requirements, are
6 currently reflected in FCC regulations, 47 CFR Part 54, Subpart C. Fund-specific
7 ETC obligations are specified in various other subparts of Part 54. *See* 47 CFR Part
8 54, Subparts D-E, J-M.

9 8. The Commission opened this Docket to review and consider changes to the
10 requirements for designation and annual recertification of ETCs. The Docket
11 addresses these issues in two phases, with Phase I designated to address ETC annual
12 reporting requirements and Phase II to address initial requirements of ETC
13 designation. This Third Partial Stipulation sets forth initial requirements for ETC
14 designation and is intended to address Phase II.

15 9. In Phase II, the Parties met to discuss initial application requirements on July 31,
16 2014, September 8, 2014, October 15, 2014, November 4, 2014, November 25, 2014,
17 January 30, 2015 and March 13, 2015.

18 10. In this Third Partial Stipulation, the Stipulating Parties propose a revised set of initial
19 application requirements, attached hereto as the revised Appendix A. These
20 requirements improve upon the existing filing requirements in Appendix A to Order
21 06-292 by updating them to incorporate recent changes to federal universal service
22 fund programs and eligibility requirements implemented since the Commission issued
23 Order 06-292 and adding appropriate modifications.

24 **THIRD PARTIAL STIPULATION**

25 1. The Stipulating Parties agree to request that the Commission modify Order No. 06-
26 292 by adopting the application requirements for initial designation set forth in the

1 revised Appendix A attached to this Stipulation. Except as previously stipulated to by
2 the parties and adopted by the Commission in Order Nos. 13-228 and No. 14-198,
3 the Stipulating Parties do not seek modification of the portions of Order 06-292 and
4 its Appendix A that address ETC reporting requirements following designation.

5 2. The revised Appendix A attached to this Stipulation contains new provisions in
6 sections 1.1, 1.4, 2.1, 4.2, 9.3, 11 and 13. Sections 3, 4.1, 5, 6, and 8 of the revised
7 Appendix A contain modified provisions of the original Appendix A. Sections 2.5
8 and 10.2 of the original Appendix A have been deleted from the revised Appendix A,
9 consistent with the FCC's recent changes. The remaining sections of the revised
10 Appendix A remain substantively unchanged from the original text, though the
11 section numbers may have changed.

12 3. The Stipulating Parties agree that the revised Appendix A application requirements
13 reflect changes related to FCC modifications to the federal USF types of program
14 funding, eligibility requirements, and participant obligations developed by the FCC
15 since the issuance of Order 06-292.

16 4. The Stipulating Parties agree that the revised Appendix A application requirements
17 will apply to any pending application that has not yet been approved by the
18 Commission and to any new application filed following Commission approval.
19 Entities with pending ETC applications may either submit a new application to meet
20 the requirements of the revised Appendix A, supplement the pending application, or
21 otherwise demonstrate compliance with the revised Appendix A to the satisfaction of
22 the Commission.

23 5. The Third Partial Stipulation will be offered into the record of the above-captioned
24 docket pursuant to OAR 860-001-0350. The Stipulating Parties will support the
25 Third Partial Stipulation throughout this proceeding and any appeal, provide
26 witnesses to sponsor the Stipulation at any hearing held in the above-captioned

1 docket, and recommend that the Commission issue an order adopting the settlement
2 contained herein.

3 6. The Stipulating Parties have negotiated the Third Partial Stipulation as an integrated
4 document. If the Commission rejects all or any material portion of the Third Partial
5 Stipulation, or conditions its approval upon the imposition of additional material
6 conditions, any party disadvantaged by such action shall have the rights provided in
7 OAR 860-001-0350 and shall be entitled to seek reconsideration of the Commission's
8 order.

9 7. By entering into this Third Partial Stipulation, no party shall be deemed to have
10 approved, admitted or consented to the facts, principles, methods or theories
11 employed by any other party in arriving at the terms of the Stipulation. No party shall
12 be deemed to have agreed that any part of the Third Partial Stipulation is appropriate
13 for resolving issues arising in any other proceeding.

14 8. The Third Partial Stipulation may be executed in counterparts and each signed
15 counterpart shall constitute an original document.

16
17 The Third Partial Stipulation is entered into by each Party on the date entered below.

18 BOOMERANG WIRELESS, LLC

CITIZENS' UTILITY BOARD OF
19 OREGON

20 Dated: _____

Dated: _____

21 By: _____

By: _____

22
23 PUBLIC UTILITY COMMISSION STAFF

OREGON TELECOMMUNICATIONS
ASSOCIATION

24 Dated: June 5, 2015

Dated: _____

25 By: Johann Pienenschnider

By: _____

1 docket, and recommend that the Commission issue an order adopting the settlement
2 contained herein.

3 6. The Stipulating Parties have negotiated the Third Partial Stipulation as an integrated
4 document. If the Commission rejects all or any material portion of the Third Partial
5 Stipulation, or conditions its approval upon the imposition of additional material
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13 for resolving issues arising in any other proceeding.

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15 counterpart shall constitute an original document.

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17 The Third Partial Stipulation is entered into by each Party on the date entered below.

18 BOOMERANG WIRELESS, LLC

CITIZENS' UTILITY BOARD OF
OREGON

19
20 Dated: _____

Dated: _____

21 By: _____

By: _____

22
23 PUBLIC UTILITY COMMISSION STAFF

OREGON TELECOMMUNICATIONS
ASSOCIATION

24 Dated: _____

Dated: June 1st 2015

25 By: _____

By: BA Wolf

1 docket, and recommend that the Commission issue an order adopting the settlement
2 contained herein.

3 6. The Stipulating Parties have negotiated the Third Partial Stipulation as an integrated
4 document. If the Commission rejects all or any material portion of the Third Partial
5 Stipulation, or conditions its approval upon the imposition of additional material
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13 for resolving issues arising in any other proceeding.

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15 counterpart shall constitute an original document.

16
17 The Third Partial Stipulation is entered into by each Party on the date entered below.

18 BOOMERANG WIRELESS, LLC

CITIZENS' UTILITY BOARD OF
OREGON

19
20 Dated: _____

Dated: 6/1/15

21 By: _____

By:  _____

Summer Tempert

22
23 PUBLIC UTILITY COMMISSION STAFF

OREGON TELECOMMUNICATIONS
ASSOCIATION

24 Dated: _____

Dated: _____

25 By: _____

By: _____

- 1 docket, and recommend that the Commission issue an order adopting the settlement
2 contained herein.
- 3 6. The Stipulating Parties have negotiated the Third Partial Stipulation as an integrated
4 document. If the Commission rejects all or any material portion of the Third Partial
5 Stipulation, or conditions its approval upon the imposition of additional material
6 conditions, any party disadvantaged by such action shall have the rights provided in
7 OAR 860-001-0350 and shall be entitled to seek reconsideration of the Commission's
8 order.
- 9 7. By entering into this Third Partial Stipulation, no party shall be deemed to have
10 approved, admitted or consented to the facts, principles, methods or theories
11 employed by any other party in arriving at the terms of the Stipulation. No party shall
12 be deemed to have agreed that any part of the Third Partial Stipulation is appropriate
13 for resolving issues arising in any other proceeding.
- 14 8. The Third Partial Stipulation may be executed in counterparts and each signed
15 counterpart shall constitute an original document.

16
17 The Third Partial Stipulation is entered into by each Party on the date entered below.

18 BOOMERANG WIRELESS, LLC

CITIZENS' UTILITY BOARD OF
OREGON

19
20 Dated: June 3, 2015

Dated: _____

21 By: *Alan J. Gelway*
22 on behalf of Boomerang Wireless LLC

By: _____

23 PUBLIC UTILITY COMMISSION STAFF

OREGON TELECOMMUNICATIONS
ASSOCIATION

24 Dated: _____

Dated: _____

25 By: _____

By: _____

1 WARM SPRINGS
2 TELECOMMUNICATIONS COMPANY

3 Dated: 9/22/2015

4 By : /Marsha Spellman/
5 Regulatory Director
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