

ENTERED May 04 2021

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2147

In the Matter of

HUNTER COMMUNICATIONS &
TECHNOLOGIES, LLC,

Application for Designation as an Eligible
Telecommunications Carrier (ETC) and
Eligible Telecommunications Provider (ETP).

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on May 4, 2021, 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:

A handwritten signature in blue ink, appearing to read "Nolan Moser".

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. CA11

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 4, 2021**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____ **N/A**

DATE: April 23, 2021

TO: Public Utility Commission

FROM: Bret Farrell

THROUGH: Bryan Conway and Caroline Moore **SIGNED**

SUBJECT: HUNTER COMMUNICATIONS & TECHNOLOGIES, LLC:
(Docket No. UM 2147)
Application for Designation As An Eligible Telecommunications Carrier
and Eligible Telecommunications Provider.

STAFF RECOMMENDATION:

Staff recommends the Commission grant the request of Hunter Communications & Technologies, LLC (Hunter) for designation as a federal Eligible Telecommunications Carrier (ETC) for the purposes of receiving Rural Digital Opportunity Fund (RDOF) and Lifeline federal universal service funds, and for designation as an Eligible Telecommunications Provider (ETP) to participate in the Oregon Telephone Assistance Program (OTAP), in the census blocks listed in Attachment A.

The designations are prerequisites to Hunter's receipt of federal universal service funds associated with its winning bids in the RDOF Auction 904. These funds will enable Hunter to deliver gigabit-speed internet access service to 4,151 locations in certain census blocks in rural areas of Jackson, Klamath, and Lane counties. ETC and ETP designations will also facilitate the expansion of voice service and Lifeline benefits in those areas.

To ensure that Hunter meets federal deadlines for this funding, Staff also recommends that a designation order be issued as early as possible, but no later than June 7, 2021.

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DISCUSSION:

Issue

Whether the Commission should designate Hunter Communications & Technologies, LLC as an ETC and ETP in the census blocks listed in Attachment A.

Applicable Law

Section 214(e)(2) of the Federal Communications Act of 1934, as amended by the Telecommunications Act of 1996 (the Act), delegates authority to state commissions to designate common carriers that are eligible to receive federal universal service support, i.e., ETCs. State commissions may confer federal ETC status on ILECs or competitive common carriers that meet the conditions set out in Section 214(e)(1) of the Act. In general, those conditions require that the ETC offer and advertise, throughout its designated service area, the services that are supported by federal universal service support mechanisms. The carrier must provide the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's service.

Each state may adopt specific requirements for ETC designation that are consistent with requirements of the Act. The Commission updated its own set of requirements for federal ETC designation in Docket No. UM 1648, Order No. 15-382 entered December 1, 2015 (ETC Order). These are listed in Appendix A to the ETC Order.

Federal Communications Commission (FCC) rules require that an ETC offer Lifeline services to qualifying low-income customers within its designated service area. In order to offer Lifeline services in Oregon, a carrier must be designated as an ETP to participate in the OTAP, which is the state-mandated counterpart of the FCC Lifeline program. OTAP requirements are based on Residential Service Protection law found in ORS 759.687 and Chapter 290, Sections 2-6 and 16, Oregon Laws 1987 as amended. Commission rules governing OTAP are found in Chapter 860, Division 033 of the Oregon Administrative Rules

Analysis

The Applicant

Hunter Communications & Technologies, LLC has been in business since 1994 and provides telecommunications services in Grants Pass, Klamath Falls, and cities across southern Oregon. The company holds a certificate of authority to provide telecommunications service as a competitive provider.¹

¹ Order No. 09-446 in Docket No. CP 1461.

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The Current Application

On January 5, 2021, Hunter filed the application at issue here. The company requests designation as a federal ETC and as a ETP to enable it to receive almost \$13.7 million of federal universal service RDOF support for which it had submitted winning bids in the FCC's Auction 904. This support, which is to be paid out over ten years, is intended to help Hunter bring Fiber-to-the-Home service to 4,151 locations in the specific census blocks listed in Attachment A. These census blocks are located in rural parts of Jackson, Klamath, and Lane counties. As part of the ETC designation for high-cost funds, Hunter is obligated to offer Lifeline services in the same areas. ETP designation, which is also required, will enable Hunter to participate in the OTAP program and offer supplemental support to qualifying low-income consumers.

Hunter participated in the RDOF auction as a member of the Grain Communications Opportunity Fund II, L.P., which was announced as a provisional winning bidder in several states including Oregon, in December 2020. The Fund subsequently assigned the winning bid in Oregon to Hunter. Therefore, Hunter is the entity that must fulfill the obligations associated with the auction. The notice announcing the winners also contained post-auction procedures and filing requirements for winning bidders. Hunter has filed all post-auction information required by the FCC to date. In order to complete all requirements and begin receiving support, however, Hunter must file documentation of its ETC designation from the Oregon Commission by June 7, 2021, or seek a waiver of this requirement.²

The Rural Digital Opportunity Fund was designed to build off of the Connect America Fund auction by using reverse auctions in two phases. The FCC sought to balance the realities of a finite budget and the high cost of providing broadband in more remote rural areas. To facilitate technological neutrality among various types of network providers, the FCC established four performance tiers (speeds and usage allowances) and two latency tiers (low and high), which were weighted to reflect preferences toward higher speeds and usage allowances, and lower latency. Bidders were required to choose their performance tiers and latency tiers prior to bidding. Hunter chose the Gigabit performance tier (speed at least 1 Gbps downstream and 500 Mbps upstream, and a usage allowance of 2 terabytes per month), and the low latency tier (100 milliseconds or less). As a result, Hunter is obligated to meet these requirements, in addition to other specific requirements (discussed below), in the areas where it will receive RDOF funding.

² FCC Public Notice DA 20-1422, released December 7, 2020.

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Staff's Review and Analysis

Staff reviewed the application and issued a data request for additional information that Hunter had filed with the FCC following the RDOF auction. This included the “long form application” submitted by winning bidders after the auction.

Hunter’s application, in conjunction with the information submitted to the FCC, demonstrates that it satisfies the Commission’s ETC requirements as discussed below. The following numbers correspond to the application requirement in Appendix A of the ETC Order.

1. Information regarding applicant and its common carrier status: Hunter is a common carrier. Hunter has a certificate of authority as a competitive provider in Oregon.³ They have authority to provide local and long distance services statewide. Hunter submitted all information required by the FCC to demonstrate financial health. Staff reviewed this information and found that Hunter is financially and technically capable of providing the supported services in compliance with FCC and Commission rules.
2. Type of Federal Universal Service support for which designation is requested: Hunter requests designation to receive federal high-cost support from the RDOF Auction 904, as well as Lifeline support.
3. Commitment and ability to provide all supported services: Hunter commits to provide the supported services within the proposed designated service area. These include voices services as defined in 47 CFR §54.101 (a), with a stand-alone voice service offering, and a broadband internet access service offering that meets the applicable FCC requirements. Hunter's current service offerings are posted on its website.
4. Identification and definition of proposed designated service and commitment to serve: Hunter identifies its proposed designated service area in terms of census blocks consistent with its auction award in Attachment A to its application. Hunter will offer supported services to any potential customer in this proposed designated service area. The application also includes a map of the proposed designated service area which is included as Attachment B of this memo. No Tribal Lands are included. Hunter commits to provide the supported services throughout the designated service area. The FCC requires that Rural Digital Opportunity Fund support recipients must offer commercially at least one voice and one broadband service meeting the relevant service requirements to all locations within the awarded area in the following timeframe: 40 percent of the

³ Order No. 09-446 in Docket No. CP 1461.

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required number of locations in a state by the end of third year of support and an additional 20 percent by the end of the fourth and fifth years of support.⁴

5. Types of facilities used to provide supported services: Hunter uses state-of-the-art fiber networks to serve customers, and plans to continue to use and expand this network to serve customers throughout the proposed designated service area. Hunter intends to provide customers with Fiber-to-the-Home service. Hunter's commitment is to provide gigabyte Internet connection in the RDOF areas. At the present time Hunter does not have any current interconnection agreements that are relevant to the areas in which it now seeks ETC designation.
6. Commitment to use support in accordance with rules: Hunter's application includes an affidavit certifying that it will use the support funds only for the intended purposes. Hunter also certifies in its application that it will comply with the service requirements applicable to the support it receives, including without limitation, the Commission's rules and orders governing ETCs and ETPs, and the applicable provisions of the FCC rules, 47 C.F.R. § 54.101, et seq., including all applicable limitations on use of funds and reporting requirements. Additionally, the ETC Order requires an applicant for high-cost support to submit a five-year network plan demonstrating how the applicant will use the support funds. The FCC waived the requirement that winning bidders filed a five-year plan of its network investments because it found "that such obligations were no longer essential to the [FCC's] ability to monitor ETC use of support for its intended purpose."⁵ Staff agrees with the FCC's reasoning in this regard. Also, the required buildout targets as described in requirement No. 4 above, in conjunction with network descriptions included in the company's application, meet the intended purpose of a plan.
7. Commitment to advertise high-cost supported services throughout the service area: Hunter commits to advertise the availability of the supported services and the relevant charges using media of general distribution, including the internet. It is in the company's interest to advertise in order to gain customers and associated revenues.
8. Commitment to offer and advertise Lifeline and OTAP services: Hunter commits to offer and advertise Lifeline and OTAP services throughout the designated service area. Hunter commits that it will continue to offer the Lifeline discounts on its voice-only basic telephone service offering that will not exceed \$34.99 per month. Hunter also commits that customers qualifying for Lifeline will also be

⁴ FCC Order 20-5, released February 7, 2020 para. 48.

⁵ FCC Public Notice DA 20-1422 para. 36.

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permitted to apply the Lifeline discount to Hunter's bundled service plans that include voice and broadband.

9. Ability to remain functional in emergencies: Hunter certifies that it has sufficient back-up power to ensure functionality without an external power source. In addition, Hunter has sufficient excess capacity and/or redundancy in its network that it can re-route traffic around damaged facilities. Hunter also certifies it is able to manage traffic spikes resulting from emergency situations. E911 is deployed and fully functional. Hunter commits to comply with Oregon's 9-1-1 emergency reporting system tax requirements.
10. Commitment to service quality and consumer protection standards: Hunter commits to specific, objective measures for service quality and consumer protection, including adherence to Commission rules for wireline carriers. Hunter is familiar with Commission consumer protection and service quality rules. The company also commits to work with the Commission to resolve customer complaints and designated an individual as Hunter's contact person for complaints.
11. Designation on Tribal Lands: These requirements do not apply as Hunter is not seeking designation on Tribal Lands.
12. Public interest showing: Designation of Hunter as an ETC to receive federal universal service funds is in the public interest. Hunter's designation will bring gigabit-speed internet access service to customers in the designated service area, as well as competitive voice services and Lifeline discounts for qualifying low-income customers.
13. Commitment to provide reports as required: Annual reporting requirements for designated ETCs are set forth in Appendix A of the ETC Order 15-382. Hunter agrees to abide by all ETC annual reporting requirements established by the commission. Hunter commits to cooperate with the Commission staff in providing special weekly, monthly, or quarterly reports that Commission staff may reasonably find necessary based on program requirements and the circumstances of Hunter.

As to ETP requirements, Hunter requests ETP designation to participate in the OTAP and offer Lifeline services. In response to ETC requirement No. 8 above, commits to abide by all OTAP and RSPF rules and procedures.

No party filed to intervene in the docket.

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Conclusion

Staff finds Hunter's application demonstrates the carrier has satisfied eligibility requirements for ETC and ETP designation for purposes of receiving RDOF, Lifeline, and OTAP support. Staff finds granting Hunter's application without further review satisfies the public interest. If the commission issues an ETC designation order as soon as possible, but not later than June 7, 2021, it will enable Hunter to meet the FCC's deadline to receive funding.

PROPOSED COMMISSION MOTION:

Approve the request of Hunter Communications & Technologies, LLC to be designated as a federal ETC for purposes of receiving RDOF high-cost and Lifeline federal universal service support funds, and as an ETP to participate in the OTAP, in the census block groups listed in Attachment A.

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Attachment A

Census Blocks

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Attachment B

