

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 2017 State certification §54.313 and §54.314, annual reporting requirements for high-cost recipients, and certification of support for eligible telecommunications carriers.

DOCKET NO. 160119-TP
ORDER NO. PSC-16-0338-PAA-TP
ISSUED: August 17, 2016

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman
LISA POLAK EDGAR
ART GRAHAM
RONALD A. BRISÉ
JIMMY PATRONIS

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING ANNUAL CERTIFICATION TO INTERSTATE RATE-OF-RETURN
ELIGIBLE TELECOMMUNICATIONS CARRIERS
AND FINAL ORDER
GRANTING ANNUAL CERTIFICATION TO INTERSTATE PRICE-CAP
ELIGIBLE TELECOMMUNICATIONS CARRIERS

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission (Commission) that, except as designated as “Final Agency Action,” the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

Universal Service Funding

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. 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.” Based on prior support received by carriers in Florida, we estimate that the amount of funding carriers will receive for 2017 will likely be between \$60 and \$65 million in high-cost support.¹

Required Carrier Filings

The Florida eligible telecommunications carriers (ETC) have filed the Federal Communications Commission’s (FCC) Form 481 with both the Commission and the FCC. Form 481 must be filed annually by all ETCs in the high cost and lifeline programs. For carriers in the high cost program, completion of Form 481 requires the following information:

- a carrier’s five-year improvement or upgrade plan (only required for interstate rate-of-return ETCs)
- 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

Each carrier in the high cost program is also required to provide its 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. Carriers in the lifeline program must provide branding information for any holding company, its affiliates, and the terms and conditions on service plans offered to subscribers.

¹ This estimate does not include wireless carriers.

² 47 C.F.R. §54.313(d)

We have reviewed each company's Form 481 filing to verify that all of the required information for high-cost certification was provided.

Certification by Florida Commission

A state seeking federal high-cost support for a carrier within its jurisdiction must file an annual certification with the FCC and with the Universal Service Administrative Company (USAC). 47 C.F.R. 54.314(a) provides the following:

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 this 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 USAC has also developed an online certification process. We shall file the letter and also use the USAC online process.

Decision

Interstate Price-Cap ETCs⁵ (Final Agency Action)

We have reviewed each Florida interstate price-cap ETC's annual reporting data collection form to ensure all necessary information required for high-cost certification was provided. By its completed Form 481, each Florida interstate price-cap ETC has certified that all federal high-cost support provided to it 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.

Having reviewed the filings of each Florida interstate price-cap ETC, we shall certify to the FCC and USAC, by letter from our Chairman, and through USAC's online portal, that

³ 47 C.F.R. §54.314(d)

⁴ 47 C.F.R. §54.314(c)

⁵ 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. The FCC has waived the requirement that interstate price-cap ETCs receiving frozen or incremental support file new five-year build-out plans. 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.

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. (1) are eligible to receive federal high-cost support, (2) have used the federal high-cost support in the preceding calendar year, and (3), 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.

Interstate Rate-of- Return ETCs⁶

Interstate rate-of-return carriers receiving support for voice telephony service and offering broadband (as a condition of such support) must file a five-year build-out plan that accounts for the broadband obligations adopted in the USF/ICC Transformation Order.⁷ 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), included the specific proposed improvements or upgrades to the network, and included an estimate of the area and population that will be served as a result of the improvements. For the July 1, 2016 filing, carriers were required to report progress towards those goals.

We have reviewed each Florida interstate rate-of-return ETC's annual reporting data collection forms to ensure all necessary information required for high-cost certification was provided. By its completed Form 481, each Florida rate-of-return ETC has certified that all federal high-cost support provided to it 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.

Having reviewed each interstate rate-of-return ETC's certification and each company's reported progress towards the goals in its five-year build-out plans, we shall certify to the FCC and to USAC, by letter from our 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 (1) are eligible to receive federal high-cost support, (2) have used the federal high-cost support in the preceding calendar year, and (3), 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.

⁶ 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.

⁷ 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.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that this Commission shall 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, 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. (Final Agency Action). It is further

ORDERED that this Commission shall 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, 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. It is further

ORDERED that certification of interstate rate-of-return eligible telecommunications carriers is issued as a proposed agency action and shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 17th day of August, 2016.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

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

CWM

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.

As identified in the body of this order, our action certifying interstate rate-of-return eligible telecommunications carriers is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 7, 2016. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Any party adversely affected by the Commission's final action certifying interstate price-cap eligible telecommunications carriers may request: (1) reconsideration of the decision by

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filing a motion for reconsideration with the Office of Commission Clerk, 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 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.