

ORDER NO. 24-108

ENTERED Apr 19 2024

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2147

In the Matter of

HUNTER COMMUNICATIONS &
TECHNOLOGIES, LLC,

Supplemental Application to Expand
Designated Service Area to Offer Lifeline
and OTAP Services.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on April 16, 2024, 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: April 16, 2024**

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

DATE: April 5, 2024

TO: Public Utility Commission

FROM: Jon Cray

THROUGH: Bryan Conway and Melissa Nottingham **SIGNED**

SUBJECT: HUNTER COMMUNICATIONS & TECHNOLOGIES, LLC:
(Docket No. UM 2147)
Supplemental Application to Expand Designated Service Area to Offer
Lifeline and OTAP Services.

STAFF RECOMMENDATION:

Staff recommends that the Oregon Public Utility Commission (the Commission) grant Hunter Communications & Technologies', LLC d/b/a Hunter Fiber (Hunter) request to expand the Company's designated service area as a federal Eligible Telecommunications Carrier (ETC) for the limited purpose of receiving federal low-income support (Lifeline) from the federal universal service fund (FUSF) and as a state Eligible Telecommunications Provider (ETP) to participate in the Oregon Telephone Assistance Program (OTAP) in multiple locations within the counties of Jackson, Josephine, Klamath, Lake, Lane, Linn, Marion, Polk, Yamhill, and Deschutes, excluding any Tribal lands that may be within the served area.

DISCUSSION:

Issue

Whether the Commission should expand Hunter's designated service area as a federal ETC and state ETP to receive FUSF and Residential Service Protection Fund (RSPF) support, respectively, for providing federal Lifeline and OTAP, collectively Oregon Lifeline, discounts to eligible households in Oregon with low incomes in multiple locations within the counties of Jackson, Josephine, Klamath, Lake, Lane, Linn, Marion, Polk, Yamhill, and Deschutes, excluding any Tribal lands that may be within the served area.

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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 incumbent local exchange carriers 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 outlined in Appendix A to the ETC Order.

To offer federal Lifeline discounts to eligible low-income customers in Oregon, a carrier must be designated as an ETP to participate in the OTAP, which is the state-mandated counterpart to the Federal Communication Commission's (FCC's) Lifeline program. OTAP requirements are based on Residential Service Protection law and found in Chapter 290, Section 6 and 16, Oregon Laws 1987, as amended. Commission rules governing OTAP are prescribed in Chapter 860, Division 033 of the Oregon Administrative Rules (OAR).

Analysis

The Applicant

On May 4, 2021, the Commission designated Hunter as a federal ETC for the purposes of receiving Rural Digital Opportunity Fund and federal Lifeline universal service fund support. The Commission also designated Hunter as a state ETP to participate in the OTAP and receive RSPF support.¹

The Supplemental Application

Hunter submitted the supplemental application at issue here on March 19, 2024. The Company requests designation as a federal ETC for the sole purpose of receiving low income support (Lifeline) from the FUSF, as well as ETP designation to participate in the OTAP and offer additional discounts from the RSPF to all eligible customers who reside within the locations in the counties of Jackson, Josephine, Klamath, Lake, Lane,

¹ See Order No. 21-138 in Docket No. UM 2147.

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Linn, Marion, Polk, Yamhill, and Deschutes, excluding any Tribal lands that may be within the served area. Hunter does not request high-cost support from either the federal or Oregon universal service funds.

Review

Prior to the filing, Staff and Hunter engaged in email communications and met on Monday, March 18 to discuss the proposed expanded service area on which the Company petitioned for ETC and ETP designation. Staff finds that Hunter has demonstrated that it meets each of the current requirements for designation as a federal ETC and state ETP for purposes of offering Oregon Lifeline discounts as evidenced by the Company's previous filing submitted and approved in Order No.21-138. Hunter has been a federal ETC and state ETP for nearly three (3) years and has thereby demonstrated its ability and commitment to comply with requirements for federal ETC designation in Appendix A of the ETC Order No. 15-382 and state ETP in Chapter 860, Division 033 of OARs in its current designated service area.

In its proposed designated service area, Hunter currently offers broadband internet access service using fiberoptic or fixed wireless technology at simultaneous download and upload speeds that range from 100 megabits per second (Mbps) to 2.5 gigabits per second at a rate of approximately \$50.00 to \$130.00. Hunter's service offerings significantly exceed the current FCC minimum download and upload speed of 25 and 3 Mbps, respectively, to qualify for the federal Lifeline discount. Voice service, which includes local and toll calling, with vertical features such as voicemail, is also available at an additional rate of approximately \$20.00.

ETP Designation

In addition to federal ETC designation, a carrier must receive state ETP designation from the Commission before it can participate in the OTAP and receive reimbursement from the RSPF for passing through the discount to the eligible customer. Having already met the requirements for ETP designation in its current designated service areas, Hunter reiterates its commitment in its supplemental application to comply with the procedures and OARs governing OTAP in the expanded proposed designated service areas. The federal Lifeline program provides support in the amount of \$9.25 or \$5.25 per month to qualifying customers for broadband internet access or voice service, respectively. The OTAP currently provides an additional \$10.00 of monthly support for broadband internet access or voice services.²

Hunter currently offers federal Lifeline and OTAP discounts to its customers where it is already designated as an ETC. Approval of the supplemental application will permit Hunter to offer the Oregon Lifeline discounts to eligible customers throughout its service

² See OAR 860-033-0035(1)(b).

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territory as opposed to the limited areas where the Company receives RDOF support but does not have any Oregon Lifeline subscribers. Hunter has not been able provide Oregon Lifeline discounts to Commission-approved eligible subscribers on the basis that they do not reside in the areas where the Company is currently designated for RDOF purposes. Hunter decided to file the supplemental application after Staff had approached the Company with this concern.

Designated Service Area

Designation as an ETC and ETP requires identification of a "designated service area." The designated service area is defined in terms of specific geographic units, e.g., wire centers, zip codes, census blocks, etc. Hunter identifies its proposed designated service area through approximately 55,000 residential addresses. Staff, in past memos, has generally included a company's proposed geographic units in an appendix; however, the competitively sensitive information of these addresses warrants confidential treatment.

Conclusion

Staff finds Hunter's petition demonstrates the Company has satisfied eligibility requirements for federal ETC and state ETP designation for the limited purpose of receiving Lifeline and OTAP support and is in the public interest. Federal ETC and ETP status will enable Hunter to offer discounts to eligible households in a wider area than it currently serves and will give residents another choice of providers that participate in the Oregon Lifeline program.

Staff appreciates Hunter's receptiveness to pursuing federal ETC and state ETP designation throughout its remaining service territory for the sole purpose of supporting eligible Oregonians so they can subscribe to and maintain access to broadband internet access service and voice service. Moreover, the FCC is winding down the Affordable Connectivity Program (ACP) in which Hunter participates.³ Many Hunter subscribers currently receiving the ACP discount of up to \$30.00 will be affected. The eligibility criteria for ACP is similar to Oregon Lifeline, so many Hunter subscribers will have an opportunity to apply for and receive Oregon Lifeline discounts that will offset up to two-thirds of the ACP discount that is slated to sunset in April and May 2024. Hunter's desire to support Oregonians with low incomes is commendable and demonstrates the Company's commitment and likelihood of success in enrolling customers in the Oregon Lifeline program.

³ *Affordable Connectivity Program*, WC Docket No. 21-450, Order, DA 24-23 (WCB Jan. 11, 2024) (*ACP WindDown Order*).

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PROPOSED COMMISSION MOTION:

Approve the request of Hunter Communications & Technologies, LLC to expand the Company's designated service area as a federal ETC for the sole purpose of receiving low-income support (Lifeline) from the FUSF, and for state designation as ETP to participate in the OTAP, excluding any Tribal lands that may be within the served area.

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