

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1364

In the Matter of)	
)	
COMSPAN COMMUNICATIONS, INC.)	ORDER
)	
Application for Approval of Eligibility to)	
Participate in the Oregon Universal Service)	
Fund in the Veneta, Reedsport and Myrtle Point)	
Wire Centers.)	

DISPOSITION: APPLICATION APPROVED WITH CONDITION

On January 29, 2008, Comspan Communications, Inc. (Comspan) filed an application with the Public Utility Commission of Oregon (Commission) requesting Oregon Universal Service Fund (OUSF) support eligibility in the Veneta, Reedsport, and Myrtle Point wire centers. Comspan supplemented its filing on February 12, 2008, with the executed and notarized affidavit of Jan Summarell, Senior Vice President and Chief Operating Officer of Comspan.

The OUSF program, established under ORS 759.425, is designed to ensure that basic telephone service is available at a reasonable and affordable rate. In Order No. 00-312, the Commission adopted policies for the OUSF and established support amounts to Oregon’s two non-rural incumbent local exchange carriers (ILECs), Qwest and Verizon. The Commission later expanded the fund to include rural ILECs, and established monthly support to these ILECs. *See* Order No. 03-595.

In Order No. 00-312, the Commission established procedures for designating competitive local exchange carriers (CLECs) as eligible to receive OUSF support. Under these procedures, a CLEC must file a petition with the Commission showing that it qualifies as an eligible carrier and stating the service areas for which eligibility is requested. The Commission will then consider the petition in a public meeting and either grant the petition or suspend it for investigation.

Comspan is a CLEC certified by the Commission, under Order No. 99-507, to provide telecommunications services in Oregon. Comspan is a facilities-based carrier that provides local exchange services over its own network facilities, leased unbundled network element (UNE) loops and UNE-type facilities, and resale of ILEC’s retail services.

The Commission Staff (Staff) recommended approval of Comspan’s request, subject to one condition: that Comspan abide by all rules related to OUSF participation, including maintaining its state certification and federal eligible telecommunications carrier

(ETC) status. A full description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

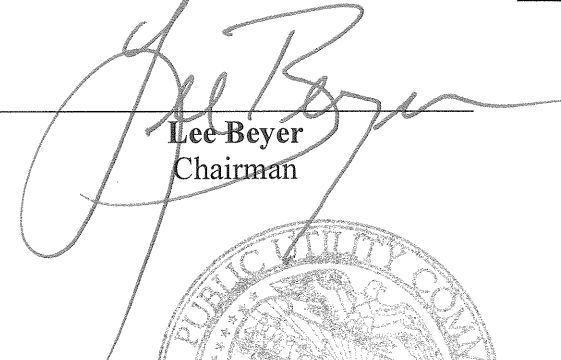
At its Public Meeting on February 26, 2008, the Commission adopted Staff's recommendation and approved Comspan's application for OUSF support eligibility in the Veneta, Reedsport, and Myrtle Point wire centers, subject to the condition set forth in Appendix A.

ORDER

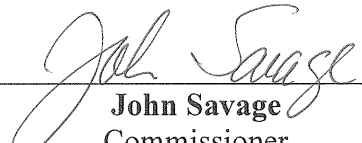
IT IS ORDERED that:

- 1) The application of Comspan Communications Inc., for Oregon Universal Service Fund support eligibility in the Veneta, Reedsport, and Myrtle Point wire centers, is granted.
- 2) Comspan Communications Inc. shall abide by all rules related to the Oregon Universal Service Fund participation, including maintaining its state certification and federal eligible telecommunications carrier status.
- 3) Oregon Universal Service Fund support payments to Comspan Communications Inc. shall commence on May 30, 2008, based on its March 31, 2008, line counts.

Made, entered, and effective MAR 05 2008.



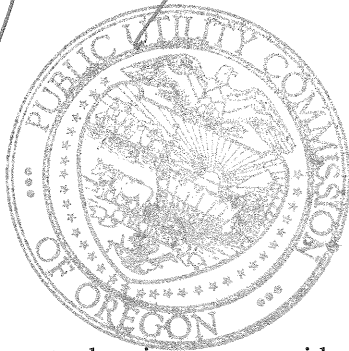
Lee Beyer
Chairman



John Savage
Commissioner



Ray Baum
Commissioner



A party may request rehearing or reconsideration of this order pursuant to 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 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: February 26, 2008

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: February 15, 2008

TO: Public Utility Commission

FROM: Celeste Hari *CH*

THROUGH: *W* Lee Sparling, *DB* Dave Booth, and *KM* Kay Marinos

SUBJECT: COMSPAN COMMUNICATIONS INC.: (Docket UM 1364) Application for approval of eligibility to participate in the Oregon Universal Service Fund in the Veneta, Reedsport and Myrtle Point Wire Centers.

STAFF RECOMMENDATION:

Staff recommends the Commission grant the application by Comspan Communications, Inc. (Comspan) for Oregon Universal Service Fund (OUSF) support eligibility in the Veneta wire center of Qwest Corporation (Qwest) and the Reedsport and Myrtle Point wire centers of Verizon Northwest, Inc. (Verizon), the incumbent local exchange carriers (ILECs) in the affected wire centers. Staff's recommendation is subject to the condition that Comspan abide by all rules related to OUSF participation, including maintaining its state certification and federal eligible telecommunications carrier (ETC) status. Staff recommends that OUSF support payments to Comspan commence on May 30, 2008, based on March 31, 2008, line counts.

DISCUSSION:

Background

Comspan is a competitive local exchange carrier (CLEC) certified by the Commission on August 20, 1999, under Order No. 99-507, to provide telecommunications services in Oregon. Comspan is a facilities-based carrier that provides local exchange services over its own network facilities, leased unbundled network element (UNE) loops and UNE-type facilities, and resale of ILEC retail services.

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Comspan has previously been granted eligibility to receive OUSF support in the Winston, Sutherlin and Roseburg wire centers of Qwest, and the Bandon and Coquille wire centers of Verizon.¹ Comspan is currently receiving support in those wire centers. This application, docketed as UM 1364, seeks to expand Comspan's eligible area to include the Veneta, Reedsport and Myrtle Point wire centers.

Requirements for OUSF Eligibility

The OUSF program was established under ORS 759.425. The purpose of the program is to ensure that basic telephone service is available at reasonable and affordable rates. On June 16, 2000, the Commission issued Order No. 00-312 in Docket UM 731, in which it adopted policies for the OUSF and established support amounts to Oregon's two non-rural ILECs, Qwest and Verizon. Nearly three years later, on October 2, 2003, the Commission expanded the fund to include rural ILECs and established monthly support to these ILECs in Order No. 03-595 in Docket UM 1017.

Order No. 00-312 determined the procedures to be used for designating CLECs as eligible to receive OUSF support. Under these procedures, a CLEC must file a petition with the Commission showing that it qualifies as an eligible carrier and stating the service areas for which eligibility is requested. The Commission is to then consider the petition in a public meeting and either grant the petition or suspend it for investigation. Comspan filed its application for OUSF eligibility in the Veneta, Reedsport and Myrtle Point wire centers on January 29, 2008. On February 12, 2008, Comspan supplemented that filing with an executed and notarized affidavit of Jan Summarell, the Senior Vice President and Chief Operating Officer of Comspan.

Order No. 00-312 also established the requirements for eligibility to receive OUSF support. To be eligible for OUSF support under Order No. 00-312, a carrier must:

1. Offer the supported services, throughout the designated service area, using the carrier's own facilities or a combination of its own facilities and resale of another carrier's services;
2. Advertise the availability of the supported services and charges for them using media of general distribution;
3. Offer Oregon Telephone Assistance Program (OTAP) services in compliance with Oregon Administrative Rules;
4. Not deny or disconnect basic local exchange service to an OTAP customer for failure to pay for toll charges;
5. Not require a deposit from OTAP customers who voluntarily elect to receive toll-blocking service;

¹ See Order No. 06-081, Docket UM 1190; Order No. 07-116, Docket UM 1300; and Order No. 07-574, Docket UM 1321.

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6. Accept the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers;
7. Not install network features, functions, or capabilities that do not comply with the Telecom Act's requirements for access by persons with disabilities and coordination for interconnectivity;
8. Not prohibit or impose unreasonable or discriminatory conditions or limitations on the resale of telecommunications services;
9. Provide, to the extent feasible, number portability in compliance with Federal Communications Commission (FCC) rules;
10. Provide dialing parity to other telecommunications providers;
11. Provide access to rights-of-way to other telecommunications providers;
12. Establish reciprocal compensation arrangements for the transport and termination of telecommunications;
13. Offer the supported services on a stand-alone basis; and
14. Provide service to anyone requesting service in its service area, and build its own loop facilities to serve a customer where no facilities currently exist.

Comspan demonstrates through its application that it meets these requirements for eligibility in the Veneta, Reedsport and Myrtle Point wire centers. In addition, Comspan submitted an affidavit signed by its Senior Vice President and Chief Operating Officer, Jan Summarell, whereby Comspan agrees to meet all eligibility requirements for receiving OUSF support in Veneta, Reedsport and Myrtle Point. Staff established in Docket UM 1190 (Comspan's first OUSF area designation) that before receiving designation to receive OUSF support, a carrier must first obtain designation as a federal ETC for federal universal service support. Next, the carrier must obtain designation as an eligible telecommunications provider (ETP) to participate in OTAP for low-income support. Comspan completed these requirements when the Commission granted federal ETC status to Comspan in Veneta, Reedsport and Myrtle Point in Docket UM 1316, Order No. 08-101. Comspan was approved for ETP status in Docket UM 1362 at the February 12, 2008 public meeting.

In its application for federal ETC status, Comspan submitted a network improvement plan detailing how it plans to use the OUSF support it expects to receive to build out a fiber-based network that will enable existing and new customers to have access to high-quality, reliable and efficient advanced residential and business services. Through all these means, Comspan demonstrates that it meets the eligibility requirements to receive OUSF support in the Veneta, Reedsport and Myrtle Point wire centers.

Impact on the OUS Fund, Implementation Details and Conditions

As part of its application for federal ETC status, Comspan provided a forecast of eligible customer lines for which it expects to receive OUSF support. Staff reviewed those

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forecasts carefully and used them to approximate the amount of OUSF support that Comspan is likely to receive. The methods for determining the amount of support that CLECs, such as Comspan, can receive were established in Order No. 00-312. The support that Comspan will receive for each eligible customer access line is determined by the amount of per-line support that the incumbents, Qwest and Verizon, are eligible to receive in the Veneta, Reedsport and Myrtle Point wire centers. The amount of support that Comspan will be eligible to receive for each customer line will depend on how Comspan provides the service to the customer. If Comspan serves a customer using its own loop facility, Comspan will receive the same per-line support amount that each ILEC does in the respective wire center. Comspan will receive no support for lines provided using resale of Qwest or Verizon's supported retail local service. If Comspan serves a customer using a UNE loop leased from Qwest or Verizon, OUSF support will be shared by Comspan and Qwest or Verizon on a percentage basis.

Comspan plans to provide service to all its customers in Veneta, Reedsport and Myrtle Point through use of its own facilities. However, should Comspan be unable to provide service to any requesting customer before its own facilities are in place to serve that customer, Comspan will utilize leased Qwest or Verizon facilities per the terms of the Comspan's interconnection agreement with each company. In that case, Comspan and Qwest or Verizon will share support. Comspan agrees to use the current sharing percentages for any facilities it may lease from Qwest or Verizon.

Staff recommends the Commission place one condition on approval of Comspan's application. That condition is that Comspan abide by all the rules related to OUSF participation, including maintenance of its state certification and ETC designation for federal universal service support. Comspan's previous designations included this condition, and Staff recommends that the condition be extended to the Veneta, Reedsport and Myrtle Point wire centers as well. There are no special reporting requirements imposed on CLECs by Order No. 00-312, and Staff does not recommend adopting any at this time.

Based on forecasts provided by Comspan, Staff estimates that designating Comspan as eligible to receive OUSF support in Veneta, Reedsport and Myrtle Point will not significantly impact the size of the total fund or require adjustments to the surcharge rate within the next year. As Comspan's future line growth is likely to come mainly from migration of customers already served by the incumbents, OUSF support will merely shift from one carrier to another without changing the total size of the fund.

For consistency with OUSF reporting and disbursement periods, Staff recommends that the Commission approve disbursements to Comspan to begin on May 30, 2008, based on its March 31, 2008, eligible line counts.

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PROPOSED COMMISSION MOTION:

Comspan Communications, Inc. be designated in the Veneta, Reedsport and Myrtle Point wire center as eligible to participate in the OUSF program, subject to the aforementioned condition, with support payments to commence on May 30, 2008, based on its March 31, 2008, line counts.

Comspan UM 1364