

KIRA DALE PFISTERER
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0314
IDAHO BAR NO. 6571

RECEIVED
FILED



2005 APR 29 PM 4:44

IDAHO PUBLIC
UTILITIES COMMISSION

Street Address for Express Mail:
472 W. WASHINGTON
BOISE, IDAHO 83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
WWC HOLDING CO., INC. DBA CELLULAR-)	CASE NO. WST-T-05-1
ONE® SEEKING DESIGNATION AS AN)	
ELIGIBLE TELECOMMUNICATIONS)	
CARRIER THAT MAY RECEIVE FEDERAL)	
UNIVERSAL SERVICE SUPPORT)	COMMENTS OF THE
)	COMMISSION STAFF
)	
)	

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Kira Dale Pfisterer, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure issued in Order No. 29749 on April 1, 2005, submits the following comments.

I. BACKGROUND

On February 17, 2005, WWC Holding Co., Inc. dba CellularOne® ("Western Wireless" or the Company) submitted an Application requesting that it be designated as a federal eligible telecommunications carrier (ETC) in certain service areas in Idaho. ETC designation would allow Western Wireless to receive federal universal service support.

On February 23, 2005, ITA, an association of independently owned telephone companies, filed a Petition to Intervene that the Commission granted on March 10, 2005. Order No. 29722. On March 4, 2005, Citizens Telecommunications Company of Idaho, Inc. doing business as Frontier Communications of Idaho ("Frontier") filed a Motion to Intervene that the Commission granted on March 16, 2005. Order No. 29734.

On February 25, 2005, the Federal Communications Commission ("FCC") adopted new guidelines pertaining to ETC designation proceedings before the FCC pursuant to 47 U.S.C. § 214(e)(6). The FCC released its Report and Order on the decision, *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket No. 96-45 March 17, 2005 ("*FCC Order*"). The final Rules ("*FCC Rules*") described in the *FCC Order* are attached hereto as **Attachment A** and are effective January 1, 2006.

On April 1, 2005, the Commission issued a Notice of Application, Notice of Modified Procedure, and Order determining to process the Application under Modified Procedure with a 28-day comment period. Order No. 29749. In the Notice of Application, the Commission described the recent *FCC Order* and in the Notice of Modified Procedure, the Commission urged all parties submitting comments to address the *FCC Order* and the new ETC guidelines.

On April 14, 2005, ITA filed a motion to dismiss the Application for failure to state a claim upon which relief can be granted. ITA argues that the Western Wireless Application should be dismissed because it does not meet the new FCC rules outlined in the *FCC Order*. In addition, ITA argues that the Commission should not process the Application under Modified Procedure to the extent the Application seeks ETC designation in rural telephone company service areas. In these areas, ITA argues, an evidentiary hearing is necessary in order to apply a fact-intensive, public-interest analysis as set forth in the FCC order. Nonetheless, while ITA requests a hearing to make appropriate public-interest determination in the event the Commission considers the substance of the Western Wireless Application, ITA does not request oral argument on the motion to dismiss.

Western Wireless responded to ITA's motion and submitted comments in this case on April 28, 2005. Western Wireless argues that it has met the existing ETC designation requirements in Idaho and the new FCC rules cannot and should not apply to the Application. Western Wireless, like ITA, did not request a hearing on the motion to dismiss.

II. STAFF ANALYSIS

In these comments Staff considers (1) the Western Wireless Application in the context of the existing ETC requirements and (2) the new guidelines set forth in the recent *FCC Order and Rules*. Ultimately, Staff recommends that the Commission put the Western Wireless Application on hold while the Commission considers adopting the new FCC guidelines. Although Staff generally recommends adopting the new guidelines, Staff suggests that the Commission put the issue out on modified procedure to gather public input before making a final decision. It is Staff's position that a rulemaking is not necessary in order for the Commission to apply any or all of the guidelines set forth in the *FCC Order* to this Application.

A. The Western Wireless Application and the Existing ETC Standards

Provided that the Commission applies the existing ETC requirements to the Western Wireless Application, Staff recommends that the Commission grant Western Wireless immediate ETC designation in the non-rural areas identified in the Application. However, for the rural areas identified in the Application, Staff believes that Western Wireless has failed to provide sufficient information to demonstrate whether it meets the public interest standard.

The federal Telecommunications Act of 1996 (the "Act") allows qualifying telecommunications carriers to receive universal service funds for providing certain supported services in high cost areas of the nation. 47 U.S.C. § 214(e). Pursuant to the Act, the state commissions have the primary responsibility for performing ETC designations. 47 U.S.C. § 214(e)(2).

Under the Act, to be eligible for federal universal support, the carrier must meet the following eligibility requirements: 1) be designated a "common carrier" as defined by 47 U.S.C. § 153(10); 2) offer the supported services set forth in 47 C.F.R. § 54.101(a)¹ throughout its proposed service area either using its own facilities or a combination of its own facilities and resale of another carrier's services; and 3) advertise the availability of such services and the

¹ The services are: 1) voice grade access to the public switched network; 2) local calling; 3) touch tone signaling or its functional equivalent; 4) single-party service or its functional equivalent; 5) access to 911 emergency services where available; 6) access to operator services; 7) access to long-distance service; 8) access to directory assistance; and 9) toll limitation service. 47 C.F.R. § 54.101(a). In addition, ETCs are also required by FCC Regulations §§ 54.405 and 54.411 to offer qualifying low-income customers both "Lifeline and Link Up" programs as a condition precedent to receiving federal universal service support.

charges therefore using media of general distribution. 47 U.S.C. § 214(e)(1). In addition, for those areas already served by an incumbent telephone company, the Act provides:

Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find the designation is in the public interest.

47 U.S.C. § 214(e)(2).

Clearly, under the statute, every competitive carrier seeking ETC designation in any service area, whether served by a rural or non-rural telephone company, must meet a threshold finding that the Application is “consistent with the public interest, convenience, and necessity.” *See* Order No. 29686. Once the competitive carrier has met this initial threshold, the Commission considers what type of area the incumbent company serves, specifically whether it is rural or non-rural. If the area for which the applicant seeks ETC designation is a non-rural area and the ETC applicant meets the eligibility requirements and the initial public interest threshold, then the Commission must designate the applicant as an ETC. However, if the area for which the applicant seeks ETC designation is a rural area, then the Commission has more discretion in determining ETC status. Before designating a competitive carrier as an ETC in a rural telephone company’s service area, the Commission, under the Act, must engage in a separate public interest determination focused on the specific issues relevant to rural service areas.

The Western Wireless Application meets the initial public interest threshold showing; therefore, Western Wireless should be granted immediate ETC designation in the non-rural areas identified in the Application. However, even though the Western Wireless Application is more complete than other wireless applications previously received by the Commission, it is not clear from the Application whether Western Wireless meets the public interest determination necessary for the rural areas identified in the Application. Under ordinary circumstances, Staff would likely request additional information from the Company in order to process the Application and perform the requisite public interest analysis. However, because the ETC eligibility standards are at issue in this case, Staff believes that the Commission should first

determine whether it will adopt the new guidelines set forth in the *FCC Order* and then Staff will process the Application accordingly. This will allow the Company the opportunity to address the deficiencies in the Application in a single effort.

For example, under the existing standards, the Application lacks sufficient maps or other detailed descriptions of the current coverage area and the coverage area that will result should Western Wireless receive federal universal support. This information is necessary to inform the public interest analysis, including consideration of possible creamskimming. Such information might also demonstrate how the proposed build-out would increase competition and foster the goals of universal service since Western Wireless, by its own account, is already present and serving 85% of the population in these exchanges.

In addition, there is not sufficient information to justify redefinition of certain service areas. The rural telephone companies of Cambridge, Midvale, and Citizens have some non-contiguous service areas that are currently defined at the study area level. The Application does not contain information on the area covered by the Company's wireless licenses or the licenses of others and there is no discussion of the market areas or other factors that would impact an entrant's ability to compete effectively throughout the service areas of these three companies. There is also a lack of information about the potential costs to the companies if their service areas were redefined.

In addition, Staff is concerned that redefinition to the wire center level may be excessive. The Cambridge exchanges of Cuprum, Council, Cambridge and Indian Valley are contiguous and share many similar attributes. A similar situation applies to the Citizens exchanges that form a contiguous ribbon from White Bird to Horseshoe Bend. Staff believes additional information regarding the most appropriate level for redefinition is necessary.

Finally, Staff is also concerned that the Payette exchange was not included in the Application. This Qwest exchange is surrounded on all sides by exchanges that are included in the Application, but it was not identified as one of the Qwest exchanges for which designation was requested. This may have been merely an oversight.

In sum, under the existing ETC standards, Staff recommends immediate ETC designation for Western Wireless in the non-rural areas identified in the Application. However, more investigation is necessary in order to evaluate the Application as it applies to rural areas. Before addressing these specific concerns and completing this investigation, Staff asks that the

Commission decide what standards it will apply to the Western Wireless Application in light of the recent *FCC Order*.

B. Guidelines from the *FCC Order*

The *FCC Order* builds on the existing statutory framework outlined above as well as relevant case law and provides additional guidance relevant to ETC designation proceedings. In addition, the *FCC Order* also addresses a number of other issues, including annual certification and reporting requirements that bolster the commitments made for purposes of ETC designation. In general, Staff believes the FCC's guidance is both reasonable and consistent with previous orders issued by this Commission and Staff generally recommends Commission approval of the new guidelines set forth in the *FCC Order*. Nonetheless, before making a final determination regarding the guidelines, Staff suggests that public input should be solicited.

1. *The FCC Order and ETC Designation Proceedings*

The FCC requirements are applicable to all future ETC designation proceedings before the FCC pursuant to 47 U.S.C. § 214(e)(6). In addition, all previously designated ETCs must demonstrate how they comply with the new requirements by October 1, 2006 coincident with the annual certification process. These requirements include specific eligibility requirements as well as a public interest analysis applicable regardless of whether the area where designation is sought is served by a rural or non-rural carrier.

Pursuant to the new FCC requirements, the telecommunications provider must demonstrate the following eligibility requirements: 1) the commitment and ability to provide the supported services throughout the designated service area to all customers who make a reasonable request for service; 2) the ability to remain functional in emergencies; 3) a commitment to consumer protection; 4) a local usage plan comparable to that offered by the incumbent LEC in the service area for which the applicant seeks designation; and 5) recognition that the carrier may someday be asked to provide equal access.

There are two specific requirements relevant to a demonstration of the commitment and ability to provide supported services. First, the carrier must provide the supported services throughout the designated service areas to all customers who make a reasonable request. According to the FCC, the reasonableness of the request is a function of the cost of providing service; however, the FCC urges the state commissions to consider other factors relevant to this

consideration. If the carrier determines that it cannot serve the customer at a reasonable cost, then the carrier must report the unfulfilled request to the Commission within 30 days after making such a determination. Second, the carrier must submit a formal five-year network improvement plan demonstrating how universal support funds will be used to improve coverage, signal strength, or capacity that would otherwise not occur absent receipt of high-cost support.

To demonstrate emergency functionality, the telecommunications carrier must have a reasonable amount of back-up power to ensure functionality without an external power source, be able to reroute traffic around damaged facilities, and be capable of managing traffic spikes resulting from emergency situations. The FCC suggests that the state commissions may identify additional emergency functionality requirements or other geographic-specific factors relevant to this consideration. For example, this Commission may decide that a certain amount of back-up power is necessary in Idaho to demonstrate an appropriate level of emergency functionality.

The commitment to consumer protection includes a promise to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service (if applicable). The *FCC Order* suggests that ETC applicants make a specific commitment to objective measures to protect consumers. However, other than the Consumer Code for Wireless Service, the FCC is silent as to what these objective standards might be, leaving room for a case-by-case analysis and the development of state standards by state commissions.

The local usage plan must be comparable to that offered by the incumbent LEC in the service area for which the applicant seeks designation. The *FCC Order* does not define a specific local usage threshold, again allowing for flexibility in service plan offerings and a case-by-case analysis of local service plans. Further, the FCC noted that the state commissions may set a minimum local usage requirement if they so choose.

The equal access requirement under the *FCC Order* is a commitment from the ETC to provide equal access if all other ETC's in that service area relinquish designation pursuant to § 214(e)(4). Equal access includes (but is not limited to) the ability to access presubscribed long-distance carrier of customers choice by dialing 1 + the phone number.

In addition to the eligibility requirements described above, the *FCC Order* sets forth a public interest analysis to be applied whenever a carrier seeks ETC status in an area already served by at least one ETC. Whether such an area is served by a rural or non-rural carrier, the FCC recommends a fact-specific public interest analysis that examines (1) the benefits of

increased consumer choice, (2) the impact of the designation on the universal service fund, and (3) the unique advantages and disadvantages of the competitor's service offering. Also part of the public interest analysis in situations where an ETC applicant seeks designation below the study level of a rural incumbent LEC is consideration of potential creamskimming.

The final designation requirement is a notice requirement for carriers seeking ETC designation in tribal lands. If a carrier seeks ETC designation for any part of tribal lands, and the Western Wireless Application does, then the carrier must submit a copy of the application to the affected tribal government and tribal regulatory authority. The FCC will then send the relevant notice seeking public comment on the application to the affected tribal government and tribal regulatory authority.

The above-outlined requirements are applicable to initial ETC designation proceedings before the FCC beginning in 2006. These requirements are not binding upon the state commissions but provide permissive guidelines for the states to follow at their discretion. Nonetheless, the FCC encourages the state commissions to adopt these requirements in the interest of uniformity and predictability and to improve the long-term sustainability of the federal universal service fund.

2. The FCC Order and Annual Certification and Reporting Requirements

In addition to the initial ETC designation proceedings, the *FCC Order* also includes more rigorous annual reporting requirements as part of the annual certification process. In general, these requirements bolster the commitments made through the designation proceedings and Staff supports these requirements as well, again provided that there is opportunity for public input.

Pursuant to current FCC rules, state commissions must file an annual certification stating that all high-cost support received by carriers within the state will be used "only for the provision, maintenance, and upgrading of facilities and services for which support is intended." 47 C.F.R. §§ 54.313, 54.314. In addition, those ETCs outside state commission jurisdiction file an annual certification directly to the FCC. 47 C.F.R. § 54.314(b). The *FCC Order* augments these requirements with additional annual reporting designed to ensure that the ETCs continue to comply with the commitments and conditions of ETC designation and that universal service funds are being used for their intended purposes. However, the reporting requirements, like the eligibility requirements, only apply to those ETCs reporting directly to the FCC. The FCC

encourages the state commissions to adopt the new reporting requirements; however, the state commissions must ultimately decide whether or not to follow the federal model.

Under the new reporting guidelines, the following information must be included in the annual certification process: (1) progress reports demonstrating any progress and explaining any lack of progress toward the ETC's five-year service quality improvement plan; (2) detailed information on any outage lasting at least 30 minutes; (3) any requests for service from potential customers that were unfulfilled; (4) the number of complaints per 1,000 handsets or lines; (5) certification that the ETC is complying with applicable service quality standards and consumer protection rules; (6) certification that the ETC is able to function in emergency situations; (7) certification that the ETC is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas; and (8) certification that the carrier acknowledges that the Commission may require it to provide equal access to long-distance carriers in the event that no other ETC is providing equal access within the service area.

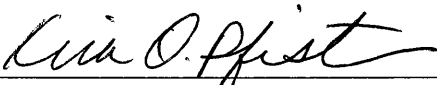
The new information will be due to the FCC on October 1, 2006 and annually on October 1 of each year thereafter. Carriers previously designated as ETCs do not need to reapply for ETC designation under the new guidelines but must comply with the annual certification and reporting requirements. If a review of the data submitted by the ETC indicates that the ETC no longer meets the ETC eligibility requirements, then the FCC will suspend support disbursements to the carrier and revoke the carrier's ETC designation.

Staff supports these additional reporting requirements because they help demonstrate how the universal funds are being used and, therefore, ensure that the funds will be put to the uses for which they are intended. However, as with the FCC guidelines applicable to initial ETC eligibility, Staff recommends that the Commission consider adoption of the new standards with opportunities for meaningful public input.

III. RECOMMENDATION

Staff recommends that the Commission issue an Order putting the guidelines set forth in the *FCC Order* out on modified procedure with a 28-day comment period. In addition, Staff recommends that the Commission put the Western Wireless Application on hold until a decision on the *FCC Order* has been made.

Respectfully submitted this 29th day of April 2005.


Kira Dale Pfister
Deputy Attorney General

Technical Staff: Wayne Hart

i:umisc:comments/wstt05.1kfw

APPENDIX A – FINAL RULES

Part 54 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 54 – UNIVERSAL SERVICE**Subpart C – Carriers Eligible for Universal Service Support**

1. Section 54.202 is added to subpart C to read as follows:

§ 54.202 Additional requirements for Commission designation of eligible telecommunications carriers.

(a) On or after the effective date of these rules, in order to be designated an eligible telecommunications carrier under section 214(e)(6), any common carrier in its application must:

- (1) (A) commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify that it will (1) provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and (2) provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by (a) modifying or replacing the requesting customer's equipment; (b) deploying a roof-mounted antenna or other equipment; (c) adjusting the nearest cell tower; (d) adjusting network or customer facilities; (e) reselling services from another carrier's facilities to provide service; or (f) employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment; and

(B) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.
- (2) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.
- (3) demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.
- (4) demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.

(5) certify that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

(b) Any common carrier that has been designated under section 214(e)(6) as an eligible telecommunications carrier or that has submitted its application for designation under section 214(e)(6) before the effective date of these rules must submit the information required by paragraph (a) of this section no later than October 1, 2006, as part of its annual reporting requirements under section 54.209.

(c) *Public Interest Standard.* Prior to designating an eligible telecommunications carrier pursuant to section 214(e)(6), the Commission determine that such designation is in the public interest. In doing so, the Commission shall consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering. In instances where an eligible telecommunications carrier applicant seeks designation below the study area level of a rural telephone company, the Commission shall also conduct a creamskimming analysis that compares the population density of each wire center in which the eligible telecommunications carrier applicant seeks designation against that of the wire centers in the study area in which the eligible telecommunications carrier applicant does not seek designation. In its creamskimming analysis, the Commission shall consider other factors, such as disaggregation of support pursuant to § 54.315 by the incumbent local exchange carrier.

(d) A common carrier seeking designation as an eligible telecommunications carrier under section 214(e)(6) for any part of tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the Federal Communications Commission. In addition, the Commission shall send the relevant public notice seeking comment on any petition for designation as an eligible telecommunications carrier on tribal lands, at the time it is released, to the affected tribal government and tribal regulatory authority, as applicable, by overnight express mail.

2. Section 54.209 is added to subpart C to read as follows:

§ 54.209 Annual reporting requirements for designated eligible telecommunications carriers.

(a) A common carrier designated under section 214(e)(6) as an eligible telecommunications carrier shall provide:

- (1) a progress report on its five-year service quality improvement plan, including maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level;
- (2) detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5, of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect (a) at least ten percent of the end users served in a designated service area; or (b) a 911 special facility, as defined in 47 C.F.R. § 4.5(e). Specifically, the eligible telecommunications carrier's annual report must include information detailing: (a) the date and time of onset of the outage; (b) a brief description of the outage and its resolution; (c) the particular services affected; (d) the

geographic areas affected by the outage; (e) steps taken to prevent a similar situation in the future; and (f) the number of customers affected.

- (3) the number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers, as set forth in §54.202(a)(1)(A);
- (4) the number of complaints per 1,000 handsets or lines;
- (5) certification that it is complying with applicable service quality standards and consumer protection rules;
- (6) certification that the carrier is able to function in emergency situations as set forth in §54.201(a)(2);
- (7) certification that the carrier is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas; and
- (8) certification that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

(b) *Filing deadlines.* In order for a common carrier designated under section 214(e)(6) to continue to receive support for the following calendar year, or retain its eligible telecommunications carrier designation, it must submit the annual reporting information in paragraph (a) no later than October 1, 2006, and thereafter annually by October 1 of each year. Eligible telecommunications carriers that file their reports after the October 1 deadline shall receive support pursuant to the following schedule:

- (1) Eligible telecommunication carriers that file no later than January 1 of the subsequent year shall receive support for the second, third and fourth quarters of the subsequent year.
- (2) Eligible telecommunication carriers that file no later than April 1 of the subsequent year shall receive support for the third and fourth quarters of the subsequent year.
- (3) Eligible telecommunication carriers that file no later than July 1 of the subsequent year shall receive support for the fourth quarter of the subsequent year.

3. Section 54.307 is amended by adding paragraph (d) to subpart D to read as follows:

§ 54.307 Support to a competitive eligible telecommunications carrier.

(a)-(c) * * * [unchanged]

(d) *Newly designated eligible telecommunications carriers.* Notwithstanding the deadlines in paragraph (c) of this section, a carrier shall be eligible to receive support as of the effective date of its designation as an eligible telecommunications carrier under section 214(e)(2) or (e)(6), provided that it submits the data required pursuant to paragraph (b) of this section within 60 days of that effective date. Thereafter, the eligible telecommunications carrier must submit the data required in paragraph (b) of this section pursuant to the schedule in paragraph (c).

4. Section 54.313 is amended by adding paragraph (d)(3)(vi) to subpart D to read as follows:

§ 54.313 State certification of support for non-rural carriers.

(a)-(d)(3)(v) * * * [unchanged]

(vi) *Newly designated eligible telecommunications carriers.* Notwithstanding the deadlines in paragraph (d) of this section, a carrier shall be eligible to receive support pursuant to § 54.309 or § 54.311, whichever is applicable, as of the effective date of its designation as an eligible telecommunications carrier under section 214(e)(2) or (e)(6), provided that it files the certification described in paragraph (b) of this section or the state commission files the certification described in paragraph (a) of this section within 60 days of the effective date of the carrier's designation as an eligible telecommunications carrier. Thereafter, the certification required by paragraphs (a) or (b) of this section must be submitted pursuant to the schedule in paragraph (d).

5. Section 54.314 is amended by adding paragraph (d)(6) to subpart D to read as follows:

§ 54.314 State certification of support for rural carriers.

(a)-(d)(5) * * * [unchanged]

(6) (vi) *Newly designated eligible telecommunications carriers.* Notwithstanding the deadlines in paragraph (d) of this section, a carrier shall be eligible to receive support pursuant to §§ 54.301, 54.305, or 54.307 or part 36 subpart F of this chapter, whichever is applicable, as of the effective date of its designation as an eligible telecommunications carrier under section 214(e)(2) or (e)(6), provided that it files the certification described in paragraph (b) of this section or the state commission files the certification described in paragraph (a) of this section within 60 days of the effective date of the carrier's designation as an eligible telecommunications carrier. Thereafter, the certification required by paragraphs (a) or (b) of this section must be submitted pursuant to the schedule in paragraph (d).

6. Section 54.809 is amended by adding the last sentence to paragraph (c) to subpart D to read as follows:

§ 54.809 Carrier certification.

(a)-(b) * * * [unchanged]

(c) *Filing deadlines.* In order for a price cap local exchange carrier or an eligible telecommunications carrier serving lines in the service area of a price cap local exchange carrier to receive interstate access universal service support, such carrier shall file an annual certification, as described in paragraph (b) of this section, on the date that it first files its line count information pursuant to § 54.802, and thereafter on June 30 of each year. Such carrier that files its line count information after the June 30 deadline shall receive support pursuant to the following schedule:

- (1) Carriers that file no later than September 30 shall receive support for the fourth quarter of that year and the first and second quarters of the subsequent year.
- (2) Carriers that file no later than December 31 shall receive support for the first and second quarters of the subsequent year.
- (3) Carriers that file no later than March 31 of the subsequent year shall receive support for the second quarter of the subsequent year.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 29TH DAY OF APRIL 2005, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. WST-T-05-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

DEAN J MILLER
McDIVITT & MILLER LLP
PO BOX 2564
BOISE ID 83701-2564

MARK J AYOTTE
BRIGGS & MORGAN PA
2200 FIRST NATIONAL BANK BLDG.
ST PAUL MN 55101

CONLEY E WARD
GIVENS PURSLEY LLP
PO BOX 2720
BOISE ID 83701

DAN TRAMPUSH
MOSS ADAMS LLP
900 WASHINGTON ST, SUITE 700
VANCOUVER WA 98660

INGO HENNINGSEN
REGULATORY MANAGER
FRONTIER COMMUNICATIONS
4 TRIAD CENTER STE 200
SALT LAKE CITY UT 84180

CHARLES L BEST
ASSOCIATE GENERAL COUNSEL
FRONTIER COMMUNICATIONS
4400 NE 77TH AVE
VANCOUVER WA 98662



SECRETARY

CERTIFICATE OF SERVICE