

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 2024 State certification under 47 C.F.R. §54.313 and §54.314, annual reporting requirements for high-cost recipients and certification of support for eligible telecommunications carriers.

DOCKET NO. 20230076-TP
ORDER NO. PSC-2023-0361-FOF-TP
ISSUED: November 29, 2023

The following Commissioners participated in the disposition of this matter:

ANDREW GILES FAY, Chairman
ART GRAHAM
GARY F. CLARK
MIKE LA ROSA
GABRIELLA PASSIDOMO

ORDER AUTHORIZING 2024 UNIVERSAL SERVICE CERTIFICATION

BY THE COMMISSION:

One of the primary principles of universal service support as described in the Telecommunications Act of 1996 (Telecom Act) is for consumers in all regions to have reasonably comparable access to telecommunications and information services at reasonably comparable rates.¹ The federal universal service high-cost program is now designed to help 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.² The program supports the goal of universal service by allowing eligible telecommunications carriers (ETCs) to recover some of the costs of service provision in high-cost areas from the federal Universal Service Fund. Carriers can be designated as ETCs in Florida by the Florida Public Service Commission (Commission) or the Federal Communications Commission (FCC).

In order for carriers to receive federal universal service high-cost support, state commissions must annually certify to the Universal Service Administrative Company (USAC) and to the FCC that each carrier complies with the requirements of Section 254(e) of the Telecom Act by using high-cost support “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”³ Certification will be filed online by the Commission through USAC’s online portal. Immediately following online certification, the

¹ 47 U.S.C. §254(b)(3) (2023)

² FCC, “Universal Service for High Cost Areas - Connect America Fund,” updated July 7, 2023, <https://www.fcc.gov/general/universal-service-high-cost-areas-connect-america-fund>, accessed August 17, 2023.

³ 47 C.F.R. §54.314(a) (2023)

USAC website will automatically generate a letter that may be submitted electronically to the FCC to satisfy the submission requirements of 47 C.F.R. §54.314(c).

Case Background

In October 1997, the Commission designated Incumbent Local Exchange Carrier (ILEC) Windstream Florida, LLC as an eligible telecommunications carrier (ETC).⁴ In April 2021, Windstream Communications, LLC, an affiliate of Windstream Florida, LLC, requested an ETC designation by this Commission in order to receive federal Rural Digital Opportunity Fund (RDOF) high-cost support in Florida for areas outside Windstream Florida, LLC's ILEC territory.⁵ Our staff instructed Windstream Communications, LLC to seek its ETC designation directly from the FCC because Windstream Communications, LLC was seeking an ETC designation for broadband and VoIP services outside of the Commission's jurisdiction. Windstream Communications, LLC was granted an ETC designation by the FCC on January 12, 2022.⁶

Windstream Florida, LLC and Windstream Communications, LLC (collectively Windstream) were among several carriers requesting certification from the Commission for 2024 federal high-cost support during this year's certification proceeding in the instant docket during June and July. Specifically, Windstream Communications, LLC requested certification for federal high-cost support for its Study Area Code (SAC) 219027 while Windstream Florida, LLC claimed no federal support was expected to be received in its SAC 210336 in 2024.⁷ Our staff advised Windstream to follow the FCC-designated certification process because all expected support was to be received by the FCC-designated ETC Windstream Communications, LLC. We certified eight other carriers as eligible to receive federal high-cost support on September 12, 2023.⁸ Our staff subsequently filed the necessary certifications with the FCC and the Universal Service Administrative Company (USAC) on September 15, 2023.

On September 25, 2023, USAC notified our staff that Windstream Communications, LLC SAC 219027 had yet to be certified. After discussions with both FCC and USAC staff, it was revealed that a new process had recently been developed requiring state and federal level certification for carriers, like Windstream, that receive RDOF support in both ILEC and

⁴ Docket No. 19970644-TP.

⁵ Docket No. 20210070-TX.

⁶ FCC, "Windstream Designated as an ETC in RDOF-Eligible Areas in FL and NY," released January 12, 2022, <https://www.fcc.gov/document/windstream-designated-etc-rdof-eligible-areas-fl-and-ny>, accessed September 26, 2023.

⁷ Study Area Codes (SACs) are FCC-designated geographic areas within a state where federal universal service funds should be invested. Each ETC is assigned at least one SAC in each state it receives support, and each SAC is exclusive to one carrier. The ILEC Windstream Florida, LLC's Florida-assigned SAC is 210336 and the competitive carrier Windstream Communications, LLC's Florida-assigned SAC is 219027.

⁸ The carriers certified were: Bright House Networks Information Services (Florida), LLC; CenturyLink of Florida, Inc.; Consolidated Communications of Florida Company; Frontier Florida LLC; ITS Telecommunications Systems, LLC d/b/a Blue Stream Fiber; Northeast Florida Telephone Company d/b/a NEFCOM; Quincy Telephone Company d/b/a TDS Telecom; and Smart City Telecommunications LLC d/b/a Smart City Telecom.

competitive areas with separate SACs within a state. With this new process, USAC disperses support to a single SAC per carrier in a state, regardless of whether the support is used in that SAC or commingled with another SAC assigned to that company, its affiliate, or its holding company. USAC decided to disperse all Windstream RDOF funding for Florida to SAC 219027. Windstream refiled its request for certification with this Commission on September 29, 2023.

Review and Decision

Windstream requested certification from the Commission under 47 C.F.R §54.314 and 47 U.S.C. §254(e) to receive federal high-cost universal service support. The carriers have submitted an affidavit attesting that they have used the federal high-cost support received in the preceding calendar year and will use the federal high-cost support received in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The affidavit included both of Windstream's SACs, meaning certification is sought for both Windstream Florida, LLC and Windstream Communications, LLC.

Under 47 C.F.R. §54.314(c)(1), the Commission "may file a supplemental certification for carriers not subject to the (s)tate's annual certification." Therefore, we hereby certify to USAC and the FCC that both Windstream Florida, LLC and Windstream Communications, LLC are eligible to receive federal high-cost support.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that we shall certify to USAC and to the FCC, through online certification with USAC and by electronic filing of a USAC-generated certification letter with the FCC, that Windstream Florida, LLC and Windstream Communications, LLC are eligible to receive federal high-cost support, that they have used the federal high-cost support in the preceding calendar year, and they 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. It is further

ORDERED by the Florida Public Service Commission that this docket should be closed upon issuance of a Final Order.

By ORDER of the Florida Public Service Commission this 29th day of November, 2023.



ADAM J. TETZMAN

Commission Clerk

Florida Public Service Commission

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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

TPS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request:

- 1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or
- 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.