

State of Florida



Public Service Commission

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DATE: September 16, 2010

TO: Office of Commission Clerk (Cole)

FROM: Division of Regulatory Analysis (Polk, Casey) *PC*
Office of General Counsel (Teitzman) *NT*

RE: Docket No. 100383-TP - T-Mobile South LLC's 2011 annual certification as an eligible telecommunications carrier in rural service areas and request to amend certification area. *WJH*

AGENDA: 09/28/2010 – Regular Agenda – Issue 1 - Final Agency Action; Issue 2 - Proposed Agency Action – Interested Persons May Participate.

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: October 1, 2010, High-Cost Universal Service Certification for 2011 must be submitted to the Federal Communication Commission and Universal Service Administrative Company by October 1.

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\RAD\WP\100383.RCM.09-28-10.DOC

Case Background

Section 254(e) of the Telecommunications Act of 1996 provides that a carrier that receives universal service support "...shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." In its Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 00-256 (the Rural Task Force Order; hereafter, the RTF Order), the Federal Communications Commission (FCC) modified its rules pertaining to the provision of

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high-cost support for rural telephone companies. The FCC adopted a rule requiring that states who wish for rural carriers within their jurisdiction to receive federal high-cost support must file a certification annually with the FCC and with the Universal Service Administrative Company (USAC). This certification is to affirm that the federal high-cost funds flowing to rural carriers in the state, or to any competitive eligible telecommunications carriers seeking support for serving customers within a rural carrier's service area, will be used in a manner that comports with Section 254(e). 47 C.F.R. §54.314 provides the following:

State certification of support for rural carriers.

- (a) *State certification.* States that desire rural incumbent local exchange carriers and/or eligible telecommunications carriers serving lines in the service area of a rural incumbent local exchange carrier within their jurisdiction to receive support pursuant to §§54.30 (local switching support), 54.305 (sale or transfer of exchanges), and/or 54.307 (support to competitive ETC) of this part and/or part 36, subpart F of this chapter must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended...
- (c) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and shall be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96-45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth below in subsection (d). . . .

The FCC requires that certifications for the next calendar funding year must be submitted by the preceding October 1; thus, in order for a rural carrier to be eligible for high-cost universal service support for all of calendar year 2011, certification must be submitted by October 1, 2010.

On March 17, 2005, the FCC released Order No. FCC 05-46 establishing new annual certification and reporting requirements to comply with the conditions of Eligible Telecommunication Carrier (ETC) designation and to ensure universal service funds are used for their intended purposes. In making its decision, the FCC believed that the new reporting requirements were reasonable and consistent with the public interest and the Act, and will further the FCC's goal of ensuring that ETCs satisfy their obligation under Section 214(e) of the Act to provide supported services throughout their designated service areas. The FCC also believed that the administrative burden placed on carriers would be outweighed by strengthening the requirements and certification guidelines to help ensure that high-cost support is used in the manner that it was intended, and would help prevent carriers from seeking ETC status for purposes unrelated to providing rural and high-cost consumers with the access to affordable telecommunications and information services.

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By Order No. PSC-05-0824-FOF-TL, issued August 15, 2005, and Order No. PSC-05-0824A-FOF-TL, issued August 17, 2005, the Florida Public Service Commission (FPSC or Commission) approved the establishment of the annual certification and reporting requirements. T-Mobile South LLC (T-Mobile) is seeking Florida rural high-cost certification for 2011.

By Order No. PSC-10-0478-PAA-TP, issued July 29, 2010, in Docket No. 090510-TP, the FPSC designated T-Mobile South LLC as an ETC in the rural areas of CenturyLink, Frontier, Indiantown, NEFCOM, TDS, Smart City, and Windstream in order to be eligible to receive high-cost federal universal service support. Consummating Order No. PSC-10-0535-CO-TP, issued August 20, 2010, made the Commission's Proposed Agency Action (PAA) effective and final.

This docket addresses T-Mobile's petition for its annual ETC certification required by 47 C.F.R. sections 54.209, 54.313, 54.314, 54.809, and 54.904; and, concurrently, its request to amend its authorized list of rural wire centers for which it is authorized to receive federal universal service high-cost support from the federal Universal Service Fund (FUSF). T-Mobile inadvertently omitted a wire center from its list of authorized rural wire centers in Docket No. 090510-TP.

Discussion of Issues

Issue 1: Should the FPSC certify to the FCC and to the USAC that for the year 2011, T-Mobile will only use the federal high-cost support it receives for the provision, maintenance and upgrading of facilities and services for which the support is intended?

Recommendation: Yes. (Polk, Casey)

Staff Analysis: Pursuant to FCC rules under 47 C.F.R. §54.314, the state commission has the primary responsibility to certify that an ETC is eligible to receive high-cost federal universal service support. Unless the Commission submits T-Mobile's certification to the FCC and to the USAC by October 1, 2010, T-Mobile will receive no interstate high-cost universal service funds during the first quarter of 2011, and would forego all federal support for that quarter. Certifications filed after October 1, 2010, would cause T-Mobile to be eligible for high-cost funds for only partial quarters of 2011. T-Mobile has provided the Commission with an affidavit (see Attachment A) in which it has certified that its use of interstate high-cost universal service support received during 2011 will comport with Section 254(e) of the Act and applicable FCC rules. Given this ETC certification, staff recommends that the Commission certify to the FCC and to the USAC that for the year 2011, T-Mobile will only use the federal high-cost support it receives for the provision, maintenance and upgrading of facilities and services for which the support is intended.

Issue 2: Should T-Mobile be allowed to amend its authorized list of rural wire centers for which it is authorized to receive federal high-cost universal service support to add a wire center that T-Mobile inadvertently omitted from its list in Docket 090510-TP?

Recommendation: Yes. Staff recommends that T-Mobile be allowed to amend its authorized list of rural wire centers by adding the **LKPCFLXA** wire center which T-Mobile inadvertently omitted from its list of authorized rural wire centers in Docket 090510-TP. (Polk, Casey)

Staff Analysis: Pursuant to FCC rules 47 C.F.R. §54.314, the state commission has the responsibility to approve the list of rural wire centers for which an ETC can receive high-cost support. Staff recommends that T-Mobile be allowed to amend its authorized list of rural wire centers by adding the **LKPCFLXA** wire center which T-Mobile inadvertently omitted from its list of authorized rural wire centers in Docket 090510-TP.

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Issue 3: Should this docket be closed?

Recommendation: Yes. With the approval of Issues 1 and 2, this docket should be closed upon the issuance of an Order consummating Issue 2, if no person whose substantial interests are affected by the proposed agency action files a protest of Issue 2 within 21 days of the issuance of the order. (Teitzman)

Staff Analysis: With the approval of Issues 1 and 2, this docket should be closed upon the issuance of an Order consummating Issue 2, if no person whose substantial interests are affected by the proposed agency action files a protest of Issue 2 within 21 days of the issuance of the order.

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AFFIDAVIT

State of Washington)
) ss:
 County of King)

BEFORE ME, the undersigned authority, personally appeared H. Skip Cornett, known to me to be a credible person and of lawful age, who deposed and said:

My name is H. Skip Cornett, I am employed as Vice President of Tax at T-Mobile USA, Inc., the parent company of T-Mobile South LLC, doing business as T-Mobile ("T-Mobile or the Company"). I am an officer of T-Mobile and am authorized to provide this affidavit on behalf of the Company. This affidavit is being given to support the certification of the Florida Public Service Commission ("Commission") as contemplated in 47 C.F.R. §§ 54.209, 54.313, 54.314, 54.809 & 54.904.

Company hereby certifies the following:

1. T-Mobile, a commercial mobile radio service provider as defined under 47 C.F.R. §20.3, was recently designated as an Eligible Telecommunications Carrier ("ETC") and authorized by the Commission on August 18, 2010 and August 19, 2010, in Docket No. 090510-TP (Order No. PSC-10-0478-PAA-TP) and Docket No. 090507-TP (Order No. PSC-10-0475-PAA-TP), to receive both rural and non-rural high-cost universal service funds in certain delineated Incumbent Local Exchange Carrier ("ILEC") wire centers within the state of Florida.
2. As a result of a clerical error, one rural ILEC wire center was mistakenly omitted from the list in Attachment A incorporated into the Commission Order in Docket No. 090510-TP (Order No. PSC 10-0478-PAA-TP) and another wire center was incorrectly duplicated. Specifically, T-Mobile intended to include rural ILEC wire center LKPCFLXA and did not intend to duplicate LKHLFLXA. T-Mobile has separately petition the Commission to correct this oversight. Accordingly, this annual certification and all future T-Mobile certifications will include the correct rural wire center LKPCFLXA (subject to Commission approval) in addition to all other authorized rural ILEC wire centers and omit the duplicated wire center.
3. T-Mobile will only use the federal high cost support it receives during 2011 for the provision, maintenance and upgrading of facilities and service for which such support is intended.
4. In support of it's applications to be designated as an ETC in Docket No. 090507-TP and 090510-TP, T-Mobile submitted to the Commission on April 26, 2010, a five-year service improvement plan ("SIP") commencing in 2010 and going through 2014, along with a request for confidential treatment under Section 364.183(1) of the Florida Statutes.

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T-Mobile's SIP details annual expenditures that will greatly exceed projected annual universal service support to improve signal quality, coverage, and capacity within its designated ETC service area. In particular, T-Mobile has initiated several projects aimed at increasing its coverage in rural and non-rural areas of Florida and improving customer experience through signal quality, capacity and other network enhancements. T-Mobile herein incorporates the previously submitted SIP in support of this certification.


5. T-Mobile follows appropriate procedures for network outage reporting consistent with 47 C.F.R. Part 4. Since the Commission's designation of T-Mobile as an ETC was subsequent to the reportable period of March 1, 2009 through March 1, 2010, T-Mobile does not have any FCC outages to report. However, T-Mobile certifies that it will track on a going-forward basis all reportable network outages as of the effective date of our ETC designation and report accordingly in subsequent annual reports. T-Mobile evaluates each network outage on a case-by-case basis to determine the cause of the outage, the impact on customers, T-Mobile's ability to meet its service provisioning obligations, including the availability of 911 services, and the steps that can be taken to prevent future outages. T-Mobile will remain vigilant to prevent outages in the future.
6. T-Mobile tracks customer complaints and requests for service. Since T-Mobile's designation as an ETC became effective on August 18, 2010 and August 19, 2010, T-Mobile does not have any customer complaints or requests for service, as defined by 47 C.F.R. § 54.209(a)(3), in unserved or underserved areas from potential customers in Florida during the reportable period. In future annual reports and updates, as necessary, T-Mobile will report customer complaints and requests for service and the steps taken to respond to them.
7. T-Mobile is a signatory to the CTIA Consumer Code for Wireless Service, which is the applicable service quality and consumer protection standard for wireless carriers, and has been certified by CTIA as being compliant with the code.¹ T-Mobile also provides its customers with other service quality and consumer protection benefits that have resulted in the Company being consistently recognized as one of the best in customer service. T-Mobile hereby certifies that it is complying with applicable service quality standards and consumer protection rules for the areas in which it was designated as an ETC in Florida.
8. T-Mobile is able to function in emergency situations as set forth in Section 54.201(a)(2), which includes "a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency

¹ See CTIA Consumer Code for Wireless Service, available at http://files.ctia.org/pdf/The_Code.pdf. Signatories to the CITA Consumer Code agree to: (1) disclose rates and terms of service to consumers; (2) make available maps showing where service is generally available; (3) provide contract terms to customers and confirm changes in service; (4) allow a trial period for new service; (5) provide specific disclosures in advertising; (6) separately identify carrier charges from taxes on billing statements; (7) provide customers the right to terminate service for changes to contract terms; (8) provide ready access to customer service; (9) promptly respond to consumer inquiries and complaints received from government agencies; and (10) abide by policies for protection of customer privacy. T-Mobile was certified by CTIA as being compliant with this code on June 22, 2010.

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situations.² In particular, T-Mobile has the following capabilities to remain functional in emergency situations:

- Availability of fixed and portable back-up power generators at various network locations throughout T-Mobile's network that can be deployed in emergency situations.
 - Ability to reroute traffic around damaged or out-of-service facilities through the deployment of cell-on-wheels ("COWs"), redundant facilities, and dynamic rerouting of traffic over alternate facilities.
 - A network control center that monitors network traffic and anticipates traffic spikes, and can then (i) deploy network facilities to accommodate capacity needs, (ii) change call routing translations, and (iii) deploy COWs to temporarily meet traffic needs until longer-solutions, such as additional capacity and antenna towers can be deployed.
 - The majority of sites not equipped with fixed generators have battery back up systems installed to maintain service in the event of a widespread power outage.
8. T-Mobile makes available several different rate plans with varying amounts of local usage and different calling areas that are comparable to the offerings of the ILECs. Attached as Exhibit A is a list of some of T-Mobile's currently offered rate plans. T-Mobile hereby certifies that it is offering a local usage plan comparable to that offered by the ILECs in the areas in which it was designated as an ETC.
9. T-Mobile recognizes that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within its service area.

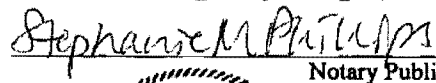

Signature

8/18/10
Date

H. Skip Comett

Business Address:
T-Mobile USA, Inc.
12920 SE 38th Street
Bellevue, WA 98006

Subscribed and sworn to before me this 18th day of August, 2010.


Notary Public

² 47 C.F.R. § 54.202(a)(2)

