

Date

MEMORANDUM

TO: The Public Service Commission
FROM: Mike, Zack
SUBJECT: 2019 Annual ETC Recertification – N2019.4.23

PURPOSE

N2019.4.23 is a Public Service Commission (“Commission”) initiated docket which was opened to facilitate the annual recertification of eligible telecommunications carriers (“ETC”) in Montana.

BACKGROUND

Designation as an ETC grants telecom carriers access to financial support offered through the Federal Communication Commission’s (“FCC”) High Cost program. The High Cost program provides funding to telecom carriers to provide service in rural areas of the country where the market alone cannot support the substantial cost of deploying network infrastructure. In 2011, the FCC began to modernize the High Cost program to support broadband, in an effort to ensure that all people in America have access to robust, affordable connectivity to the network and can fully participate in today’s society. The new modernized program is called the Connect America Fund. Goals of the program include:

- Preserve and advance universal availability of phone service;
- Drive universal ability of modern networks capable of providing voice and broadband service to homes, businesses and community anchor institutions;
- Drive universal availability of modern networks capable of providing advanced mobile voice and broadband service; and
- Ensure that rates for broadband and voice services are reasonably comparable in all regions of the nation

Although the Commission does not administer the High Cost program, the Commission does act as a sort of “gatekeeper” for the program, through its authority to designate and annually recertify ETCs in Montana. Per Mont. Code Ann. 69-3-840(1):

The [C]ommission is authorized to designate telecommunications carriers as eligible for federal universal service support, in accordance with 47 U.S.C. 214(e)(1) and 47 U.S.C. 254, and for any Montana universal service funds. This authorization applies to all telecommunications carriers notwithstanding the carrier’s exemption from further regulation by the [C]ommission.

In order for an ETC to continue to receive federal high-cost support in the upcoming year, the ETC must be annually recertified by October 1. See 47 CFR § 54.314. If an ETC is not recertified by

October 1, the carrier subject to the certification shall receive a reduction in its support. This docket has been opened to complete the annual ETC recertification process to ensure carriers continue to receive high cost support in 2020.

ANALYSIS

Mont. Code Ann. 69-3-840(1) states:

The [C]ommission is authorized to designate telecommunications carriers as eligible for federal universal service support, in accordance with 47 U.S.C. 214(e)(1) and 47 U.S.C. 254, and for any Montana universal service funds. This authorization applies to all telecommunications carriers notwithstanding the carrier's exemption from further regulation by the [C]ommission.

Mont. Code Ann. § 69-3-840(2) states:

Upon the petition of a telecommunications carrier or upon its own motion, the [C]ommission shall designate a telecommunications carrier that meets the requirements of 47 U.S.C. 214(e)(1) as an eligible telecommunications carrier for a service area designated by the commission.

47 U.S.C. 214(e)(1) states:

A common carrier designated as an [ETC]...shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which the designation is received –

(a) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another [ETC]); and

(b) advertise the availability of such services and the charges therefor using media of general distribution.

Additional statutory requirements are found in 47 U.S.C. § 254, and the support mechanisms under section 254(c) are defined as follows:

(1) In general Universal service is an evolving level of telecommunications services that the Commission shall establish periodically under this section, taking into account advances in telecommunications and information technologies and services. The Joint Board in recommending, and the Commission establishing, the definition of the services that are supported by Federal universal

service support mechanisms shall consider the extent to which such telecommunications services –

- (a) are essential to education, public health, or public safety;
- (b) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;
- (c) are being deployed in public telecommunications networks by telecommunications carriers; and
- (d) are consistent with the public interest, convenience, and necessity.

In order to be recertified as an ETC, requesting carriers must file, both with the Commission and the Universal Service Administration Company, a sworn affidavit (under oath and notarized) by a Company officer which states that all high-cost support was used in the preceding year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities for which the support is intended. See 47 CFR 54.314.

Beginning around 2011, when the FCC took steps to modernize the High Cost program, the FCC implemented additional reporting requirements on ETCs. Today, ETCs report that additional information on FCC Form 481 and FCC Form 690. Information provided on Forms 481 and 690 include:

- Certification that the carrier is able to function in emergency situations as set forth in § 54.202(a)(2);
- A certification that the pricing of the company's voice services is no more than two standard deviations above the applicable national average urban rate for voice service, as specified in the most recent public notice issued by the Wireline Competition Bureau and Wireless Telecommunications Bureau;
- A certification that the pricing of a service that meets the [FCC]'s broadband public interest obligation is no more than the applicable benchmark announced by the Wireline Competition Bureau;
- The recipient's holding company, operating companies, affiliates and any branding, as well as universal service identifiers for each such entity by Study Area Codes, as that term is used by the Administrator; and
- To the extent the recipient serves Tribal lands, documents or information demonstrating that the ETC had discussions with Tribal governments;

A carrier's mechanism of support is dependent on the type of support it is eligible for and what type of support it has chosen to accept. Price cap carriers in Montana are currently operating under support offered through the Connect America Fund (CAF) Phase II program. CAF Phase II support provides ongoing support to areas served by price cap carriers that lack broadband-capable infrastructure. Under the CAF Phase II program, carriers were offered a support amount as calculated by an FCC model which estimated the cost to deploy broadband to underserved locations within the carrier's service territory. In exchange, price cap carriers are required to meet the following broadband deployment milestones:

CAF Phase II Deployment Milestones – Price Cap Carriers

Year	Deployment Milestone
Year 1 (2015)	**%
Year 2 (2016)	**%
Year 3 (2017)	40% of eligible locations
Year 4 (2018)	60% of eligible locations
Year 5 (2019)	80% of eligible locations
Year 6 (2020)	100% of eligible locations

The two price cap carriers in Montana, Frontier Communications and CenturyLink, both accepted CAF Phase II offers. Frontier accepted an annual support amount of about \$1.1 million to deploy broadband to about 2,300 locations, and CenturyLink accepted an annual support amount of about \$15 million to deploy broadband to approximately 33,000 locations. Under the CAF Phase II program, price cap carriers are required to deploy broadband that has a minimum download speed of 10 mbps, and a minimum upload speed of 1 mbps (10/1). Network latency cannot exceed 100 milliseconds round trip, and the carrier must offer at least one plan with a minimum usage allowance of at least 150 GB per month. Broadband plans must also be offered at a rate that is reasonably comparable to rates in urban areas.

In 2016, the FCC introduced an alternative to the support mechanism traditionally offered to rate of return carriers. The alternative was a model based support program known as the alternative Connect America model (ACAM), which offered support to carriers based on the modeled cost of expanding broadband to underserved locations in the carrier’s territory (similar to the CAF Phase II program for price cap carriers). The model calculates support for census blocks where the average cost to deploy broadband exceeds \$52.50/month per location. Census blocks already being served by an unsubsidized competitor are not eligible for support. Census blocks with an average monthly cost below \$52.50 are not considered “high-cost” and are not funded. Locations which have an average cost greater than \$52.50/month but less than \$146.10/month are considered “fully funded” locations. Locations with an average cost that exceeds \$146.10/month are considered “capped locations”. ACAM support is currently guaranteed for 10 years. Recipients of ACAM support are required to deploy broadband service with minimum speeds of 10/1 to 100% of fully funded locations at the following rate:

ACAM Deployment Milestones to Fully Funded Locations for 10/1 Service

Year	10/1 Deployment Milestone
Year 1 (2017)	0%
Year 2 (2018)	0%
Year 3 (2019)	0%
Year 4 (2020)	40%
Year 5 (2021)	50%
Year 6 (2022)	60%
Year 7 (2023)	70%
Year 8 (2024)	80%
Year 9 (2025)	90%
Year 10 (2026)	100%

In addition, ACAM recipients must offer other broadband speeds to a subset of locations, depending on if the location is fully funded or capped. 47 CFR 54.308. Fully funded locations are those locations identified by the ACAM model where the average cost is above the funding benchmark and at or below the funding cap. ACAM recipients are required to deploy broadband at speeds to locations that are fully funded, as follows:

(A) Carriers with a state-level density of more than 10 housing units per square mile, are required to offer broadband speeds of at least 25 Mbps downstream/3 Mbps upstream to 75 percent of all fully funded locations in the state by the end of the ten-year period.

(B) Carriers with a state-level density of 10 or fewer, but more than five, housing units per square mile, are required to offer broadband speeds of at least 25 Mbps downstream/3 Mbps upstream to 50 percent of fully funded locations in the state by the end of the ten-year period.

(C) Carriers with a state-level density of five or fewer housing units per square mile, are required to offer broadband speeds of at least 25 Mbps downstream/3 Mbps upstream to 25 percent of fully funded locations in the state by the end of the ten-year period.

ACAM recipients are required to deploy broadband at speeds to locations that are capped, as follows:

(A) Carriers with a state-level density of more than 10 housing units per square mile, as specified by public notice at the time of election, are required to offer broadband speeds of at least 4 Mbps downstream/1 Mbps upstream to 50 percent of all capped locations in the state by the end of the ten-year period.

(B) Carriers with a state-level density of 10 or fewer housing units per square mile, as specified by public notice at the time of election, are required to offer broadband

speeds of at least 4 Mbps downstream/1 Mbps upstream to 25 percent of capped locations in the state by the end of the ten-year period.

(C) Carriers shall provide to all other capped locations, upon reasonable request, broadband at actual speeds of at least 4 Mbps downstream/1 Mbps upstream.

Broadband service deployed under ACAM is required to be offered with a minimum usage allowance of 150 GB per month, at a rate reasonably comparable to rates for the same service in urban areas.

Carriers that declined to accept model-based ACAM support have remained on a reformed version of the traditional legacy support mechanism, which is focused on reimbursing a carrier for its embedded costs. In 2016, the FCC reformed the legacy support mechanism in an effort to encourage broadband deployment and support standalone broadband. The FCC made technical rule changes to support the provision of broadband services to consumers in areas with high loop-related costs, without regard to whether the loops are also used for traditional voice services. Specifically, the FCC allowed for the recovery of broadband-only loop costs by creating the Broadband Loop Support (BLS) fund. Carriers that had less than 80% deployment of 10/1 broadband as of 2015 that also receive support from CAF BLS are required to certain buildout obligations. Carriers on legacy support continue to recover costs for voice-only loops through the High Cost Loop (HCL) fund. All costs recovered through the BLS and HCL funds are subject to 47 CFR Part 36, which sets forth the jurisdictional separations procedures for separating telecommunications property costs, revenues, expenses, taxes and reserves for telecommunications companies. All cost projections and embedded cost studies of legacy carriers are audited by a third party. Carriers on legacy support are required to submit monthly revenues to NECA. NECA then trues up legacy carriers' support on a monthly and yearly basis to ensure legacy carriers do not exceed their allowed rate of return (currently 10.25% and scheduled to be reduced to 9.75% by 2021).

STAFF RECOMMENDATION:

ETCs requesting recertification in this docket (listed in Attachment 1) are all in compliance with 47 U.S.C. 214(e)(1), have all filed the required affidavit, and have all filed Forms 481 and 690. Staff has reviewed all of the information filed by the companies and finds they should be recertified as ETCs for support in 2020, pursuant to Mont. Code Ann. 69-3-840.

RECOMMENDED MOTION: Move to approve the recertification of all ETCs for their respective study area codes listed in Attachment 1 of this staff memorandum.

ATTACHMENT 1

SAC	Name of Company	Support Type	HCL	ICC	FHCS	CACM	ACAM	BLS	Total HC Support	Connections as of 2018/1
482235	Blackfoot Telephone Cooperative	ACAM	-	\$300,750	-	-	\$13,670,854	-	\$13,971,604	10,588
483308	Blackfoot Telephone Cooperative	ACAM	-		-	-		-		
482241	Hot Springs Telephone Company	ACAM	-	\$157,410	-	-	\$937,231	-	\$1,094,641	999
482242	Interbel Telephone Company	Legacy	\$3,021,388	\$278,432	-	-	-	\$2,154,696	\$5,454,516	
482244	Lincoln Telephone Company	ACAM	-	\$218,598	-	-	\$1,057,415	-	\$1,276,013	439
482246	Mid-Rivers Telephone Company	ACAM	-	\$930,360	-	-	\$10,676,541	-	\$11,606,901	1,994
482247	Nemont Telephone Company	Legacy	\$5,343,669	\$695,832	-	-	-	\$4,195,698	\$10,235,199	2,931
482248	Northern Telephone Cooperative	Legacy	\$944,604	\$257,562	-	-	-	\$886,134	\$2,088,300	
482249	CenturyTel - Montana	CAF II	-	-	-	\$15,195,624	-	-	\$15,195,624	20,909
485104	Qwest Corporation dba CenturyLink	CAF II	-	-	-	-	-	-		
482250	Project Telephone Company	Legacy	\$1,894,336	\$339,258	-	-	-	\$1,974,666	\$4,208,260	
482251	Range Telephone Cooperative	ACAM	-	\$661,500	-	-	\$4,490,634	-	\$5,152,134	1,881
482252	Ronan Telephone Company	ACAM	-	\$357,714	-	-	\$791,293	-	\$1,149,007	21
482254	Southern Montana Telephone Company	ACAM	-	\$324,888	-	-	\$2,698,956	-	\$3,023,844	1,024
482255	3-Rivers Telephone Cooperative	Legacy	\$7,582,511	\$1,602,186	-	-	-	\$16,011,444	\$25,196,141	
482257	Triangle Telephone Cooperative	Legacy	\$9,370,067	\$1,264,722	-	-	-	\$6,765,996	\$17,400,785	
483310	Central Montana	Legacy	\$5,699,270	\$681,150	-	-	-	\$3,995,422	\$10,375,842	
484322	Citizens - Frontier	CAF II	-	-	-	\$1,114,488	-	-	\$1,114,488	1,701
512251	Range Telephone Cooperative	Legacy	\$3,635,095	\$1,158,348	-	-	-	\$4,415,526	\$9,208,969	
489001	Mid-Rivers Telephone Cooperative	-	-	-	\$523,632	-	-	-		
489003	3 Rivers Telephone Cooperative	-	-	-	\$34,080	-	-	-		
489006	Sagebrush Cellular (Tribal)	-	-	-	\$1,516,128	-	-	-		
489007	Range Telephone Cooperative	-	-	-	\$95,220	-	-	-		
489010	Sagebrush Cellular	-	-	-	\$2,454,696	-	-	-		
4880XX	Sagebrush Cellular, Inc. (Mobility)/2	-	-	-	-	-	-	-		
489008	Triangle Communications System, Inc.	-	-	-	-	-	-	-		
488014	Triangle Communications System, Inc.	-	-	-	-	-	-	-		
489014	Commnet Wireless	-	-	-	-	-	-	-		
488013	Commnet Wireless	-	-	-	-	-	-	-		

1/Connect America Fund Broadband Map: <https://data.usac.org/publicreports/caf-map/> (9/17/19)

2/Includes SACs 488003, 488004, 488005, 488006, 488007, 488008, 488011, 488012