

**RESPONSE OF
WINDSTREAM FLORIDA, INC.
TO THE
FLORIDA PUBLIC SERVICE COMMISSION
ELIGIBLE TELECOMMUNICATIONS CARRIER
WORKSHOP
August 31, 2007**

1) What is the role and authority of the FPSC in the USF process?

Response:

The role of the FPSC is one of oversight. The FPSC role is to ensure that companies receiving funds from the universal service fund use the funds in accordance with current FCC rules and regulations.

2) How many ETCs should be designated in a rural wire center?

Response:

Windstream believes there should be at most one wireline and one wireless ETC in a rural wire center.

3) How many ETCs should be designated in a non-rural wire center?

Response:

Windstream believes there should be at most one wireline and one wireless ETC in a non-rural wire center.

4) If a limit is set on the number of ETCs designated in a wire center, how should it be decided which ETC(s) serve it? (e.g. one wireline & one wireless?)

Response:

At most there should be one wireline and one wireless ETC designated in a wire center. ETCs should receive Federal universal service support in wire centers where their own costs are higher than some pre-determined benchmark rate. Federal universal service support should only be available in wire centers or market areas where no ETC would otherwise serve because of the economics.

5) How should "Public Interest" be determined for ETC designation in a rural area?

Response:

The public interest "test" is met when universal service support is available to bring wireline and/or wireless service to wire centers or in market areas where there otherwise wouldn't be any service, giving customers in these areas access to supported services at reasonable rates.

6) Can a state apply a "Public Interest" standard found in § 214(e)(2) of the Telecommunications Act of 1996, to carriers seeking ETC status in non-rural study areas? If so, how should "Public Interest" be determined for ETC designation in a non-rural area?

Response:

Yes. States must apply a public interest standard for non-rural areas. Section 214(e)(2) requires a state to determine that a ETC application is in the public interest for a rural or non-rural area before granting approval. Once that determination is made for a non-rural area, the state commission “shall” designate and for a rural area “may” designate. As such, the public interest standard for non-rural areas should have the same criteria described in response to Question No. 5.

- 7) **What additional criteria should be required to obtain ETC status for high-cost funds? (e.g., USF funds must be invested in Florida? USF funds must be used in unserved areas?)**

Response:

Section 254(e) of the Act requires that any carrier receiving support “shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” The support is intended to ensure reasonably comparable and affordable services in high cost areas. It is already a requirement that ETCs spend high-cost funds in the study area where they are received.

- 8) **Pursuant to § 214(e)(1), should an entity be required to establish its ability to serve all customers of the current ETC, if the incumbent ETC relinquishes its designation?**

Response:

Yes. Each ETC whether wireline or wireless should be required to have the ability to serve all customers within the area they are certified as prescribed in the FCC rules. See 47 USC 214(e)(4).

- 9) **In Order No. PSC-07-0288-PAA-TP, the FPSC concluded that “...we now have jurisdiction to consider CMRS applications for ETC designation.” Given that the FCC’s jurisdiction to designate a carrier as an ETC, in § 214(e)(6) of the Telecommunications Act of 1996, is premised on a state commission not having jurisdiction, can the FCC designate any additional carriers within Florida?**

Response:

Section 214(e)(2) clearly provides that state commissions are the proper entities to designate additional ETCs. The FCC can approve ETC designations only if the entity seeking ETC status is not subject to state commission jurisdiction.

- 10) **Can the FCC continue to perform annual certification of carriers that it has designated if it no longer has jurisdiction under § 214(e)(6) of the Telecommunications Act of 1996?**

Response:

The FCC only performs annual certifications where a state commission does not (see 47 CFR 54.313 and 54.314). Now that the FPSC commission has concluded it has jurisdiction, the FPSC is the proper authority to conduct the annual certifications.

- 11) **Should an ETC be required to offer all supported services pursuant to 47 C.F.R. § 54.101(a)(1), not just, e.g. Lifeline and Link-Up?**

Response:

Section 54.101(b) of the FCC's rules requires that "an eligible telecommunications carrier must offer each of the [supported] services set forth in [101(a)] in order to receive Federal universal service support." Lifeline and Link-Up are not supported services. Lifeline and Link-Up are support mechanism for low-income consumers.

- 12) If an ETC uses its ETC designation only for the purposes of providing Lifeline service, should a waiver be sought of other requirements to offer services? What is the extent of the FPSC's authority to grant such waivers?**

Response:

An ETC is required to offer all supported services. See Response to Question 11. The FPSC does not have any authority to waive the FCC's rules.

- 13) What can Florida do to relinquish its role as being the number one net contributor to the USF fund?**

Response:

Florida should support comprehensive reform of the federal universal service fund, which should include reducing the number of wireless ETCs to one per market, basing support on each ETCs own costs, providing support only in areas that are uneconomical to serve and where service otherwise would be unavailable.

- 14) In considering the "Public Interest" standard for ETC designation, to what degree should the following aspects be considered:**

- a. The benefits of increased customer choice?
- b. The impact of the designation on the universal service fund?
- c. The unique advantages and disadvantages of the competitor's service offering?

Response:

The intent of the federal high-cost universal service mechanisms is to provide support in high cost areas so those consumers in these areas have reasonably comparable supported services available to them at reasonably affordable rates. Additional ETC designations should only be granted to the extent that service is being extended into otherwise unserved areas. Universal service should not be used to fund competition. In making the public interest determination states must consider the impact any additional designation will have on the size of the universal service fund. States must consider the impact on the universal service fund of designating additional ETCs. The cumulative effect of granting ETC designations, even if the additional support amount of a particular designation is not large, has proven to be detrimental to the size and sustainability of the fund.

- 15) How should the comparable local usage requirement of ETC designation be considered?**

Response:

Pursuant to 47 CFR 54.202(a)(4), CETCs must offer a local usage plan that is comparable to the one offered by the ILEC. In order to determine whether the CETC plan is comparable, the FPSC should determine whether the CETC 's customers could use a similar amount of local minutes at similar prices.

- 16) Should the amount of per-line support received by the incumbent LEC be a consideration in ETC designation?**

Response:

Yes it should be part of the state's public interest consideration. States should compare the amount of support an additional ETC would receive based on the ILEC's costs to the cost the new ETC would incur for serving the unserved area. State commissions should be especially reluctant to designate multiple CETCs in areas where the incumbent receives high per line amounts of universal service and service already exists.

- 17) **Should a requirement of one line per household for USF be imposed? Does the FPSC have the authority to take such action?**

Response:

The FPSC does not have authority to take such action.

- 18) **Should ETCs be required to list the projects and locations of all projects for which USF funds will be used in their five-year plans? Should ETCs be required to provide an explanation if a project isn't completed by the time of the next annual recertification?**

Response:

The FPSC and the FCC should ensure that support is used for its intended purposes. The intended purpose should be consistent with any representations the CETC makes in support of the public interest justification. The FPSC should require CETC applicants to provide in detail information regarding the projects for which universal service support will be used. Applicants should be held accountable for progress and completion of those plans in their annual certifications. Given our responses to previous questions, the CETC's plans should focus on bringing service to unserved areas and support should only be awarded if the cost to provide that service exceeds a pre-determined benchmark.

- 19) **How should the benefit be measured of adding plant in a wire center using USF funds? (e.g., more customers? More handsets? Better coverage?)**

Response:

For CETCs, the FPSC should determine whether consumers throughout the service area can obtain reasonably comparable supported services at affordable rates where they previously could not.

- 20) **What criteria should be used to determine if an ETC is meeting the Lifeline and Link-Up advertising requirements?**

Response:

The criteria are set out in 47 CFR 201(d)(2). A simple method of determining compliance with the criteria is to request duplicate copies of advertisements.

- 21) **What criteria should be met if an ETC decides it wishes to relinquish its ETC designation?**

The criteria are set out in 47 CFR 54.205 of the FCC's rules.

- 22) **What are the differences in the requirements to be an ETC versus the requirements of a carrier of last resort (COLR)?**

Response:

One significant difference is that ETCs may resale the services of other telecommunications carriers to meet their ETC obligations and a COLR cannot. Every

ETC should have identical COLR requirements to provide the requested service using its own network or at least a technically similar service. Furthermore, CETCs are not subject to legacy rules and regulations, such as price regulation, service quality requirements and approval of service offerings imposed on COLR carriers. These antiquated rules and regulations may have been necessary when the COLR carriers enjoyed a monopoly status, but have no place in today's competitive market place. The FPSC should recognize the level of competition and eliminate these unnecessary and burdensome rules.

- 23) Do the responsibilities associated with ETC designation differ from those afforded a COLR under state law? If so, what are the differences and similarities?**

Response:

See response to 22.

- 24) Should a company which is a reseller and who also leases network elements be required to have a certain percentage of customers served by the leasing of network elements to meet the "own facilities" requirement?**

Response:

All ETCs should be required to serve customers using their own facilities or at least a technically similar service meeting the same quality and reliability metrics of the service provided over their owned facilities.

- 25) What percentage of wireless CETC support should go to new towers in unserved areas?**

Response:

All of the wireless ETC support should go to construct, operate and maintain towers in unserved areas as long as the costs in doing so exceeds some established benchmark.

- 26) What other issues need to be addressed when considering ETC policy?**

Response:

Universal service is scarce resource and should be restricted to bring supported services to customers who otherwise would not have affordable access to them. The existing rules do not meet this objective and, therefore, comprehensive reform is urgently needed. The funding of multiple wireless carriers bringing identical services to consumers who already have access to service is wasteful and should be reformed without further delay.