

ORDER NO. 22-350

ENTERED Sep 23 2022

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2235

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

2022 Annual Certification of Eligible
Telecommunications Carriers.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on September 20, 2022, 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.

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: September 20, 2022**

REGULAR _____ **CONSENT** X **EFFECTIVE DATE** _____

DATE: September 6, 2022

TO: Public Utility Commission

FROM: Julie Jent

THROUGH: Bryan Conway and Roger White **SIGNED**

SUBJECT: OREGON PUBLIC UTILITY COMMISSION STAFF:
(Docket No. UM 2235)
2022 Annual Certification of Eligible Telecommunications Carriers.

STAFF RECOMMENDATION:

Staff recommends that the Public Utility Commission of Oregon (Commission):

1. Certify, pursuant to the requirements of 47 C.F.R. § 54.314, to the appropriate use of federal Universal Service Fund (USF) high-cost support in Oregon, and to the continuing eligibility of the carriers listed in Exhibit A to receive such support; and
2. Accept the 2022 annual reports of all eligible telecommunications carriers (ETCs) required by Commission Order No. 06-292, as amended by Order No. 15-169.

DISCUSSION:

Issues

1. Whether the Commission should certify the continuing eligibility of certain Oregon ETCs to receive federal USF high-cost support.
2. Whether the Commission should accept the annual reports submitted by all ETCs for the current reporting year.

Applicable Law and Orders

Federal regulation 47 C.F.R. § 54.314(a) requires states to submit annual certifications in order to enable the continuation of high-cost support to their state-designated ETCs. The certification must state that all ETCs receiving federal high-cost support within the state “only used support during the preceding calendar year and will only use support in the coming calendar year for the provision, maintenance, and upgrading of facilities and services for which support is intended.” The state must provide this annual certification to the Federal Communications Commission (FCC) and the Universal Service Administrative Company (USAC) by October 1 of each year.

ETCs filing annual reports for the purpose of certification must follow the requirements adopted by the Commission in Order No. 15-169, entered June 4, 2015. The reporting requirements differ by the type of funding received by an ETC. All ETCs, except those receiving Mobility Fund support, must complete relevant sections of FCC Form 481. ETCs that receive Mobility Fund support must complete FCC Form 690. The FCC forms address specific items of information established in FCC orders and regulations. The information is intended to aid in determining whether the ETC met the company’s commitments and responsibilities for the previous calendar year. Such items relate to functionality in emergencies, service rate comparability, Lifeline offerings, Tribal engagement, and broadband deployment progress and locations, as well as certifications that various obligations were met. 2020 was the last reporting period requiring the rate floor information. The FCC eliminated the rate floor reporting requirement in its April 15, 2019, Order, FCC 19-32.

In addition to the FCC Form 481, ILEC ETCs must also submit specific data supporting the receipt of a specific form of USF support known as CAF/ICC support, if applicable. Although the Commission does not certify Lifeline-only ETCs annually to the FCC, it does require these ETCs to file copies of their completed FCC Form 481 each year. See Order No. 15-169, Appendix A.

Commission Order No. 15-169 requires each ETC receiving high-cost support to also submit a notarized affidavit signed by a corporate officer attesting to the appropriate use of support in Oregon. To meet FCC requirements, and to enable the Commission to certify the Oregon ETCs properly to the FCC, the wording must be specific. To that end, each year the Commission staff distributes a template for the affidavit to the ETCs. This year’s template is included here as Exhibit B.

Due dates for the reports are keyed to the dates that such reports are to be filed with the FCC. This year, the FCC published the new July 29 deadline in a public notice released on July 11, 2022, after the Office of Management and Budget (OMB) granted Paperwork Reduction Act (PRA) approval for the annual data collection.

Background

Section 214(e)(2) of the Telecommunications Act of 1996 (Act) authorizes state public utility commissions to designate telecommunications carriers eligible to receive federal USF support. The Commission first exercised this authority in December 1997 when it designated Oregon's incumbent local exchange carriers (ILECs) as ETCs.¹ Since then, the Commission has designated several wireless carriers and non-ILEC wireline carriers (collectively referred to as competitive ETCs or CETCs) to receive federal USF high-cost and Lifeline (low-income) support.² The Commission has also granted limited designations to several carriers only for the purpose of receiving Lifeline support however, the rules do not specify that states need to certify these Lifeline-only ETCs.³

As set forth in 47 C.F.R. § 54.314(a), the FCC requires states to file annual certifications with the FCC to enable the continuation of high-cost support to their state-designated ETCs. The certification must state that all federal high-cost support provided to ETCs within the state “was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” If the state fails to make such certification by the deadline, the ETCs will not receive federal USF support for the coming year. In the case of Auction 904, commonly referred to as RDOF, the FCC issued a notice and waiver that long-form applicants authorized for RDOF support would be required to file their first FCC Form 481 by July 1, 2023.

Every year since 2006, in order to make this annual certification to the FCC, the Commission has required ETCs to submit reports. The reports also serve to demonstrate each ETC's ongoing compliance with designation requirements. The Commission first established requirements for the reports in Docket No. UM 1217, Order No. 06-292. When the FCC transformed its universal service program to include support for broadband services, it also established new annual reports (beginning in 2013) that all ETCs must file regardless of any existing state requirements for reporting.⁴ To reduce the resulting duplicative reporting burdens on Oregon ETCs, the

¹ See Order No. 97-481, Docket No. UM 873.

² Currently, the wireless carriers designated for federal high-cost support in Oregon are AT&T Mobility LLC, United States Cellular Corporation, Eagle Telephone System Inc. dba Snake River PCS, and Viasat. The wireline competitive carrier designated for high-cost support is Douglas Services, Inc. dba Douglas Fast Net.

³ Currently, the Lifeline-only ETCs are Casco dba Peak Demand, i-wireless LLC dba Access Wireless, Monmouth Independence Network (MINET), and Warm Springs Telecommunication Company. Assurance Wireless USA, L.P. relinquished its ETC designation as of April 1st, 2022, and Boomerang Wireless LLC dba enTouch Wireless will relinquish its designation on October 15, 2022.

⁴ See *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 et al., released November 18, 2011 (*Transformation Order*), and *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 11-42 et al., FCC 12-11, released February 6, 2012.

Commission approved the replacement of its own reports with those required by the FCC through several orders adopted in Docket No. UM 1648.

Analysis

Although the docket this year refers to the 2022 Annual Certification of ETCs, this year's filing is called Program Year 2023 because the information in the filing will be used for disbursements for 2023. In this filing, the data is from 2021, which is the most recent full calendar year for which data is available. For the calendar year 2021, Oregon ETCs received approximately \$88.6 million of federal high-cost support. The funds reflect a mixture of support for existing voice services as well as for expansion of broadband internet access services. The specific Oregon ETCs that receive federal high-cost funding and are eligible for ETC recertification are listed in Exhibit A, with some companies operating on a consolidated basis with others. In addition, Oregon ETCs received approximately \$4.1 million of federal Lifeline support in 2021. The Lifeline funds are received by high-cost ETCs as well as Lifeline-only ETCs, although one ETC (Virgin Mobile USA dba Assurance Wireless) received about 61 percent of all the Lifeline support in Oregon for 2021. However, they relinquished their ETC designation as of April 1st, 2022, and will no longer receive lifeline support.

Each year Staff requests that a new docket be opened to address annual ETC reports and certification for that year. This year's docket is Docket No. UM 2235. Staff reviewed all of the ETC reports and certifications filed in Docket No. UM 2235. Each ETC that was required to file a report has filed an annual report.

Conclusion

Staff concludes on its review that the ETCs have met the annual reporting requirements for this year and recommends that the Commission proceed to accept the reports and to certify Oregon ETCs receiving high-cost support to the FCC. The certification will enable the ETCs to continue receiving federal universal service support for the benefit of the residents of Oregon.

PROPOSED COMMISSION MOTION:

Issue an order in Docket No. UM 2235:

1. Certifying that all federal high-cost support provided to the ETCs listed in Exhibit A within Oregon was used in the preceding calendar year (2021) and will be used in the coming calendar year (2023) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, and that the ETCs listed

in Exhibit A are eligible to receive federal universal service high-cost support pursuant to 47 C.F.R. § 54.314; and

2. Accepting the 2022 annual reports of all ETCs currently designated in Oregon.

UM 2235 Annual ETC Certification, 2022

Exhibit A
Eligible Telecommunications Carriers
Certified to Receive Federal Universal Service Fund High-Cost Support

Company Name	USAC Study Area Code
Asotin Telephone Co dba TDS Telecom	532404
AT&T Mobility LLC	539010
Beaver Creek Cooperative Telephone Company	532359
Canby Telephone Association dba Directlink	532362
Cascade Utilities, Inc. dba Reliance Connects	532371
CenturyTel of Oregon, Inc. dba CenturyLink	532361
CenturyTel of Eastern Oregon, Inc. dba CenturyLink	532361
Clear Creek Mutual Telephone Company dba Clear Creek Communications	532363
Colton Telephone Company dba Coltontel	532364
Douglas Services. Inc. dba Douglas Fast Net	536129
Eagle Telephone System, Inc.	532369
Eagle Telephone System, Inc., dba Snake River PCS	539007
Gervais Telephone Company dba DataVision	532373
Helix Telephone Co.	532376
Home Telephone Company	532377
Molalla Telephone Company dba Molalla Communications Company	532383
Monitor Cooperative Telephone Company dba Monitor Telecom	532384
Monroe Telephone Company	532385
Mt Angel Telephone Company (part of Canby Tel.)	532386
Nehalem Telecommunications, Inc. dba RTI Nehalem Telecom	532387
North-State Telephone Co.	532388
Oregon-Idaho Utilities Inc.	532390
Oregon Telephone Corporation	532389
Oregon Tel. Corp MTE-Oregon	533336
People's Telephone Co.	532391
Pine Telephone System, Inc.	532392
Pioneer Telephone Cooperative dba Pioneer Connect	532393
Qwest Corporation dba CenturyLink	535163
Roome Telecommunications Inc. dba RTI	532375
Scio Mutual Telephone Association	532397
Stayton Cooperative Telephone Company	532399
St. Paul Cooperative Telephone Association	532396
Trans-Cascades Telephone Company dba Reliance Connects	532378
United States Cellular Corporation dba US Cellular	539002
United Telephone Company of the Northwest dba Centurylink	532400
Viasat Carrier Services, Inc.	539020
Ziply Fiber Of Oregon LLC	533401
Ziply Fiber Northwest LLC	532416

**Exhibit B
Sample Affidavit**

AFFIDAVIT CERTIFYING USE OF UNIVERSAL SERVICE FUNDS

State of: _____

County of: _____

I, _____ [*name of company officer*], being of lawful age and duly sworn, on my oath, state that I am the _____ [*title*] of _____ [*Company name*] and that I am authorized to execute this Affidavit on behalf of the Company, and the facts set forth in this Affidavit are true to the best of my knowledge, information and belief.

Pursuant to the requirements of the Federal Communications Commission, 47 C.F.R. § 54.314, _____ [*Company name*] hereby certifies to the Public Utility Commission of Oregon that it is eligible to receive federal high-cost support for the program years cited.

I attest that all federal high-cost support provided to _____ [*Company name*] in Oregon was used in the preceding calendar year (2021) and will be used in the coming calendar year (2023) only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

DATED this _____ day of _____, 2022.

By: _____ (*Officer's Name*)

Its: _____ (*Officer's Title*)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2022.

Notary public, State of _____

My Commission Expires: _____