

ORDER NO. 23-178

ENTERED May 18 2023

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1896

In the Matter of

DOUGLAS SERVICES, INC., dba
DOUGLAS FAST NET,

Supplemental Application to Expand
Designated Service Area as an Eligible
Telecommunications Carrier (ETC) and
Eligible Telecommunications Provider (ETP).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on May 16, 2023, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:



Nolan Moser
Chief Administrative Law Judge



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. CA4

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: MAY 16, 2023**

REGULAR **CONSENT** **EFFECTIVE DATE** May 17, 2023

DATE: May 5, 2023

TO: Public Utility Commission

FROM: Nicola Peterson

THROUGH: Bryan Conway **SIGNED**

SUBJECT: DOUGLAS SERVICES, INC:
(Docket No. UM 1896)
Application for Federal and State ETC and ETP Designations.

STAFF RECOMMENDATION:

Staff recommends that the Public Utility Commission of Oregon (Commission) expand Douglas Services, Inc. dba Douglas Fast Net's (DFN) designated area as an Eligible Telecommunications Carrier (ETC) for purpose of low-income support (Lifeline), as an Eligible Telecommunications Provider (ETP) for purposes of participating in the Oregon Telephone Assistance Program (OTAP), and as an ETC eligible to receive Oregon Universal Service Fund (OUSF) support in additional wire centers, subject to the following conditions:

1. DFN must abide by all of the OUSF requirements found in OAR 860-100-0200.
2. ETC designation for federal support purposes is limited to allowing DFN to provide federal Lifeline service; federal high-cost support is excluded.
3. The additional service areas where DFN can receive OUSF support are restricted to the eleven wire centers found in Attachment A, Table 1. The additional designated service areas for purposes of providing federal Lifeline and OTAP services are restricted to the fifteen wire centers found in Attachment A, Table 2.

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DISCUSSION:

Issue

Whether the Commission should expand DFN's designated service area as an ETC to allow it to receive OUSF support throughout eleven wire centers located in Douglas, Coos, and Lane Counties (Culp Creek, Cottage Grove, Lowell, Veneta, Creswell, Lakeside, Azalea, Myrtle Creek, Riddle, Canyonville, and Days Creek) and expand designation as an ETP and ETC to participate in OTAP and Lifeline throughout fifteen wire centers in Douglas, Coos and Lane Counties (Culp Creek, Cottage Grove, Lowell, Veneta, Creswell, Lakeside, Azalea, Riddle, Canyonville, Days Creek, Empire, Eugene 10th, Junction City, River Road, and Springfield).

Applicable Rule or Law

Section 214(e)(2) of the federal Communications Act of 1934, as amended, gives state commissions primary responsibility for designating ETCs to receive federal universal service support for high-cost and Lifeline purposes. General federal ETC and Lifeline requirements are reflected in Federal Communications Commission (FCC) regulations, 47 CFR Part 54. The Commission updated its ETC requirements for initial designation of carriers requesting federal support, consistent with federal regulations, in Order No. 15-382, Appendix A, issued December 1, 2015, in Docket No. UM 1648. The requirements address:

1. Information regarding the applicant and its common carrier status;
2. Type of federal universal service support for which designation is requested;
3. Commitment and ability to provide all supported services;
4. Identification and definition of proposed designated service area;
5. Commitment and ability to offer supported services throughout the proposed service area and to provide service to all requesting customers;
6. Types of facilities used to offer supported services;
7. Commitment to use support funds in accordance with FCC and Commission rules;
8. Commitment to advertise high-cost supported services throughout the designated service area;
9. Commitment to offer and advertise Lifeline and OTAP services throughout the designated service area;
10. Ability to remain functional in emergencies;
11. Commitment to meet service quality and consumer protection standards;
12. Designation on tribal lands;

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13. Public interest showing, addressing how customer choices will increase, advantages and disadvantages of service offerings and any other criteria determined by the Commission; and
14. Commitment to provide reports as required by the Commission.

Per OAR 860-033-0021, to be designated as an ETP, a telecommunications provider must meet the following eligibility criteria:

- (a) Offering services under 47 C.F.R. § 54 Subpart E (2013) using either its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another ETC) throughout the service area;
- (b) Advertising the availability of and the charges for such services using media of general distribution; and
- (c) Demonstrating that it will comply with the OTAP rules, as set forth in OAR 860-033-0005 through 860-033-0110.

Under ORS 759.425, the Commission has established the OUSF and may designate telecommunications carriers as eligible to participate in this fund. Per the Commission's administrative rules, a telecommunications provider (a competitive provider, cooperative, or telecommunications utility) may be designated by the Commission as eligible for OUSF support in a particular geographic area. Under OAR 860-100-0200(2), a provider must petition for designation in a specific geographic area, and it must demonstrate through its petition that it is capable of meeting the criteria for receiving an OUSF distribution listed in OAR 860-100-0200(1)(a)-(k). These require that the provider:

- (a) Hold a certificate of authority issued under ORS 759.020;
- (b) Offer all supported services included in basic telephone service;
- (c) Offer, throughout the provider's designated service area, all supported services included in basic telephone service;
- (d) Use the provider's own facilities, leased UNE facilities, or a combination of its own or leased facilities and resale of another provider's retail services to provide the supported services;
- (e) Use funds distributed from the OUSF for investment, construction, operation, maintenance, and repair to ensure that basic telephone service is available at reasonable and affordable rates in areas designated by the Commission for support;
- (f) Advertise the supported services included in basic telephone service;
- (g) Is certified by the Commission to offer and advertise OTAP supported services or a Commission-approved alternative plan, along with Tribal Lifeline and Tribal Link Up benefits;

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- (h) Has the ability to remain functional during emergencies;
- (i) Is committed to and maintains service quality and consumer protection standards as required under OAR 860-023-0055 and OAR 860-034-0390;
- (j) Demonstrate that the provision of support is in the public interest; and
- (k) Meet all Commission reporting requirements related to OUSF contributions and distributions.

Analysis

Background

Since 2001, DFN has held a certificate of authority to provide telecommunications services in Oregon as a competitive provider. DFN provides voice and broadband services to schools, government agencies, medical facilities, and residential and business customers within Douglas, Coos, and Lane Counties.

The Commission first designated DFN as a federal ETC and ETP in Order No.15-159, issued on May 19, 2015. That designation was limited to specific census blocks in which DFN was awarded federal high-cost support from the Rural Broadband Experiments (RBE) portion of the Federal Universal Service Fund (FUSF).

On February 2, 2018, in Docket No. UM 1896, Order No. 18-040, the Commission designated DFN as a state ETC to receive OUSF support in six wire centers: Camas Valley, Drain, Glide, Yoncalla, Sutherlin, and Winston. In that same order, the Commission also designated DFN as a federal ETC, but only for the limited purpose of offering federal Lifeline services, and as an ETP for the purpose of participating in the OTAP in those same six wire centers. The federal support was limited because DFN was not eligible for federal high cost support.

On October 23, 2018, in Docket No. UM 1896, Order No. 18-417, the Commission expanded DFN's designation to include portions of the Roseburg wire center where DFN had not yet been granted designation.

On February 4, 2019, the Commission designated DFN as an ETC and ETP for certain census blocks that were awarded through the FCC's Connect America Fund Phase II.

On October 27, 2020, in Docket No. 1896, Order No.20-387, the Commission designated DFN as a state ETC to allow it to receive OUSF support throughout five wire centers located in Douglas and Coos Counties: Bandon, Coquille, Glendale, Myrtle Point, and Reedsport, and as an ETP and federal ETC to participate in OTAP and Lifeline throughout eight wire centers in Douglas and Coos Counties: Bandon, Coquille, Glendale, Myrtle Creek, Myrtle Point, Reedsport, Coos Bay, and North Bend.

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With this application, DFN requests designation as a state ETC to allow it to receive OUSF support throughout eleven wire centers located in Douglas, Coos, and Lane Counties (Culp Creek, Cottage Grove, Lowell, Veneta, Creswell, Lakeside, Azalea, Myrtle Creek, Riddle, Canyonville, and Days Creek) and expand designation as an ETP and federal ETC to participate in OTAP and Lifeline throughout fifteen wire centers in Douglas, Coos, and Lane Counties (Culp Creek, Cottage Grove, Lowell, Veneta, Creswell, Lakeside, Azalea, Riddle, Canyonville, Days Creek, Empire, Eugene 10th, Junction City, River Road, and Springfield).

One of the conditions for receiving OUSF support is that the carrier obtain Commission certification to offer OTAP services, which requires it to be granted ETP designation. In order to offer OTAP services, a carrier must also offer federal Lifeline services, which requires Commission designation as a federal ETC. Therefore, DFN must receive three types of designation in order to obtain the OUSF support that it seeks: 1) federal ETC, 2) ETP, and 3) state ETC.

The following is Staff's analysis of how DFN's application meets the requirements for each designation.

ETC Designation for FUSF Purposes/OUSF Eligibility

In general, Staff notes that most of the requirements in OAR 860-100-0200(1) that a company must meet to be designated as eligible for OUSF support are similar to the Commission's current ETC requirements for federal support that are found in Order No. 15-382. For this reason, Staff's analysis of DFN's filing under both sets of requirements is combined in this section.

Staff finds that DFN has demonstrated that it meets each of the current requirements for designation as a federal ETC for purposes of offering Lifeline as evidenced by the previous filings submitted and approved in Order No. 15-159, Order No. 18-040, Order No. 18-417, Order No. 19-040, and Order No. 20-395. DFN has been a federal ETC for over seven years and has thereby demonstrated its ability and commitment to comply with requirements for federal ETC designation in its current designated service area. Since February 2018, the Company has met its OUSF obligations laid out in OAR 860-100-0200(1) and has been receiving disbursements from the OUSF.

Staff reviewed the services that DFN is presently offering and as previously observed, the services being offered are high quality service offerings. On its website, DFN advertises stand-alone voice for \$55 per month (\$15 per month when bundled with DFN Internet). DFN Internet packages start at 250 Megabits per second (Mbps) download speed and 250 Mbps upload (250Mbps/250Mbps) for \$50.00 per month.

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Granting federal ETC status to DFN will serve the public interest by increasing Lifeline customers' choices for voice service and broadband internet access service in these areas. As the incumbent local exchange carriers serving these wire centers, CenturyLink/Lumen and NW Fiber, LLC dba Ziplly Fiber are required to offer Lifeline. DFN will provide an alternative for consumers. Designating DFN as eligible for OUSF funds also serves the public interest as it will allow DFN to expand services and facilities in Douglas, Coos, and Lane Counties and offer all consumers more choice for landline voice and broadband services.

For the remainder of 2023, OUSF support is calculated on a per line basis per wire center. Staff has calculated that the additional disbursements payable in 2023 to DFN would be minimal. Any increase in support to a CLEC in the future will mean a corresponding decline in support to the ILEC and no change to total support payments.

ETP Designation

In addition to federal ETC designation, a carrier must receive ETP designation from the Commission before it can participate in the OTAP. Having already met the requirements for ETP designation in its current designated service areas, DFN commits in its application to comply with the OTAP rules and procedures in the expanded proposed designated service areas.

Approval of the current application will permit DFN to offer the additional OTAP benefits to qualifying customers throughout the proposed wider designated service area. DFN's offering of a stand-alone voice or broadband internet access service will provide affordable service for Lifeline and OTAP customers living in the area. As required by Commission rule, DFN will also permit qualifying customers to apply the Lifeline and OTAP benefits to any service plan that meets the customer's needs and budgets.

Designated Service Area

Designation as an ETC and ETP requires identification of a "designated service area." The designated service area is defined in terms of specific geographic units. In this case, those units are the areas associated with the fifteen wire centers listed in Attachment A, Table 2. While wire centers are no longer the required basis for federal ETC and ETP designations for purposes of FUSF and OTAP support, they remain the geographic units upon which OUSF costs and support payments have been determined. Therefore, in order to keep the areas consistent with those where they receive OUSF support, DFN is required to serve entire wire center areas even when they are not receiving OUSF support in a specific wire center. An ETC must offer service throughout its designated service area, although it is not required to be able to do so at the time it receives designation. The wire centers included in this request are adjacent to, and in some cases join existing, DFN designated wire centers.

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Conclusion

DFN generally satisfies the conditions for the designations that it requests, but some qualifications and conditions that Staff has identified at the beginning of this memo are needed. With these conditions, designating DFN as a federal ETC, an ETP, and a state ETC eligible for OUSF distributions in the geographic area requested is in the public interest. Federal ETC and ETP status will enable DFN to offer Lifeline and OTAP services to qualifying low-income consumers in a wider area than it currently serves, and will give residents another choice of providers for Lifeline and OTAP services. Granting DFN's request for eligibility to receive OUSF support funds will enable DFN to expand services and facilities in Douglas, Coos, and Lane Counties and offer consumers in those areas more choice for landline voice and broadband services.

PROPOSED COMMISSION MOTION:

Designate DFN as an ETC for the limited purpose of offering federal Lifeline services as an ETP to participate in the OTAP, and as an ETC to receive OUSF support in the areas of the wire centers listed in Attachment A, Table 1 and Table 2, subject to the conditions recommended by Staff.

ATTACHMENT A

Table One			
Wire Centers Where DFN May Receive OUSF Support			
Wire Center	New Designation	County	Wire Center ILEC
Culp Creek	Yes	Lane	Lumen
Cottage Grove	Yes	Lane	Lumen
Lowell	Yes	Lane	Lumen
Veneta	Yes	Lane	Lumen
Creswell	Yes	Lane	CenturyLink
Lakeside	Yes	Coos/Douglas	ZiPLY
Azalea	Yes	Douglas	ZiPLY
Myrtle Creek	Yes	Douglas	ZiPLY
Riddle	Yes	Douglas	ZiPLY
Canyonville	Yes	Douglas	ZiPLY
Days Creek	Yes	Douglas	ZiPLY

Table Two			
Wire Centers Where DFN May Receive Lifeline and OTAP support			
Wire Center	New Designation	County	Wire Center ILEC
Culp Creek	Yes	Lane	Lumen
Cottage Grove	Yes	Lane	Lumen
Lowell	Yes	Lane	Lumen
Veneta	Yes	Lane	Lumen
Creswell	Yes	Lane	CenturyLink
Lakeside	Yes	Coos/Douglas	ZiPLY
Azalea	Yes	Douglas	ZiPLY
Myrtle Creek	No	Douglas	ZiPLY
Riddle	Yes	Douglas	ZiPLY
Canyonville	Yes	Douglas	ZiPLY
Days Creek	Yes	Douglas	ZiPLY
Empire	Yes	Coos	ZiPLY
Eugene 10 th	Yes	Lane	Lumen
Junction City	Yes	Lane	Lumen
River Road	Yes	Lane	Lumen
Springfield	Yes	Lane	Lumen

Note: DFN requested designation in the Myrtle Creek wire center, but is already designated in this wire center.