

HARDY MYERS
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DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

March 4, 2005

Public Utility Commission of Oregon
550 Capitol Street, NE
Suite 215
PO Box 2148
Salem, Oregon 97308-2148

Re: UM 1177

Dear Filing Center:

Enclosed for filing is the Staff's Motion to Suspend Procedural Schedule in OPUC Docket No. UM 1177.

Thank you for your attention.

Very truly yours,

Stephanie S. Andrus
Assistant Attorney General

Enc.
c. Service List

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**
3 **UM 1177**

4 In the Matter of

5 **EDGE WIRELESS LLC**
6 Application for Designation as an Eligible
7 Telecommunications Carrier, Pursuant to the
8 Telecommunications Act of 1996 (Rural
9 Areas)

MOTION TO SUSPEND PROCEDURAL
SCHEDULE

8 Pursuant to OAR 860-013-0031, staff of the Public Utility Commission of Oregon
9 (“staff”) requests a ruling suspending the procedural schedule in this case to allow opportunity
10 for the parties to determine how a recent ruling of the Federal Communications Commission
11 (“FCC”) imposing additional requirements on applicants for status as an eligible
12 telecommunications carrier (“ETC”) affects the application at issue in this proceeding. On
13 February 28, 2005, the FCC issued a press release notifying the public that it had adopted
14 measures addressing the minimum requirements for a telecommunications carrier to be
15 designated as an ETC. (*See* Attachment; 2.28.05 Press Release.) While the Public Utility
16 Commission of Oregon is not obligated to adopt the new requirements, the FCC has
17 “encouraged” states to adopt them when deciding whether a common carrier should be
18 designated as an ETC.

19 The FCC has yet to issue an order describing the new requirements in detail.
20 Accordingly, staff, with the agreement of the other parties to this docket, asks that the
21 administrative law judge suspend the current procedural schedule until the FCC issues its order
22 regarding the newly adopted requirements for ETC status. Once the order is issued, the parties
23 will request that the administrative law judge schedule a pre-hearing conference, at which time a
24 new procedural schedule can be set. While the timing of the pre-hearing conference is up to the
25 administrative law judge, the parties hope that the pre-hearing conference could be set

1 approximately 14 days after the issuance of the FCC order.¹ Staff will notify the administrative
2 law judge when the order is issued.

3 Counsel for the Oregon Telecommunications Association and Edge Wireless, LLC, were
4 consulted regarding this motion and both support it.

5
6 DATED this 4th day of March 2005.

7 Respectfully submitted,
8
9 HARDY MYERS
10 Attorney General

11 _____
12 Stephanie S. Andrus, #92512
13 Assistant Attorney General
14 Of Attorneys for Staff of the Public
15 Utility Commission of Oregon

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23 _____
24 ¹ The parties intend to hold an informal teleconference approximately 7 days after the FCC's
25 order is issued to discuss whether any additional information is required from the applicant and
26 to discuss the procedural schedule.

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of March 2005, I served the within MOTION TO SUSPEND PROCEDURAL SCHEDULE upon the following parties, by electronic mail, and by then depositing in the United States Post Office at Salem, Oregon, a full, true and correct copy thereof addressed to:

OREGON TELECOMMUNICATIONS ASSN 707 13TH ST SE STE 280 SALEM OR 97301-4036	
DAVE BOOTH PUBLIC UTILITY COMMISSION PO BOX 2148 SALEM OR 97308-2148 dave.booth@state.or.us	RICHARD A FINNIGAN LAW OFFICE OF RICHARD A FINNIGAN 2405 EVERGREEN PARK DR SW STE B-1 OLYMPIA WA 98502 rickfinn@ywave.com
KAY MARINOS PUBLIC UTILITY COMMISSION OF OREGON PO BOX 2148 SALEM OR 97308-2148 kay.marinosa@state.or.us	MARK P TRINCHERO DAVIS WRIGHT TREMAINE LLP 1300 SW FIFTH AVE STE 2300 PORTLAND OR 97201-5682 marktrinchero@dwt.com

and prepaying the postage thereon.

Stephanie S. Andrus, #92512
Assistant Attorney General
Of Attorneys for Staff of the Public
Utility Commission of Oregon

NEWS

News media Information 202 / 418-0500
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Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

Federal Communications Commission
445 12th Street, S.W.
Washington, D. C. 20554

This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

FOR IMMEDIATE RELEASE:
February 28, 2005

NEWS MEDIA CONTACT:
Mark Wigfield, 202-418-0253
Email: mark.wigfield@fcc.gov

FCC ADOPTS ADDITIONAL REQUIREMENTS FOR ELIGIBLE TELECOMMUNICATIONS CARRIER PROCEEDINGS

Action Creates a More Rigorous Eligible Telecommunications Carrier Designation Process for Receiving Federal Universal Service Support

Washington, D.C. – The Federal Communications Commission (Commission), on February 25, 2005, adopted measures addressing the minimum requirements for a telecommunications carrier to be designated as an “eligible telecommunications carrier” or “ETC,” and thus eligible to receive federal universal service support. Consistent with the recommendations of the Federal-State Joint Board on Universal Service (Joint Board), the Commission adopted additional mandatory requirements for ETC designation proceedings in which the Commission acts pursuant to section 214(e)(6) of the Communications Act of 1934, as amended (the Act). In addition, as recommended by the Joint Board, states that exercise jurisdiction over ETC designations pursuant to section 214(e)(2) of the Act, are encouraged to adopt these requirements when deciding whether a common carrier should be designated as an ETC. Following is a brief summary of the decision:

- (1) **Eligibility Requirements** – In satisfying its burden of proof necessary to obtain ETC designation, an ETC applicant must now: 1) provide a five-year plan demonstrating how high-cost universal service support will be used to improve its coverage, service quality or capacity throughout the service area for which it seeks designation; 2) demonstrate its ability to remain functional in emergency situations; 3) demonstrate that it will satisfy consumer protection and service quality standards; 4) offer local usage plans comparable to those offered by the incumbent local exchange carrier (LEC) in the areas for which it seeks designation; and 5) acknowledge that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations. In addition, these requirements are made applicable on a prospective basis to all ETCs previously designated by the Commission, and such ETCs are required to submit evidence demonstrating how they comply with this new ETC designation framework by October 1, 2006.
- (2) **Public Interest Determinations** – The Commission clarifies that its public interest examination for ETC designations will review many of the same factors for ETC designations in areas served by non-rural and rural incumbent LECs,

including the benefits of increased consumer choice and the unique advantages and disadvantages of the competitor's service offering,. In addition, as part of its public interest analysis, the Commission will examine the potential for creamskimming effects in instances where an ETC applicant seeks designation below the study area level of a rural incumbent LEC.

- (3) **Annual Certification and Reporting Requirements** – Each ETC designated by the Commission, including those designated prior to this decision, must submit on an annual basis: 1) progress updates on its five-year service quality improvement plan; 2) detailed information on outages in the ETC's network; 3) how many requests for service from potential customers were unfulfilled for the past year and the number of complaints per 1,000 handsets or lines; and 4) certifications that the ETC is complying with applicable service quality standards and consumer protection rules, is able to function in emergency situations, is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas, and acknowledge that the Commission may require it to provide equal access to long distance carriers.
- (4) **Other Issues** – The Commission also: 1) agrees with the Joint Board's recommendation that the Commission's procedures for redefinition proceedings do not warrant a change at this time; 2) grants certain pending petitions for redefinition of rural incumbent LEC study areas; 3) modifies the Commission's annual high-cost certification and line count filing deadlines so that newly designated ETCs are permitted to file these data within sixty days of their ETC designation date, and modifies the quarterly interstate access support certification filing schedule; and 5) delegates authority to the Universal Service Administrative Company, in accordance with direction from the Wireline Competition Bureau, to develop standards for the submission of any maps that ETCs are required to submit under Commission rules.

Action by the Commission, February 25, 2005, by Report and Order (FCC 05-46).
Chairman Powell, Commissioners Abernathy, Copps, and Adelstein with Commissioner Martin approving in part and dissenting in part.

-FCC-

Docket No.: CC 96-45

Wireline Competition Bureau Staff Contact: Thomas Buckley at 202-418-7400.

News about the Federal Communications Commission can also be found
on the Commission's web site www.fcc.gov.