
STAFF MEMORANDUM

TO: COMMISSIONERS AND ADVISORS
FROM: LORENA REICHERT & KRISTEN EDWARDS
RE: AA19-001 - In the Matter of Clarification of the Commission's ETC Certification Process
DATE: April 30, 2019

BACKGROUND

In Docket TC13-027, the South Dakota Public Utilities Commission (Commission) waived certain eligible telecommunication carrier (ETC) requirements for years 2013, 2014, and 2015, in response to the Federal Communications Commission's (FCC) changes in annual reporting requirements. Since 2016, this clarification process has been decided in dockets AA16-002, AA17-001, and AA18-001. In Docket AA18-001, the Commission voted to continue the waivers of ARSD 20:10:32:54 (8) and (9) for 2018, as well as waive the June 1 filing deadline as set forth in ARSD 20:10:32:52 and allow ETCs to file their annual certifications on or before July 2. On March 7, 2019, Commission staff (staff) filed a letter opening this docket and requesting clarification as to how the companies should proceed in 2019. On March 29, 2019, South Dakota Telecommunications Association (SDTA) filed comments into the docket.

DISCUSSION

ARSD 20:10:32:54(4) and 20:10:32:54(5)

In the March 29, 2019 comments by the SDTA, the organization recommended that the Commission waive subsections ARSD 20:10:32:54(4) and ARSD 20:10:32:54(5), that are not consistent with federal requirements. While the Commission has waived the parts of two subsections that were not consistent with federal requirements several times in the past, staff does not recommend waiving these rules now, as the equivalent federal requirements were eliminated in the FCC Report and Order FCC 17-87.

Regarding the federal equivalent of ARSD 20:10:32:54(4), 47 CFR § 54.313(a)(3), the FCC eliminated the requirement that ETCs report the number of service requests they receive but do not fulfill partly because the FCC believes that the broadband buildout obligations that most high-cost recipients have and the recipient's annual submission of information into the High Cost Universal Broadband (HUBB) portal are sufficient for their monitoring purposes. However, not all companies submit updated information into the HUBB annually and therefore staff believes it is still prudent to request this information.

On eliminating the federal equivalent to ARSD 20:10:32:54(5), 47 CFR § 54.313(a)(4), one justification by the FCC was that ETCs can still file complaints with states¹. Therefore, it is appropriate for the Commission to continue to require information related to ARSD 20:10:32:54(5).

¹ See FCC 17-87 at 3, para. 8.

Future Rulemaking

If the Commission were to open a rulemaking docket involving ETC requirements, staff would recommend eliminating ARSD 20:10:32:54(8) and (9), as these have been consistent Commission actions since 2013. Because these are small changes, however, staff would recommend waiting to file these changes with a more comprehensive rule change docket in the future. Furthermore, staff continues to support the waiver process for individual companies depending on their level of buildout.

RECOMMENDATION

Staff recommends continuing the waivers of ARSD 20:10:32:54 (8) and (9) for 2019. Staff also recommends the Commission waive the June 1, 2019 filing deadline as set forth in ARSD 20:10:32:52 and allow ETCs to file their annual certifications on or before July 1, 2019.