

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 2015 State certification §54.313 and §54.314, annual reporting requirements for high-cost recipients, and certification of support for eligible telecommunications carriers.

DOCKET NO. 140119-TP  
ORDER NO. PSC-14-0417-PAA-TP  
ISSUED: August 15, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman  
LISA POLAK EDGAR  
RONALD A. BRISÉ  
EDUARDO E. BALBIS  
JULIE I. BROWN

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 that 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.

**I. 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..." 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 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 four Florida interstate rate-of-return ETCs in 2014),<sup>1</sup> detailed information on any outages, the number of unfulfilled requests for service, number of complaints per 1,000 connections, branding information of the holding company and its affiliates, documentation demonstrating whether the carrier is engaged with Tribal governments, certification of service quality compliance, certification of emergency operation capability, certification that frozen support received in 2013 was used consistently with the goal of achieving universal availability of voice and broadband, and 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 competitor.<sup>2</sup>

New this year for carriers in the High-Cost Program are requirements to provide the company's price offerings, and incumbent carriers receiving high-cost loop support or high-cost model support with rates below the 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 copies of their Form 481 filings concurrently with the Florida Public Service Commission (FPSC or Commission) and the FCC. Our staff reviewed each of the Form 481 filings to ensure all necessary information required for high-cost certification was provided by the ETCs. Our 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). 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.

Unless we submit certifications to the FCC and to the USAC by October 1, 2014, Florida's carriers will not receive high-cost universal service funds during the first quarter of

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<sup>1</sup> 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.

<sup>2</sup> 47 C.F.R. §54.313(d)

2015, and would forego all federal support for that quarter. Certifications filed after October 1, 2014, would cause carriers to be eligible for high-cost funds for only partial quarters of 2015. For example, certifications filed by January 1, 2015, would allow carriers to be eligible for high-cost funds in the second, third, and fourth quarters of 2015. Certifications filed by April 1, 2015, would only allow carriers to be eligible for high-cost funds in the third and fourth quarters of 2015.

In order for a carrier to be eligible for high-cost universal service support for all of calendar year 2015, certification must be submitted by October 1, 2014.<sup>3</sup> Based on prior support received by carriers in Florida, our staff estimates that the amount of funding carriers will receive for 2015 will likely be between \$60 and \$65 million in high-cost support.<sup>4</sup>

## **II. Analysis and Decision**

### *Interstate Price-Cap ETCs*

By Order DA 14-591, issued May 1, 2014,<sup>5</sup> the FCC waived the requirement that interstate price cap ETCs receiving frozen or incremental support file new five-year build-out plans by July 1, 2014. The grant of a waiver of this requirement for interstate price cap ETCs for an additional year was because the FCC just finalized the Connect America Cost Model, and interstate price cap carriers have not yet had the opportunity to make a state-level commitment for Connect America Phase II. The FCC found that it is not in the public interest to require interstate price cap ETCs to file new five-year plans in 2014 for the same reason as last year: they do not yet know which areas they will be serving in the future.

Our staff reviewed each of the carrier 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 (**2013**) and will be used in the coming calendar year (**2015**) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Given these ETCs' certifications, we hereby certify to the FCC and to the USAC, by letter from the Chairman, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; Verizon Florida LLC; 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.

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<sup>3</sup> FCC Public Notice, DA 13-1707, WC Docket Nos. 10-90 and 11-42, released August 6, 2013

<sup>4</sup> This estimate does not include wireless carriers.

<sup>5</sup> In the Matter of Connect America Fund, WC Docket No. 10-90.

*Interstate Rate-of-Return ETCs*

This Issue addresses annual federal high-cost certification for Florida's four interstate rate-of-return carriers. For 2014, 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 new broadband obligations adopted in the USF/ICC Transformation Order.<sup>6</sup> For the July 1, 2014 filing, carriers making an initial five-year plan filing must forecast network improvements for calendar years 2015 through 2019. The initial five-year build-out plan, consistent with 47 C.F.R. §54.202 (a)(1), must include 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.

Our 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 (**2013**) and will be used in the coming calendar year (**2015**) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Given these ETCs' certifications, we hereby certify to the FCC and to the 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 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.

If no person whose substantial interests are affected by our proposed agency action to certify Interstate Rate-of-Return ETCs files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

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<sup>6</sup> In the Matter of Connect America Fund, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161, released November 18, 2011.

*Certification to the USAC and FCC*

Certification from the FPSC shall be filed with the FCC and USAC in the form of a letter from the FPSC under the Chairman's signature using the USAC template to certify Florida ETCs.

Based on the foregoing, it is

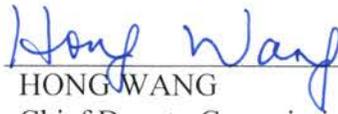
ORDERED by the Florida Public Service Commission that we hereby certify to the FCC and to the USAC, by letter from the Chairman, that BellSouth Telecommunications, LLC d/b/a AT&T Florida; Embarq Florida, Inc. d/b/a CenturyLink; Frontier Communications of the South, LLC; GTC, Inc. d/b/a FairPoint Communications; Knology of Florida, Inc. d/b/a WOW! Internet, Cable, and Phone; Verizon Florida LLC; 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. It is further

ORDERED that we hereby certify to the FCC and to the 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 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. 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 15th day of August,  
2014.



HONGWANG  
Chief Deputy 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.

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#### 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 person whose substantial interests are affected by the certification of Interstate Rate-of-Return eligible telecommunications carriers 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 5, 2014. 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.

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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 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.