

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 2016 State certification §54.313 and §54.314, annual reporting requirements for high-cost recipients, and certification of support for eligible telecommunications carriers.

DOCKET NO. 150153-TP
ORDER NO. PSC-15-0348-PAA-TP
ISSUED: September 1, 2015

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
JULIE I. BROWN
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 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 (F.A.C.).

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 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
- 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 2014 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 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

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)

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) 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.

Unless we submit certifications to the FCC and to the USAC by October 1, 2015, Florida's carriers will not receive high-cost universal service funds during the first quarter of 2016, and would forego all federal support for that quarter. Certifications filed after October 1, 2015, would cause carriers to be eligible for high-cost funds for only partial quarters of 2016. For example, certifications filed by January 1, 2016, would allow carriers to be eligible for high-cost funds in the second, third, and fourth quarters of 2016. Certifications filed by April 1, 2016, would only allow carriers to be eligible for high-cost funds in the third and fourth quarters of 2016.

In order for a carrier to be eligible for high-cost universal service support for all of calendar year 2016, certification must be submitted by October 1, 2015.³ Based on prior support received by carriers in Florida, our staff estimates that the amount of funding carriers will receive for 2016 will likely be between \$60 and \$65 million in high-cost support.⁴

Certification from this Commission will be filed with the FCC and USAC in the form of a letter from us.⁵ The USAC has developed a letter template for use with annual high-cost certifications of state ETCs. Attachment A is a draft letter under the Chairman's signature using the USAC template to certify high-cost for Florida ETCs. In addition, USAC has 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.

³ FCC DA 13-1707, WC Docket Nos. 10-90, Connect America Fund, Public Notice, released August 6, 2013, https://apps.fcc.gov/edocs_public/attachmatch/DA-13-1707A1.pdf, accessed on July 29, 2015.

⁴ This estimate does not include wireless carriers.

⁵ 47 C.F.R. §54.314(c)

Decision

Interstate Price-Cap ETCs

(Final Agency Action)

Our 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 (2014) and will be used in the coming calendar year (2016) 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.⁶ Each of the companies in this issue are interstate price cap ETCs.⁷ As a result, these carriers are exempt from filing a build-out plan. The FCC's order also specified that those price cap carrier ETCs that accept offers of Connect America Phase II support will be required to file five-year plans on July 1 following their acceptance.⁸

On June 15, 2015, Frontier Communications did accept \$342,000 annual funding from the Connect America Phase II program in Florida. The FCC, on its own motion, waived the requirement that Frontier Communications file a five-year build-out plan by July 1, 2015 for each of the 28 states where it has accepted Connect America Phase II support.⁹

Given these ETCs' filings, 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.

⁶ FCC 15-591, 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 29, 2015.

⁷ 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.

⁸ The FCC has adopted comprehensive reforms to modernize the High Cost Program and accelerate the build-out of broadband networks across the country. The High Cost Program support will be phased out and the Connect America Fund will be phased in. The Connect America Fund is focused on supporting and expanding fixed location and mobile broadband availability.

⁹ FCC DA 15-779, WC Docket No. 10-90, Connect America Fund, Order, released July 1, 2015, http://transition.fcc.gov/Daily_Releases/Daily_Business/2015/db0701/DA-15-779A1.pdf, accessed July 29, 2015.

Interstate Rate-of-Return ETCs

We also address 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 new broadband obligations adopted in the USF/ICC Transformation Order.¹⁰ Last year, carriers were required to forecast network improvements for calendar years 2015 through 2019. These initial five-year build-out plans, consistent with 47 C.F.R. §54.202 (a)(1), 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, 2015 filing, carriers had to report progress towards those goals.

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 (2014) and will be used in the coming calendar year (2016) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Given these ETCs' certifications, we 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.

Certification to the USAC and FCC

Certification by us shall be filed with the FCC and USAC in the form of a letter from this Commission under the Chairman's signature using the USAC template to certify Florida ETCs and by using USAC's online certification process this year.

¹⁰ 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 29, 2015.

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 Consummation 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 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. 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 1st day of September, 2015.



HONG WANG

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.

TLT

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 that is available under Section 120.57, 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 will be granted or result in the relief sought.

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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 22, 2015. 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/these docket(s) 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 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.

STATE OF FLORIDA

ART GRAHAM
CHAIRMAN



Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
(850) 413-6040

Public Service Commission

August 13, 2015

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 (**2014**) and will be used in the coming calendar year (**2016**) only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.¹¹

¹¹ 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
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
Verizon Florida LLC	210328
Windstream Florida, Inc.	210336

If you have any questions regarding this certification, please contact Greg Fogleman at (850) 413-6574, or Mark Long at (850) 413-6101.

Sincerely,

Art Graham
Chairman