

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Katie J. Sieben
Dan Lipschultz
Valerie Means
Matthew Schuerger
John A. Tuma

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Annual Certification Related
to Eligible Telecommunications Carriers'
(ETCs) Use of the Federal Universal Service
Support Required Pursuant to C.F.R. 54.313

ISSUE DATE: October 17, 2019

DOCKET NO. P-999/PR-19-8

ORDER CERTIFYING ELIGIBLE
TELECOMMUNICATIONS CARRIERS'
USE OF FEDERAL HIGH-COST
SUBSIDY

PROCEDURAL HISTORY

I. Introduction

Under the Federal Telecommunications Act of 1996, telecommunications carriers must be designated “eligible telecommunication carriers” (ETCs) to qualify for subsidies from the federal Universal Service Fund for serving high-cost areas or low-income consumers.¹ State regulatory commissions have primary responsibility for designating ETCs, although the Federal Communications Commission (FCC) acts on designation requests from carriers who are not subject to state commission jurisdiction.²

State commissions must annually certify to the FCC that all high-cost support provided to state-designated ETCs was used in the preceding calendar year, and will be used in the coming year, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.³

This Commission has set detailed eligibility criteria and filing requirements that each Minnesota ETC must meet to receive this certification. The Commission has required each petitioner to file (a) an affidavit from a corporate officer stating that Universal Service funds will be used only for

¹ 47 U.S.C. § 254(e).

² 47 U.S.C. § 214(e)(6).

³ 47 C.F.R. § 54.314(a).

their intended purposes and (b) documentation pertaining to the previous year's Universal Service Fund subsidies and the company's operating and capital expenditures.⁴

ETCs must file Form 481 with the FCC, which certifies that use of their funds associated with high-cost support complies with 47 C.F.R § 54.313. In July 2017, the FCC changed the filing process to eliminate some of the information required (regarding network outages; unfulfilled service requests; complaints received; and pricing for voice and broadband services) and to centralize the filing of the reports using a database that makes the reports available to state commissions.⁵

Consistent with the FCC's new reporting requirements contained in 47 C.F.R. § 54.313 and § 54.422,⁶ the Commission revised the annual filing deadline applicable to ETCs by requiring that petitions and supporting documentation be filed by July 1 of each year, beginning in 2014.⁷

II. Filings in this Docket

By July 2, 2019, Minnesota telecommunications carriers had filed their annual petitions asking the Commission to certify to the FCC their continuing eligibility for high-cost subsidies from the Universal Service Fund.

On September 3, 2019, the Department of Commerce (the Department) filed comments recommending that the Commission certify the eligibility of all petitioning carriers, require that the 481 Forms be electronically filed with the Commission, and require that companies serving Tribal lands fully cooperate with the Department and the Tribes to comply with federal rules on Tribal engagement.

On September 19, 2019, the filings came in front of the Commission.

FINDINGS AND CONCLUSIONS

The Commission has reviewed the petitioning companies' filings and concurs with the Department that the filings satisfy the requirements for certification set forth by the Commission and the FCC. All of the companies filed sworn affidavits to demonstrate that they have used and

⁴ *In the Matter of Annual Certifications Related to ETCs' Use of Federal Universal Service Support*, Docket No. P-999/M-02-1403, Order Certifying ETCs' Use of Federal High-Cost Subsidy (December 23, 2002).

⁵ *In the Matter of Connect America Fund ETC Annual Reports and Certifications*, Report and Order, WC Docket No. 10-90, WC Docket No. 14-58 (July 7, 2017).

⁶ See FCC's Public Notice DA 13-1707, WC Docket Nos. 10-90 and 11-42, released on August 6, 2013.

⁷ *In the Matter of Annual Certifications Related to Eligible Telecommunications Carriers' Use of Federal Universal Service Support*, Commission Order, April 11, 2014. The FCC's Wireline Competition Bureau extended the 2018 deadline to July 16; see *In the Matter of Connect America Fund*, Order, WC Docket No. 10-90 (June 6, 2018). The 2019 filings were due July 1.

will continue to use federal high cost subsidies only to provide, maintain, and upgrade the facilities and services for which the support is intended.

The Commission will therefore grant the petitions of the ETCs listed in Attachment 1.

The Commission will also certify that the ETCs listed in the “Recommended to Certify” table on page 5 of staff briefing papers have affirmed their use of federal high cost subsidies only to provide, maintain, and upgrade the facilities and services for which support is intended.

Beginning in 2020, companies must electronically file their 481 forms, as well as the required officer affidavit.⁸

Further, the Department had recommended that the Commission direct the companies serving Tribal lands to cooperate with the Department and Tribes to comply with 47 C.F.R. 54.313 (a)(5), using Form 481, but recognized that the Commission must ultimately determine whether companies have complied and whether to certify the petitioning ETCs. While the Commission does not typically direct regulated companies to work with the Department’s Tribal Liaison in matters before the Commission, in this case the Department offered assistance from its Tribal Liaison to facilitate future conversations. The Commission will therefore direct the companies serving Tribal lands to fully cooperate with the Department, the Tribes, and the Commission to comply with 47 C.F.R. 54.313 (a)(5), using Form 481.

ORDER

1. The Commission hereby certifies that all of the petitioning ETCs listed in the Department’s Attachment 1, Part A, have used federal high cost universal support received in 2018, and will use federal high cost universal support received in the coming year, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.
2. The Commission hereby certifies that all petitioning ETCs listed in staff’s “Recommended to Certify” table have affirmed use of federal high cost universal support received in the coming year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.
3. The Commission hereby directs companies serving Tribal lands to fully cooperate with the Department, the Tribes, and the Commission to comply with C.F.R. 54.313 (a)(5), using Form 481.

⁸ The Commission previously directed companies to file the affidavit. See *In the Matter of Annual Certification Related to Eligible Telecommunications Carriers’ (ETCs) Use of the Federal Universal Service Support Required Pursuant to § C.F.R. 54.313*, Docket No. P-999/PR-18-8, Order Certifying Eligible Telecommunications Carriers’ Use of Federal High-Cost Subsidy and Requiring Comment Period (October 24, 2018).

4. Beginning in 2020, companies must electronically file with the Commission their FCC Form 481 filings under 47 C.F.R. 54.313, along with the affidavit required in Docket No. P-999/PR-18-8.
5. This order shall become effective immediately.

BY ORDER OF THE COMMISSION

Daniel P. Wolf
Executive Secretary



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September 3, 2019

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: Comments of the Minnesota Department of Commerce
Docket No. P999/PR-19-8

Dear Mr. Wolf:

Attached are the comments of the Minnesota Department of Commerce (Department) in the following matter:

Annual Certifications Related to Eligible Telecommunications Carriers' (ETCs) Use of Federal Universal Service Support.

Sincerely,

/s/ JOY GULLIKSON
Telecommunications Analyst

/s/ DIANE DIETZ
Telecommunications Analyst

JG/DD/ar
Attachment



Before the Minnesota Public Utilities Commission

Comments of the Minnesota Department of Commerce Division of Energy Resources

Docket No. P999/PR-19-8

I. INTRODUCTION

Each year, the Minnesota Public Utilities Commission (Commission) must certify that Eligible Telecommunications Carriers (ETCs) receiving high cost funds are using the funds received in the previous year, and will use the funds in the coming year, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.¹

In 2018, the Universal Service Administrative Company (USAC) distributed \$215,340,382 to Minnesota ETCs to mitigate high costs in the provision of voice and broadband services. Many companies, in accordance with the specifics of the plan that disburses funds, must meet location requirements.² Each year, through the required filing of FCC Form 481, companies receiving high cost funds³ report certain information, including an affidavit that the company meets certain FCC requirements. The Minnesota Commission requires each company seeking certification to include a separate affidavit from a company officer confirming that funds are used appropriately.

II. STATEMENT OF ISSUES

1. Whether companies listed in Attachment 1 complied with the Minnesota Commission order and provided certification from a company officer that the company has used that support only for the provision, maintenance and upgrading of facilities and services, for which the support is intended, consistent with section 254(e) of the Act and 47 C. F. R. § 54.313 and will appropriately use the support in the coming year.
2. Whether the Commission has sufficient documentation through the filed FCC form 481 to be assured that the funds received by each ETCs have been, and will be, used for their intended purpose.

¹ 47 CFR § 54.314 (a).

² Several of the funds pay out over a period of years, and require that the carrier provision service to a percentage of the eligible locations for each of the years that the fund pays out.

³ Companies certified as ETCs providing Lifeline only are required to file abbreviated versions of FCC Form 481, however, states do not annually recertify these Lifeline only providers.

III. RELEVANT HISTORICAL BACKGROUND

Section 254(e) of the Telecommunications Act of 1996 provides that a carrier that receives universal service support must use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This requirement is also contained in 47 C.F.R § 54.314.

On November 18, 2011, the FCC released its Report and Order and Further Notice of Proposed Rulemaking, In the Matter of Connect America, et al. in WC Dockets No. 10-90, 07-135, 03-109, and 10-208, GN Docket No. 09-51, CC Dockets 09-92 and 96-45, and WT Docket No 10-208 which comprehensively reformed universal service and intercarrier compensation mechanisms. (Connect America Fund – Intercarrier Compensation Order or CAF-ICC Order). Among other things, the CAF-ICC Order addressed annual Section 254(e) certification by states (with respect to the ETCs they have designated). The FCC extended its current reporting requirements (previously codified in 47 C.F.R. §54.209) to all ETCs, and codified the reporting requirements in new section 54.313 of its rules.

On April 11, 2014, in Docket No. P999/PR-14-08, the Commission issued an Order modifying the schedule for future annual certifications as follows:

July 1	Deadline for ETCs to file petitions and supporting documentation, including the information required by FCC Form 481.
September 1	Deadline for comments by the Department, OAG, and other interested persons.
September 8	Deadline for replies.

On July 7, 2017, for implementation in the July 1, 2018, 481 filings, the FCC released an Order simplifying future annual reporting requirements for ETCs receiving high-cost support. These changes eliminated the following information that was being collected: 1) network outage information; 2) unfulfilled service requests; 3) number of complaints per 1,000 subscribers for voice and broadband services; 4) voice and broadband service rates; and 5) the requirement for ETCs to certify compliance with service quality standards.⁴ The FCC also ordered that ETCs did not have to file directly with the state commissions, but the reports are available for states to download from the USAC website.

⁴ *Report and Order*. In the Matter of Connect America Fund ETC Annual Reports and Certifications. WC Docket No. 10-90, WC Docket No. 14-58. Released July 7, 2017.

On October 24, 2018, the Commission issued its Order in Docket P999/PR-18-8 requiring that, in future filings starting with this 19-8 docket, that an officer of each company subject to state certification file an affidavit with the Commission concurrently with the FCC Form 481 filing. The affidavit must include:

- a. The position of the affiant.
- b. That the affiant understands and is familiar with the requirements of the FCC concerning universal service funding.
- c. That the funds are and will be used appropriately.
- d. That the company is compliant with applicable rules on service quality and consumer protection.
- e. That there is sufficient backup power to ensure functionality without an external power source, and the company is able to reroute traffic around damaged facilities and is capable of managing traffic spikes resulting from emergencies.

On March 13, 2019, U.S. Senators Tina Smith and Amy Klobuchar sent a letter to FCC Chairman Pai, requesting that the FCC launch a probe into the business practices of Frontier Communications, and its subsidiaries, to determine whether the company is in compliance with the CAF funding requirements of the FCC. The request by Senator's Smith and Klobuchar was prompted by the January 4, 2019 Department report of investigation into the service quality, customer service, and billing practices in Docket P407, 405/CI-18-122.⁵

On April 26, 2019, Chairman Pai replied stating that he has conveyed the information regarding the State Commission's investigation to the FCC staff and has asked them to carefully monitor this development. Chairman Pai also stated, in part, that in 2015 Frontier was authorized to receive CAF Phase II model-based support for nearly 47,000 locations in Minnesota, that Frontier has reported to the FCC that it has met or exceeded each of its deployment milestones in CAF-eligible areas, and "Moreover, the Minnesota Public Utility Commission has annually certified to the Commission that Frontier used the high-cost funds appropriately."⁶

⁵ Letter to Chairman Pai, March 13, 2019. <https://www.smith.senate.gov/us-senators-tina-smith-amy-klobuchar-call-fcc-chair-launch-probe-frontier-communications-business>.

⁶ Response of Chairman Pai, April 26, 2019. <https://docs.fcc.gov/public/attachments/DOC-357331A1.pdf>

IV. DISCUSSION OF LAW AND POLICY

FEDERAL LAW

Section 254(e) of the Telecommunications Act states:

After the date on which Commission regulations implementing this section take effect, only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific Federal universal support. A carrier that receives such support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support should be explicit and sufficient to achieve the purposes of this section.

47 C.F.R. §54.313 outlines the annual reporting requirements for high-cost funding recipients. Each company or holding company shall certify:

- The carrier is able to function in emergency situations, per §54.202(a)(2).
- The carrier's voice service is no more than two standard deviations above the applicable national average urban rate for voice service (\$51.61).
- Pricing of broadband service that meets the FCC's public interest obligations is no more than the applicable benchmark, or is no more than the non-promotional price charged for a comparable fixed wireline service in urban areas in the states where the ETC receives support.
- Holding company and operating company identification.
- To the extent the recipient serves Tribal lands, documents or information demonstrating that the ETC had discussions with Tribal governments that, at a minimum, included:
 - A needs assessment and deployment planning with a focus on Tribal community anchor institutions;
 - Feasibility and sustainability planning;
 - Marketing in a culturally sensitive manner;
 - Rights of way processes, land use permitting, facilities siting, environmental and cultural preservation review processes; and
 - Compliance with Tribal business and licensing requirements.
- The results of network performance tests pursuant to the methodology and in the format determined by the Wireline Competition Bureau.⁷

⁷ The network performance test methodology is behind schedule, and the FCC delayed this requirement until 2020.

47 C.F.R §54.314, titled “Certification of Support for Eligible Telecommunications Carriers,” provides:

- (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.

V. SUMMARY OF HIGH COST SUPPORT FUNDS

The FCC, through the Universal Access Corporation (USAC)⁸, disburses money to companies through 20 different funds. In Minnesota in 2018, USAC disbursed \$215,340,382 from nine different funds. These funds were distributed through the following programs, ranked from most dollars distributed to least (plans with \$0 distributed in Minnesota are excluded from this list).

Plan		Amount Disbursed in MN in 2018
Connect America Cost Model	CACM	\$ 86,332,736
Alternative Connect America Model	ACAM	63,530,798
Connect America Fund Broadband Loop Support	BLS	26,145,636
Connect America Fund Intercarrier Compensation	ICC	19,818,264
High Cost Loop	HCL	17,509,486
Frozen High Cost Support	FHCS	1,353,132
Rural Broadband Experiment	RBE	581,587
Safety Net Additive Support	SNA	52,164
Interstate Common Line Support	ICLS	16,579

An explanation of these funds is included in Appendix A

⁸ USAC distributes and manages all the universal service funds mandated by the FCC.

VI. DISCUSSION OF ISSUES

Issue 1:

Whether companies listed in Attachment 1 complied with the Minnesota Commission order and provided certification from a company officer that the company has used that support only for the provision, maintenance and upgrading of facilities and services, for which the support is intended, consistent with section 254(e) of the Act and 47 C. F. R. § 54.313 and will appropriately use the support in the coming year.

All the companies, for the study area codes (SACs) listed in Part A of Attachment 1, filed 481 forms, and filed affidavits stating that support received last year and used in the preceding calendar year and funds in the coming calendar year, will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.⁹

The companies, for the study area codes listed in Part B of Attachment 1, were not certified in 2018 because they did not receive funds in 2017. All companies in this Part B have filed an affidavit confirming that the companies first received funds in 2019 and will conform to the requirements associated with receiving high cost funds in the coming year. These companies and study area codes are listed on the USAC web site for 54.314 Certifications.

The companies listed in Part C of Attachment 1 did not file complete forms 481, but they did file affidavits. However, these companies are asking the Commission to acknowledge that they have been granted ETC status. These companies were winning bidders in the CAF II reverse auction, but have either not received funds, or received them just recently in 2019, and do not otherwise receive high cost support.¹⁰¹¹

Issue 2:

Whether the Commission has sufficient documentation through the filed FCC form 481 to be assured that the funds received by each ETCs have been, and will be, used for their intended purpose.

Beginning with the July 1, 2018 Form 481 filings, the carriers were no longer required to report on many customer protection concerns. Carriers no longer provide: 1) network outage

⁹ Lake County recently petitioned the Commission to relinquish its ETC status, and did not file a form 481.

Although it is included in the USAC check list for certifying companies, the company did not request and is not eligible to be certified. It therefore does not appear on Attachment 1.

¹⁰ In 2018, the FCC awarded high cost funds to winners of a reverse auction for census blocks that had previously been offered to price cap companies. While many winners were incumbent telephone companies receiving other high cost support from other funds, a few companies were new to the process, and filed for ETC status in 2018, but received no funds for 2018.

¹¹ LTD Broadband and Broadband Corporation did not file 481 reports. There is no requirement that they do so.

information; 2) unfulfilled service requests; 3) number of complaints per 1,000 subscribers for voice and broadband services; 4) voice and broadband service rates; and 5) the requirement for ETCs to certify compliance with service quality standards. Reporting on these consumer protection issues have been replaced by certifications either by the company or the company's appointed agents that:

- The carrier is able to function in emergency situations, per §54.202(a)(2).
- The carrier's voice service is no more than two standard deviations above the applicable national average urban rate for voice service (\$51.61).
- Pricing of broadband service that meets the FCC's public interest obligations is no more than the applicable benchmark, or is no more than the non-promotional price charged for a comparable fixed wireline service in urban areas in the states where the ETC receives support.

The Department reviewed each company's 481 filing. No one issue appears to arise, at this point, to the level that the Department would recommend the Commission not certify the company, and thus deny Minnesotans the benefits that are to accrue from funds that aid investment in quality broadband and telecommunications services.

AREAS WHERE COMMISSION ACTION IS RECOMMENDED:

Issue 2a. The Carriers' Certifications With Respect To Tribal Engagement (54.313(A)(9))

Section 54.313(a)(9) requires ETCs, to the extent that they serve Tribal lands, to provide information with respect to their tribal engagement obligations. All petitioning ETCs serving Tribal lands have reported, using FCC Form 481, the extent to which they have engaged tribal governments in their plans to deploy broadband and voice service in tribal areas.

Qwest Corporation (dba CenturyLink) serves the following tribal entities in its service area: Lower Sioux Indian Community; Minnesota Chippewa Tribe: Boise Forte Band, Leech Lake Band, Mille Lacs Band, and White Earth Band; Prairie Island Indian Community (also served in part by Embarq Minnesota, Inc. dba CenturyLink); Red Lake Band of Chippewa Indians; and Shakopee Mdewakanton Sioux Community of Minnesota. Qwest sent each entity an outreach letter in 2018, offering to meet. Qwest's Form 481 indicates that the tribal entities did not respond to its offer to meet.

Citizens Telecommunications Company of MN, LLC and Frontier Communications of Minnesota, Inc. (collectively, Frontier) sent a letter on July 9, 2018, to the Mille Lacs Band of Ojibwe offering to meet, also without response.

Paul Bunyan Cooperative, appeared to have had some engagement with the Tribal governments in their service area in 2017, but received no response in 2018.

The Department's Tribal liaison has indicated that a lack of response by the Tribes does not fulfill the company obligation for engagement. The Department intends to work with each of the companies that serve Tribal lands to attempt to create a better method of Tribal engagement than currently exists. The Department recommends that the Commission formalize in its order that the companies serving Tribal lands need to fully cooperate with both the Department and the Tribes to comply with Section 54.313(a)(9), using FCC Form 481 to ensure Tribal engagement occurs in the future.

Issue 2b. Companies Serving Primarily in Another State

The following companies serve primarily in the state indicated:

	<u>Service Area Code</u>	<u>State</u>
CenturyTel NW WI	330950	WI
CenturyTel Chester	351126	IA
Polar Telecom	381614	ND
Polar Comm. Mut Aid	381630	ND
Red River Rural Tel	381631	ND
Hills Tel Co. SD	391405	SD
SplitRock Telecom	391657	SD

Because the companies file their 481 forms in the States indicated, the funding goes to the companies in those States. If the Minnesota Commission also certifies these companies, there would be a double certification. Attachment 2, primarily concerning CenturyTel NW WI, indicates that the USAC staff recommends that the Commission not certify CenturyTel NW WI. Department staff have confirmed all the above companies are being certified by the Commissions in the States in which they serve. As USAC has indicated there is no need for the Commission to certify the companies that primarily operate in other States, there appears to be no action needed by the Commission with respect to these companies. Attachment 1 does not include the companies listed above. If companies have any concerns with the Commission taking no action, comments should be filed by those companies to address this matter.

Issue 2c. Filing Form 481 with the Minnesota Commission in future years

Prior to the Form 481 filings due in July of 2018, all companies filed their 481 forms with the Commission, as well as with USAC. Last year the FCC ordered that companies were not required to file with the separate State Commissions. Instead, the forms are filed with USAC and available to approved individuals at the State through a secure web portal.

There are two concerns with not having the Form 481 filings efiled with the Commission for the certification process. First, the Commission is being asked to certify that the high cost funds that the ETC has received in the previous year, and in the coming year, will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”¹² In the absence of the Form 481 filings being efiled with the Commission, the Form 481 filings are not part of the record, as is necessary for the Commission to make its determination.

Second, the Form 481 filings from the previous year are no longer available via the USAC secure portal. Thus, the Form 481 filings submitted in July of 2018 are unavailable to review, and no analysis of what has changed for the ETC from the previous to the current year is possible. 2018 was the first year that the 481 forms were stored on the USAC website. USAC provided no indication that the forms would not be available once the next year’s forms were filed.

Other States (e.g. Mississippi and Ohio) have ordered companies to file their 481s with the Commission when they file with USAC. If filing the Form 481s in Minnesota is required, the ETCs will be responsible for redacting trade secret information by filing a public copy of any document determined to contain trade secret information.

ADDITIONAL AREAS WHERE THE DEPARTMENT INTENDS TO FOLLOW UP:

Issue 2d. Results Of Network Performance Testing [54.313(A)(11)]

Section 54.313(A)(11) states that carriers should provide “The results of network performance tests pursuant to the methodology and in the format determined by the Wireline Competition Bureau, Wireless Telecommunications Bureau, and Office of Engineering and Technology.” The format of these performance tests is still pending and the FCC is not requiring a report on these tests until next year. Many companies report that they test network speed upon installation, and again if a problem is reported. The Department will be closely monitoring this activity of the companies as soon as the standards are released from the FCC.

Issue 2e. Percentage of high cost funds used for capital expenditures.

Price cap companies (CenturyLink, Frontier, Windstream, Consolidated) are required to report the total amount of Phase II support, if any, the carrier used for capital expenditures in 2018. It is interesting to note that CenturyLink spent more in 2018 than it received for that year, while the other three price cap companies spent less than 40 percent of what they received on capital expenditures. While there is no action that the Commission can take to require price cap companies to expend more on capital, the Department will be monitoring these amounts over

¹² 47 CFR § 54.314 (a).

the years that the price cap companies receive high cost support in return for an obligation to serve a certain number of locations.

Issue 2f. Terms and conditions of voice telephony and the offering of standalone voice service and Lifeline terms and conditions.

The companies receiving CAF and ACAM money are required to offer standalone voice service. Most companies complied with this standard, although for several companies, the websites require the inputting of an address, so review was not possible. In addition, there are currently 9362 customers who currently receive Lifeline service. Department staff checked each filer's website to see if the website showed the Lifeline terms and conditions. Of the 109 481 filings, about 10 percent did not have the Lifeline terms and conditions on their website, or in a manner that was reasonably accessible. The Department is working with the companies to ensure the websites offer clear information about stand alone service, Lifeline and TAP, through its own investigation and through Docket No. P999/CI-18-112.

Issue 2 g. Are the locations listed as being served legitimate?

In October of 2018, USAC released its interactive online map displaying the locations deployed. Locations for the 2018 reporting period were not available until the spring of 2019. This map provides another tool to investigate whether high cost Universal Service funds are being used appropriately. The Department has recently been looking at the locations deployed and has some concerns that it intends to further investigate.¹³

While the current investigation is too preliminary to put the CAF money at risk for the 2018 reporting period, the Department intends to continue its investigation and bring its findings to the Commission if warranted.

Issue 2 h. Do the filed financial statements reflect appropriate use of high cost funds?

47 C.F.R. 54.314(f)(2) requires that privately held rate of return carriers submit a full and complete report of the company's financial condition and operations as of the previous year. Recipients of loans from the Rural Utilities Service (RUS) must submit copies of their RUS Operating Report for Telecommunications Borrowers (RUS Report) as filed with the RUS. Carriers that are not recipients of loans from the RUS, and whose financial statements are audited in the ordinary course of business, must submit a copy of their *audited* financial statements.

¹³ Broadband service is considered "deployed" if the "... carrier provides it to the location or could provide it within ten (10) business days upon request. FCC Public Notice: *Wireline Competition Bureau Provides Guidance to Carriers Receiving Connect America Fund Support Regarding Their Broadband Location Reporting Obligations*. WC Docket No. 10-90, DA 16-1363. Released December 8, 2016.

All carriers subject to this requirement filed copies of their audited or reviewed financial statements as required. Publicly traded companies are not required to file financial statements because their financial statements are available on the Securities Exchange Commission's website. The Department will consider whether it is appropriate to look at financial information as a means to ensure that funds are being appropriately used.

COMMISSION INVESTIGATION OF FRONTIER

On February 12, 2018, the Commission initiated an Inquiry into the Service Quality, Customer Service, and Billing Practices of Frontier Communications, Docket Number P407, 405/CI-18-122. That investigation is ongoing, and Minnesota consumers have alleged that Frontier insufficiently invests in, and maintains, its network in Minnesota. In the 2018 ETC certification proceeding, the Department recommended that Frontier be certified, along with the rest of the ETCs, as there was an inadequate record to determine whether Frontier has or has not used the federal funds it has received in a manner that complies with FCC requirements, and denying Frontier the federal funds it is scheduled to receive could have adverse consequences for Minnesota consumers.

In response to the Department's January 4, 2019 report on Frontier in Docket Number P407, 405/CI-18-122, Senators Smith and Klobuchar sought action from the FCC to address whether CAF funds are being used appropriately, as stated earlier in these comments. As the response by FCC Chairman Pai makes clear, the certification process by the Minnesota Commission is viewed as a safeguard to ensure Universal Service funds are used for their intended purpose. The response by Chairman Pai is helpful in clarifying the significance of the Minnesota Commission's role with ETC certifications.

Unfortunately, the Department is in a similar position to where it was a year ago on whether Frontier has used CAF funds appropriately. On August 2, 2019, Frontier and Commerce filed a settlement agreement for the Commission's consideration to resolve many of the issues raised in the 18-122 investigation. The use of CAF funds was explicitly excluded from that settlement and the Department has stated that the investigation on the appropriate use of CAF funds should continue. As there is an inadequate record at this time to determine whether Frontier has or has not used the federal funds it has received in a manner that complies with FCC requirements, and denying Frontier the federal funds it is scheduled to receive could have adverse consequences for Minnesota consumers, the Department recommends that Frontier be certified in the current process.

VII. COMMISSION OPTIONS

- A. Certify that all of the petitioning ETCs listed in Parts A and B of Attachment 1 have used Federal High Cost Universal Service Support received in 2018, and will use Federal High Cost Universal Service Support received in the coming year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Certify that the companies listed in Part C keep their ETC status through the 481 filings required in 2020.
- B. Require companies serving Tribal lands to fully cooperate with both the Department and the Tribes to comply with Section 54.313(a)(9), using FCC Form 481 to ensure Tribal engagement occurs in the future.
- C. Require Form 481 filings to be efiled with the Minnesota Public Utilities Commission beginning in 2020, in addition to the affidavit required by Commission Order in Docket 18-8.
- D. Find that some or all of the petitioning ETCs have failed to provide sufficient information to certify that the high cost support provided to the petitioning ETC(s) in 2018, will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Deny some or all of the ETCs' petitions for certification.

VIII. RECOMMENDATION

The Department recommends Alternative A, B, and C.

- A. Certify that all of the petitioning ETCs listed in Parts A and B of Attachment 1 have used Federal High Cost Universal Service Support received in 2018, and will use Federal High Cost Universal Service Support received in the coming year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Certify that the companies listed in Part C keep their ETC status through the 481 filings required in 2020.
- B. Require companies serving Tribal lands need to fully cooperate with both the Department and the Tribes to comply with Section 54.313(a)(9), using FCC Form 481 to ensure Tribal engagement occurs in the future.
- C. Require Form 481 filings to be efiled with the Minnesota Public Utilities Commission beginning in 2020, in addition to the affidavit required by Commission Order in Docket 18-8.

APPENDIX A

EXPLANATION OF HIGH COST FUNDS RECEIVED IN MINNESOTA 2018

Connect America Cost Model (CACM). The Connect America Cost Model, CACM/CAM adopted by the Wireline Competition Bureau on April 22, 2014, for determining the offer of support to **Price Cap**¹⁴ carriers. This is also known as CAF II. CACM is a model that estimates the cost to provide voice and broadband-capable network connections to all locations in the country. CACM provides specific details at the Census Block level, for the forward-looking cost to deploy and operate carrier grade VOIP service and a broadband-capable network and universal service support levels for that voice and broadband-capable network.¹⁵

The CACM fund is a six-year fund that began in 2015 with the award of \$1.5 billion to 10 telecommunications carriers.

In order to receive CAF II funding, carriers must offer at least one voice and one broadband service commercially. These services must meet the relevant service requirements and go to the required number of locations.

Carriers must complete:

- 40 % of deployments by the end of year 3
- 20 % more deployments by the end of year 4
- 20 % more deployments by the end of year 5
- 100 % of deployments by the end of year 6.

Alternative Connect America Model (ACAM). The Alternative Connect America Cost Model (ACAM) provides support to **Rate of Return** carriers that voluntarily elected to transition to a new cost model for calculating High Cost funding. ACAM models forward-looking economic costs of deploying and operating a fiber-to-the-premise (FTTP) network. Carriers must offer at least one voice and one broadband service commercially. These services must meet the relevant service requirements and go to the required number of locations.

Carriers must complete:

- 40% of deployments by the end of year 4
- 50% of deployments by the end of year 5

¹⁴ Minnesota has four price cap companies: CenturyLink, Consolidated, Windstream, and Frontier.

¹⁵ Connect America Cost Model, Document 3.1.4 Revised 6/21/2013.

- 60% of deployments by the end of year 6
- 70% of deployments by the end of year 7
- 80% of deployments by the end of year 8
- 90% of deployments by the end of year 9
- 100% of deployments by the end of year 10

Connect America Fund Broadband Loop Support (BLS) Connect America Fund Broadband Loop Support (CAF BLS) provides support for broadband-only lines, as well as voice lines and voice/broadband lines. It helps carriers recover the difference between loop costs associated with providing broadband-only service and consumer broadband-only loop revenues. CAF BLS was formerly Interstate Common Line Support or ICLS.

Connect America Fund Intercarrier Compensation (ICC). The Intercarrier Compensation (ICC) Recovery is the component of the Connect America Fund that introduces reforms to the intercarrier compensation system. ICC Recovery support went into effect in July 2012, and allows incumbent local exchange carriers (ILECs) to charge residential customers an Access Recovery Charge (ARC) on a limited basis. It also allows ILECS to recover charges from certain multiline business customers. If eligible, ILECs may receive additional recovery funds, provided they meet certain broadband service obligations.

High Cost Loop Support (HCL). High Cost Loop (HCL) support is available to rural price-cap and rate-of-return incumbent carriers and competitive carriers providing service in the areas of these rural companies, which must be designated as ETCs. HCL support provides support for the last mile of connection for rural companies in service areas where the cost to provide this service exceeds 115 percent of the national average cost per line. ROR carriers have updated limits on capital and operating costs for HCL support and updated corporate operating expense limits for HCL support as well as ICLS.

Frozen High Cost Support (FHCS) With the advent of the Connect American Fund, existing High Cost Program support was [frozen at December 2011 levels](#) and additional changes were made to existing programs to transition universal service from focusing on voice networks to supporting and expanding broadband availability

Rural Broadband Experiment (RBE). The Rural Broadband Experiments (RBE) provides funding for experiments in price-cap areas to bring robust, scalable broadband networks to residential and small business locations in rural communities.

Safety Net Additive Support (SNA). Safety Net Additive Support provides a boost to rate of return carriers whose Telephone Plant in Service on a per loop basis is at least 14 percent more than the study area's TPIS per loop investment, based on 2011 or prior year costs.

Interstate Common Line Support (ICLS). Interstate Common Line Support (ICLS) is available only to rate-of-return incumbent carriers (mostly rural and some non-rural carriers) and competitive carriers providing service in the areas of these companies, which must be designated as ETCs. ICLS helps to offset interstate access charges and is designed to permit each rate-of-return carrier to recover its common line revenue requirement, while ensuring that its subscriber line charges (SLCs) remain affordable to its customers. ICLS is based on annual projected data submitted by incumbent carriers each March 31 and is subject to an annual true-up process based on actual data submitted by incumbent carriers each December 31 for the previous calendar year. Because competitive carriers receive ICLS based on the incumbent carriers' data filings, which are used to calculate per-line rates, competitive carriers do not need to file projected or true-up data for ICLS.

/ar

PART A

Company	SAC
CITIZENS-FRONTIER-MN	361123
WINNEBAGO COOP ASSN	361337
ACE TEL ASSN-MN	361346
ALBANY MUTUAL ASSN	361347
WILDERNESS VALLEY	361348
ARVIG TEL CO	361350
CITY OF BARNESVILLE	361353
BENTON COOP TEL CO	361356
BLUE EARTH VALLEY	361358
BRIDGEWATER TEL CO	361362
CALLAWAY TEL CO	361365
CLARA CITY TEL EXCH	361370
CLEMENTS TEL CO	361372
CONSOLIDATED TEL CO	361373
ARROWHEAD COMM CORP	361374
MID-COMM-HICKORYTECH	361375
DUNNELL TEL CO	361381
EAGLE VALLEY TEL CO	361383
EASTON TEL CO	361384
EAST OTTER TAIL TEL	361385
ECKLES TEL CO	361386
EMILY COOP TEL CO	361387
FARMERS MUTUAL TEL	361389
FEDERATED TEL COOP	361390
FELTON TEL CO. INC.	361391
GARDEN VALLEY TEL CO	361395
GARDONVILLE COOP TEL	361396
GRANADA TEL CO	361399
HALSTAD TEL CO	361401
FEDERATED UTILITIES	361403
HARMONY TEL. CO.	361404
HILLS TEL CO, INC	361405
HOME TEL CO - MN	361408
HUTCHINSON TEL CO	361409
JOHNSON TEL CO	361410
KASSON & MANTORVILLE	361412
MID STATE DBA KMP	361413
Windstream Communications, Inc.	361414
LISMORE COOP TEL CO	361419
LONSDALE TEL CO	361422
Runestone Telephone Association	361423
MABEL COOP TEL - MN	361424
CHRISTENSEN COMM CO	361425
MANCHESTER-HARTLAND	361426
MANKATO-HICKORYTECH	361427
MELROSE TEL CO	361430
MIDWEST TEL CO	361431
MID STATE TEL CO	361433
MINNESOTA VALLEY TEL	361439
CANNON VLY TELECOM	361440
NEW ULM TELECOM, INC	361442
LORETEL SYSTEMS, INC	361443
CENTURYTEL-MINNESOTA	361445
OSAKIS TEL CO	361448
PARK REGION MUTUAL	361450
PAUL BUNYAN RURAL	361451
PEOPLES TEL CO - MN	361453
PINE ISLAND TEL CO	361454
EMBARQ MINNESOTA	361456
REDWOOD COUNTY TEL	361472
ROTHSAY TEL CO, INC	361474
RUNESTONE TEL ASSN	361475
SACRED HEART TEL CO	361476
SCOTT RICE -INTEGRA	361479
Windstream Communications, Inc.	361482
SLEEPY EYE TEL CO	361483
SPRING GROVE COOP	361485
STARBUCK TEL CO	361487
TWIN VALLEY-ULEN TEL	361491
UPSALA COOP TEL ASSN	361494
VALLEY TEL CO - MN	361495
CROSSLAKE TEL CO	361499
NORTHERN TEL CO - MN	361500
WEST CENTRAL TEL	361501
WESTERN TEL CO	361502
WIKSTROM TEL CO, INC	361505
WINSTED TEL CO	361507
WINTHROP TEL CO	361508
WOODSTOCK TEL CO	361510
WOLVERTON TEL CO	361512
ZUMBROTA TEL CO	361515
INTERSTATE TELECOMM.	361654
QWEST CORP-MN	365142
Federated Telephone Cooperative	366130
Paul Bunyan Rural Telephone Cooperative	366132
Paul Bunyan Rural Telephone Cooperative	366133
CITIZENS-FRONTIER-MN	367123
T-Mobile Central LLC	369014
FRONTIER-MINNESOTA	361367

PART B

Company	SAC
CONSOLIDATED TEL CO	369044
CONSOLIDATED TEL CO	369914
FEDERATED TELEPHONE COOPERATIVE	369021
GARDEN VALLEY TELEPHONE CO	369039
HALSTAD TEL CO	369040
TEKSTAR COMMUNICATIONS, INC.	369007
WEST CENTRAL TELEPHONE ASSN	369042

PART C

Company	SAC
INTERSTATE TELECOM COOP, INC.	369041
ROSEAU ELECTRIC COOPERATIVE, INC.	369045
WIKSTROM TEL CO, INC.	369046
MID CONTINENT COMMUNICATIONS	369015

From: [Elizabeth Pertsevoi](#)
To: [Gullikson, Joy \(COMM\)](#)
Cc: [Peter.Jahn@wi.gov](#); [Doyle, Greg \(COMM\)](#); [McCarthy, Mike \(PUC\)](#); [Dietz, Diane \(COMM\)](#)
Subject: RE: Certification of companies that are substantially in another state
Date: Tuesday, August 13, 2019 8:29:40 AM
Attachments: [image001.png](#)

Wisconsin will certify this carrier. You can just ignore it; we're looking into why it is appearing in your list. Thanks.

Elizabeth Pertsevoi
(202)263-1643
epertsevoi@usac.org

From: Gullikson, Joy (COMM) [mailto:joy.gullikson@state.mn.us]
Sent: Thursday, August 08, 2019 10:52 AM
To: Elizabeth Pertsevoi <Elizabeth.Pertsevoi@usac.org>
Cc: Peter.Jahn@wi.gov; Doyle, Greg (COMM) <greg.doyle@state.mn.us>; McCarthy, Mike (PUC) <michael.mccarthy@state.mn.us>; Dietz, Diane (COMM) <diane.dietz@state.mn.us>
Subject: Certification of companies that are substantially in another state

Dear Elizabeth,

Can you please help us with a question regarding certification of border companies? In particular, I am looking at CenturyTel-NWWI, SAC 330950. This company is listed in the companies to be certified, yet, they do not show up in the USAC Disbursements report, except under WI. There are a few MN customers, but the majority are WI customers.

If WI certifies this company, through this SAC, why would MN also certify them? No high cost funds were distributed to this SAC, per the USAC Disbursement report.

We would be grateful for some insight into this situation. The same set of circumstances applies to other companies.

Thank you

Joy Gullikson

Joy Gullikson
Public Utilities Rates Analyst
651-539-1877
mn.gov/commerce
Minnesota Department of Commerce
85 7th Place East, Suite 280 | Saint Paul, MN 55101



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