

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE) COMMISSION'S 2016 CERTIFICATION) OF RURAL CARRIERS' ELIGIBILITY) TO RECEIVE FEDERAL HIGH-COST) UNIVERSAL SUPPORT, PURSUANT TO) THE TELECOMMUNICATIONS ACT OF) 1996, THE FCC'S MAY 23, 2001 ORDER,) AND OTHER RELATED FCC ORDERS.)	CAUSE NO. 44790 APPROVED: JUN 08 2016
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ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
David E. Veleta, Administrative Law Judge

On May 23, 2001, the Federal Communications Commission ("FCC") issued an Order ("the FCC's RTF Order")¹ assigning state commissions the responsibility of certifying that rural carriers or competitive eligible telecommunications carriers ("ETCs") designated to receive high cost support in the service areas of rural carriers are using federal high-cost support in a manner consistent with the requirements of Section 254(e) of the Telecommunications Act of 1996. Pursuant to Section 254(e), carriers must use universal service support "only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." The FCC's RTF Order provided that state certifications should be submitted by October 1 each year for payments to be made during the following calendar year. If a carrier is not certified by its state commission, it will not receive federal high-cost support. Thus, we have opened this proceeding for the purpose of completing the 2016 FCC ETC recertification process.

1. Changes to the FCC ETC Recertification Process. On November 18, 2011, the FCC released a comprehensive order reforming the federal universal service fund and intercarrier compensation system, the USF/ICC Transformation Order ("USF/ICC Order").² The USF/ICC Order established uniform requirements for the information ETCs must report to their respective states and the FCC. Additionally, the FCC extended the federal annual reporting requirements to all ETCs, including those designated by states. Specifically, the FCC required a progress report on the ETCs' five-year build out plans; data and explanatory text concerning outages; unfulfilled requests for service; complaints received; and

¹ *Federal-State Joint Board on Universal Service; Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, (16 FCC Rcd. 11244) (2001).

² *Connect America Fund*, (26 FCC Rcd. 17663) (2011).

certifications of compliance with applicable service quality and consumer protection standards and of the ability to function in emergency situations, and other requirements depending upon the type of carrier and the type of funding received. The FCC concluded that these requirements should serve as a baseline requirement for all ETCs and enumerated these requirements in FCC Form 481.

In order to carry out the FCC's original directive under Section 254(e), the Indiana Utility Regulatory Commission ("Commission") issued a consolidated order in Cause Nos. 42067 and 40785 prescribing forms to be filled out and procedures to be followed by those rural carriers seeking certification. The Commission has also modified those forms used by ETCs to provide supporting information and certify that universal service funds are being used consistently with the FCC's mandates.

2. Confidential Treatment of Certain Information. Indiana Code § 8-1-2-29 requires the Commission to make all information and records in its possession available to the public for inspection subject to Indiana's Access to Public Records Act ("Act"), Indiana Code chapter 5-14-3. The Act sets forth a list of certain documents that "may not" be disclosed by a public agency, one of which includes records required to be kept confidential by federal law. Indiana Code § 5-14-3-4(a)(3).

47 CFR 54.313 requires ETCs to file FCC Form 481 with state commissions. As a result, ETCs are required to report: service outage data; access line counts associated with exchanges that may be below the rate floor; broadband speed and pricing data; exchange level detail, including details on attempted resolution of unfulfilled service requests; build out plans and financial data for the 5-Year Service Quality Improvement Plans, to state commissions. In addition, FCC Form 481 requires ETCs that are also privately held rate of return carriers to provide certain financial information including balance sheets, income statements and cash flow statements.

Service outage data is presumed confidential pursuant to 47 CFR 4.2. Additionally, the FCC has issued a protective order for financial information filed by privately held rate of return carriers.³

Indiana Code § 5-14-3-4(a)(4) specifically excepts from public disclosure, unless otherwise specifically required by state or federal statute or court order pursuant to rules of discovery, "[r]ecords containing trade secrets." Indiana Code § 24-2-3-2, provides:

"Trade Secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

³ *Connect America Fund*, (27 FCC Rcd. 14231) (2012).

(2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Each year during the ETC recertification process ETCs argue that certain information, all of which is submitted to the FCC and the Commission, should be considered confidential. ETCs face competition for their services within their service territories and the public disclosure of, access line counts, associated with exchanges that may be below the rate floor; broadband speed and pricing data; exchange level detail, including details on attempted resolution of unfulfilled service requests; and build out plans and financial data for the 5-Year Service Quality Improvements Plans, could provide a competitive advantage to other providers. Accordingly, the Presiding Officers have determined that such information required by FCC Form 481, may meet the standards of confidentiality under our statutes. As such, we find it is appropriate to grant confidential treatment on a preliminary basis to: service outage data; financial information filed by privately held rate of return carriers; access line counts associated with exchanges that may be below the rate floor; broadband speed and pricing data; exchange level detail, including details on attempted resolution of unfulfilled service requests; and build out plans and financial data for the 5-Year Service Quality Improvements Plans. ETCs must use the following procedures to ensure that such information is accorded the appropriate treatment. ETCs shall hand deliver the confidential information to the Presiding Administrative Law Judge. ETCs shall also file a Notice of Filing under this Cause that indicates the confidential information has been filed with the Commission. The confidential information should be on light green paper, in a sealed envelope clearly marked confidential with the Cause Number noted thereon, and will be treated as confidential on a preliminary basis.

ETCs may also elect to submit the confidential information to the Presiding Administrative Law Judge using the Commission's Electronic Filing System in lieu of submitting paper documents. Documents submitted using the "Confidential" tab of the Electronic Filing System are delivered directly to the Presiding Administrative Law Judge, and will be treated as confidential on a preliminary basis. The Notice of Filing should not be submitted using the "Confidential" tab of the Electronic Filing System.

ETCs may also request confidential treatment of other sections of FCC Form 481 using the Commission's procedures under 170 IAC 1-1.1-4.

3. Due date for 2016 ETC Recertification. ETCs must file the attached forms with the confidential portions redacted by July 1, 2016 in order to receive certification for the upcoming fiscal year.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. ETCs must file the attached forms with the confidential portions redacted by July 1, 2016.

2. The Commission's Secretary shall forward a copy of this Order to all Indiana ETCs designated to receive high cost support.

3. This Order shall be effective on and after the date of its approval.

STEPHAN, HUSTON, WEBER, AND ZIEGNER CONCUR:

APPROVED:

**I hereby certify that the above is a true
and correct copy of the Order as approved.**



Mary M. Becerra
Secretary of the Commission

AFFIDAVIT

As an authorized corporate officer of _____
(company name), I, _____ (print name), under
penalty of perjury, hereby affirm familiarity with and understanding of the requirements of
the Communications Act of 1934 as amended by the Telecommunications Act of 1996 with
respect to the receipt of Universal Service funds and affirm that funds received will be used
only for the provision, maintenance, and upgrading of facilities and services for which the
support is intended pursuant to 47 U.S.C. 254(e).

(Signature)

(Title)

(Date)

Subscribed and Sworn to before me this _____ day of _____, A.D. 20____

NOTARY PUBLIC

My Commission Expires _____

**2016 High Cost Universal Service Funding Certification
For Eligible Telecommunications Companies
Commission Cause No. ____**

Each ETC is required to complete this form in order to receive certification by the Indiana Utility Regulatory Commission that the carrier is eligible to receive federal high-cost support for the coming year. The FCC requires ETCs to provide copies of reports and certifications filed pursuant to 47 C.F.R 54.313 to the relevant state commission. Please include a completed copy the FCC form 481 with this filing. If you have any questions, please contact Sally Getz at 317-234-1543. This information is due back to the Commission on July 1, 2016.

Carrier Name: _____

Study Area Code _____

Carrier Address: _____

Contact Name: _____

Contact Email: _____

Position: _____

Phone: _____ **FAX:** _____

1. With regard to your Study Area(s) please provide the following information, using annualized totals of federal support received for the calendar year 2015 in the following categories, if applicable:

High Cost Loop Support: \$ _____

Safety Net Additive Support \$ _____

Local Switching Support \$ _____

Carrier Common Line Support \$ _____

Interstate Access Support \$ _____

CAF/ICC Support \$ _____

Frozen High Cost Support	\$ _____
Incremental Support	\$ _____
Other Form of CAF Support	\$ _____
Total Federal High Cost Support:	\$ _____

2. Does your company offer a stand-alone voice telephony plan throughout its designated service area (ETC study area)? (170 IAC 7-1.2-9).

Note: A listing of voice price offerings (47 C.F.R. § 54.313(a)(7) (FCC Form 481-sheet 700) will satisfy the Indiana rule which requires each ETC to report annually, its current rate for local exchange service.⁴

Please include a public copy of your company's completed FCC Form 481 with this filing.

Confidential Information

If portions of the Form 481 were filed confidentially with the FCC, the Commission will also need a confidential copy of the Form 481. To file any confidential information or unredacted copies of the Form 481, follow the procedures listed in the attached Order in Section 2.

⁴ 170 IAC 7-1.2-4