

ORDER NO. 12 089

ENTERED MAR 13 2012

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1581

In the Matter of

WARM SPRINGS TELECOM OREGON

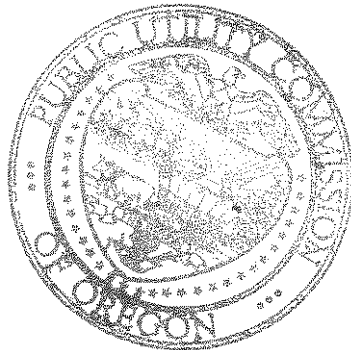
Request for Approval of Eligibility to  
Participate in the Oregon Universal Service  
Fund with exhibits 1-3.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its Public Meeting on March 13, 2012, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter, attached as Appendix A.

BY THE COMMISSION:



*Becky L. Beier*

**Becky L. Beier**  
Commission Secretary

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.

ITEM NO. CA4

**PUBLIC UTILITY COMMISSION OF OREGON  
STAFF REPORT**

**PUBLIC MEETING DATE: March 13, 2012**

REGULAR \_\_\_\_\_ CONSENT  X  EFFECTIVE DATE  March 13, 2012

DATE: March 2, 2012

TO: Public Utility Commission

FROM: Celeste Hari *CH*

THROUGH: Bryan Conway *BC* and Kay Marinos *KM*

SUBJECT: WARM SPRINGS TELECOMMUNICATIONS COMPANY: (Docket UM 1581) Application for approval of eligibility to participate in the Oregon Universal Service Fund in the Warm Springs Wire Center.

**STAFF RECOMMENDATION:**

Staff recommends the Commission grant the application of Warm Springs Telecommunications Company (WSTC) for Oregon Universal Service Fund (OUSF) support eligibility in the Warm Springs wire center of Qwest Corporation dba CenturyLink QC (Qwest).

**DISCUSSION:**

Background

WSTC is a newly formed telecommunications provider that is wholly owned by the Confederated Tribes of Warm Springs of Oregon. It is the first tribally owned company in Oregon and is committed to providing service to tribal members within the reservation boundaries, as well as to all others that live within the Warm Springs wire center boundary but outside the reservation. WSTC requests OUSF support to assist in achieving this goal.

The Commission certified WSTC as a competitive local exchange carrier (CLEC) on March 8, 2010, under Order No. 10-137. WSTC will provide local exchange services predominantly over its own network facilities, but may also employ unbundled network elements (UNEs) or resale services of the incumbent local exchange carrier (ILEC) Qwest. The Commission designated WSTC as a federal Eligible Telecommunications Carrier (ETC) to receive federal universal service support and as an Oregon Eligible

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Telecommunications Provider (ETP) to participate in the Oregon Telephone Assistance Program (OTAP) on December 20, 2011, under Order No. 11-522.

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 for Oregon's two non-rural ILECs, Qwest and the former Verizon Northwest Inc. 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.

Order No. 00-312 also established the requirements for eligibility to receive OUSF support. To be eligible for OUSF support 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 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;
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;

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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.

WSTC filed its application for OUSF eligibility in the Warm Springs wire center on February 14, 2012. WSTC demonstrates through its application that it meets all the above requirements for eligibility in the Warm Springs wire center. In addition, WSTC submitted an affidavit signed by its Chief Executive Officer, Jeffrey Anspach, certifying that the company does, or will, meet all eligibility requirements for receiving OUSF support in the Warm Springs wire center. Staff established in Docket UM 1190 that before applying to receive OUSF support, a carrier must first obtain designation as a federal ETC for federal universal service support and designation as an ETP to participate in OTAP for low-income support. WSTC completed these requirements when the Commission granted federal ETC and ETP status to WSTC in the Warm Springs wire center in Docket UM 1549, Order No. 11-522.

WSTC's application includes a network improvement plan that details how the company will use OUSF support to build out its network. Although such a detailed plan is not a prerequisite for OUSF designation, it serves to demonstrate WSTC's need for, and use of, OUSF support.

No parties filed to oppose the OUSF application.

#### Impact on Fund Size

Order No. 00-312 established the method for determining the amount of OUSF support that a CLEC such as WSTC can receive. The support available to a CLEC is based on the amount of support per line that the ILEC receives. The per-line support amounts vary by wire center. In the Warm Springs wire center, the incumbent, Qwest, currently receives support of \$149.81 per line each month. If WSTC serves a customer using its own loop facility, WSTC will receive the full amount of the per-line support. If WSTC serves a customer using a UNE loop leased from Qwest, WSTC and Qwest will share support on a percentage basis (26.39% to WSTC and 73.61% to Qwest). WSTC will receive no support for lines provided using resale of Qwest's retail local service.

Based on forecasts provided by WSTC, there appears to be an insignificant financial impact on the size of the OUSF. As WSTC's customer line growth will be largely related

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to migration of customers already served by the incumbent, OUSF support will merely shift from one carrier to the other without changing the total size of the fund.

**PROPOSED COMMISSION MOTION:**

Warm Springs Telecommunications Company d/b/a Warm Springs Telecom be designated in the Warm Springs wire center as eligible to participate in the Oregon Universal Service Fund program.

WSTC UM 1581