

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 28, 2016

TO: Office of Commission Clerk (Stauffer)

FROM: Office of Telecommunications (Curry, Bates, Long)
Office of the General Counsel (Murphy) *KLC* *CM* *TT* *for KY*

RE: Docket No. 160119-TP – 2017 State certification §54.313 and §54.314, annual reporting requirements for high-cost recipients, and certification of support for eligible telecommunications carriers.

AGENDA: 08/09/16 – Regular Agenda – Proposed Agency Action except for Issue No. 1 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 10/01/16 (Filing deadline with Federal Communications Commission and Universal Service Administrative Company)

SPECIAL INSTRUCTIONS: None

Case Background

Section 254(e) of the Telecommunications Act of 1996, provides in part, 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.” States seeking federal high-cost support for carriers within their jurisdiction are required to file a certification annually with the Federal Communications Commission (FCC) and with the Universal Service Administrative Company (USAC). The federal universal service high-cost program is designed to ensure that consumers in rural, insular, and high-cost areas have access to modern communications networks capable of providing voice and broadband service, both fixed and mobile, at rates that are reasonably comparable to those in urban areas. The program fulfills this

universal service goal by allowing eligible carriers who serve these areas to recover some of their costs from the federal Universal Service Fund.

The carrier annual reporting data collection form known as Form 481 is an FCC form that all eligible telecommunications carriers (ETCs) in the High Cost and Lifeline programs file annually with the FCC and state commissions. For carriers in the High Cost Program, the form collects:

- a carrier's five-year improvement or upgrade plan (only required for interstate rate-of-return ETCs)¹
- detailed information on any outages
- the number of unfulfilled requests for service
- the number of complaints per 1,000 connections
- certification of service quality compliance
- certification of emergency operation capability
- branding information of the holding company and its affiliates
- documentation demonstrating whether the carrier is engaged with Tribal governments
- certification that frozen support received in 2015 was used consistently with the goal of achieving universal availability of voice and broadband
- certification that high-cost support designated for the use of offsetting reductions in access charges was used in the prior calendar year to build and operate broadband-capable networks used to offer provider's own retail service in areas substantially unserved by an unsubsidized competitor²

Carriers in the High Cost Program are also required to provide the company's price offerings for voice and broadband services. Incumbent carriers receiving high-cost support with rates below the FCC's benchmark must report rates and lines on the Rate Floor Data Collection Report and Certification. For carriers in the Lifeline Program, the form collects branding information of the holding company and its affiliates and terms and conditions on service plans offered to subscribers.

Florida ETCs filed their Form 481s concurrently with the Florida Public Service Commission (Commission) and the FCC. Staff reviewed each company's Form 481 filing to verify that all of

¹ An interstate rate-of-return carrier is one that is allowed to set rates on its various products and services so that it earns no more than the rate-of-return authorized by the FCC. FCC rules define the rate base (specified plant items) upon which a carrier is allowed to earn a return. In Florida, the following companies are interstate rate-of-return companies: ITS Telecommunications Systems, Inc., NEFCOM, TDS Telecom/Quincy Telephone, and Smart City Telecom.

² 47 C.F.R. §54.313(d)

the required information for high-cost certification was provided. Staff's recommendation for certification affirms that the federal high-cost funds flowing to carriers in the state, or to any competitive eligible telecommunications carriers seeking support for serving customers within a carrier's service area, will be used in a manner that comports with Section 254(e) of the 1996 Telecommunications Act. Certification is defined by 47 C.F.R. 54.314(a) as follows:

Certification of support for eligible telecommunications carriers

(a) Certification. States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program 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 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. High-cost support shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.

In order for a carrier to be eligible for high-cost universal service support for all of calendar year 2017, certification must be submitted by the Commission by October 1, 2016.³ The certification may be filed with the FCC and USAC in the form of a letter from the Commission.⁴ Based on prior support received by carriers in Florida, staff estimates that the amount of funding carriers will receive for 2017 will likely be between \$60 and \$65 million in high-cost support.⁵

USAC has developed a letter template for use with annual high-cost certifications of state ETCs. Attachment A is a draft letter, to be signed by the Chairman, using the USAC template to certify high-cost for Florida ETCs. In addition, USAC has also developed an online certification process whereby a state commission representative can sign-in to select and submit the ETCs from their states that have been certified for the upcoming year. Staff suggests filing both the letter and using USAC's online process this year.

³ 47 C.F.R. §54.314(d)

⁴ 47 C.F.R. §54.314(c)

⁵ This estimate does not include wireless carriers.

Discussion of Issues

Issue 1: Should the Commission certify to the FCC and to USAC, by letter from the Chairman and through USAC's online portal, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; Frontier Florida LLC⁶; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; and Windstream Florida, Inc. are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended?

Recommendation: Yes. Staff recommends that the Commission should certify to the FCC and USAC, by letter from the Chairman and through USAC's online portal, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; Frontier Florida LLC; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; and Windstream Florida, Inc. are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. (Bates, Curry, Long, Murphy)

Staff Analysis: Staff reviewed each of the carriers' annual reporting data collection forms (Form 481) to ensure all necessary information required for high-cost certification was provided by the ETCs. Within Form 481, each of the Florida ETCs has certified that all federal high-cost support provided to them within Florida was used in the preceding calendar year (2015) and will be used in the coming calendar year (2017) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

On May 1, 2014, the FCC released an order waiving the requirement that interstate price cap ETCs receiving frozen or incremental support file new five-year build-out plans.⁷ Each of the companies in Issue 1 are interstate price cap ETCs.⁸ Therefore, these carriers are exempt from filing a build-out plan. Having reviewed these ETCs' filings, staff recommends that the Commission certify to the FCC and USAC, by letter from the Chairman and through USAC's online portal, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; Frontier Florida LLC; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; and Windstream Florida, Inc. are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the

⁶ Formerly Verizon Florida LLC.

⁷ FCC 14-591, WC Docket No. 10-90, Connect America Fund, Order, released May 1, 2014, https://apps.fcc.gov/edocs_public/attachmatch/DA-14-591A1.pdf, accessed on July 15, 2016, ¶ 1.

⁸ An interstate price cap carrier is a carrier not subject to rate-of-return regulation. A price cap carrier is limited in its ability to raise rates on the basis of a formula defined by the FCC. The extent to which a carrier can raise rates depends on its growth in expenses and a productivity growth factor.

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federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Issue 2: Should the Commission certify to the FCC and to USAC, by letter from the Chairman and through USAC's online portal, that ITS Telecommunications Systems, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone; and Smart City Telecommunications, LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended?

Recommendation: Yes. Staff recommends that the Commission should certify to the FCC and to USAC, by letter from the Chairman and through USAC's online portal, that ITS Telecommunications Systems, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone; and Smart City Telecommunications, LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. (Bates, Curry, Long, Murphy)

Staff Analysis: This issue addresses annual federal high-cost certification for Florida's four interstate rate-of-return carriers. FCC Form 481 requires interstate rate-of-return carriers receiving support for voice telephony service and offering broadband (as a condition of such support) to file a five-year build-out plan that accounts for the broadband obligations adopted in the USF/ICC Transformation Order.⁹ In 2014, carriers were required to forecast network improvements for calendar years 2015 through 2019. The initial five-year build-out plans were consistent with 47 C.F.R. §54.202 (a)(1), and included the specific proposed improvements or upgrades to the network, and an estimate of the area and population that will be served as a result of the improvements. For the July 1, 2016 filing, carriers had to report progress towards those goals.

Staff reviewed each of the interstate rate-of-return carrier's annual reporting data collection forms (Form 481) to ensure all necessary information required for high-cost certification was provided by the ETCs. Within Form 481, each of the Florida ETCs has certified that all federal high-cost support provided to them within Florida was used in the preceding calendar year (2015) and will be used in the coming calendar year (2017) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Given these ETCs' certifications and the companies' reported progress towards the goals in their five-year build-out plans, staff recommends that the Commission certify to the FCC and to USAC, by letter from the Chairman, that ITS Telecommunications Systems, Inc.; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS

⁹ FCC 11-161, WC Docket No. 10-90, Connect America Fund, Report and Order and Further Notice of Proposed Rulemaking, released November 18, 2011, https://apps.fcc.gov/edocs_public/attachmatch/FCC-11-161A1.pdf, accessed July 15, 2016, ¶ 587.

Telecom/Quincy Telephone; and Smart City Telecommunications, LLC d/b/a Smart City Telecom are eligible to receive federal high-cost support, and have used the federal high-cost support in the preceding calendar year, and will use the federal high-cost support they receive in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interest are affected by the proposed agency action (in Issue 2 only) files a protest within 21 days of the issuance of the order, this docket should be closed upon issuance of the Consummating Order. (Bates, Curry, Long, Murphy)

Staff Analysis: Upon conclusion of the 21 day protest period, if no protest has been filed, this docket should be closed upon issuance of the Consummating Order.

STATE OF FLORIDA

JULIE I. BROWN
CHAIRMAN



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Public Service Commission

July 28, 2016

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

USAC
Vice President, High Cost and Low Income Division
2000 L Street NW, Suite 200
Washington, DC 20036

Re: CC Docket No. 96-45/WC Docket No. 10-90, Annual State-Certification of Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R. § 54.314

Dear Ms. Dortch:

Pursuant to the requirements of 47 C.F.R. § 54.314, the Florida Public Service Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that the telecommunications carriers included in this letter are eligible to receive federal high-cost support for the program years cited.

The Florida Public Service Commission certifies for the carriers listed below that all federal high-cost support provided to such carriers within Florida was used in the preceding calendar year (**2015**) and will be used in the coming calendar year (**2017**) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.¹

¹ 47 C.F.R. §54.314(a) ("Certification. States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program 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 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. High-cost support shall only be provided to the extent that the State has filed the requisite certification pursuant to this section.")

Company Name	Study Area Code
BellSouth Telecommunications, LLC d/b/a AT&T Florida	215191
Embarq Florida, Inc. d/b/a CenturyLink	210341
Frontier Communications of the South, LLC	210318
Frontier Florida LLC	210328
GTC, Inc. d/b/a FairPoint Communications	210291, 210329, 210339
ITS Telecommunications Systems, Inc.	210331
Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone	219904
Northeast Florida Telephone Company d/b/a NEFCOM	210335
Quincy Telephone Company d/b/a TDS Telecom/Quincy Telephone	210338
Smart City Telecommunications, LLC d/b/a Smart City Telecom	210330
Windstream Florida, Inc.	210336

If you have any questions regarding this certification, please contact Kiwanis L. Curry at (850) 413-6662, or Mark Long at (850) 413-6101.

Sincerely,

Julie I. Brown
Chairman