

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

<p>IN RE:</p> <p>ELIGIBILITY, CERTIFICATION, AND REPORTING REQUIREMENTS FOR ELIGIBLE TELECOMMUNICATIONS CARRIERS AND RELATED CONFIDENTIALITY PROVISIONS [199 IAC 1 AND 39]</p>	<p>DOCKET NO. RMU-2014-0002</p>
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ORDER ADOPTING AMENDMENTS

(February 13, 2015)

I. BACKGROUND

Pursuant to Iowa Code §§ 17A.4, 476.2, 476.15, and 476.102, and 47 U.S.C. § 214(e), the Utilities Board (Board) is adopting amendments to its rules governing the Board's designation of telecommunications carriers eligible to receive support from the federal Universal Service Fund (USF). Under federal law, 47 U.S.C. § 214(e), states have primary responsibility for designating eligible telecommunications carriers (ETCs). The Board's current ETC rules are included in 199 Iowa Administrative Code chapter 39. The Board last reviewed and updated the ETC rules in 2006, in Docket No. RMU-2006-0001.

The amendments to the Board's ETC rules were prompted by recent changes made by the Federal Communications Commission (FCC) to the federal rules governing the USF and its component programs. *See Connect America Fund; et al.*, WC Docket Nos. 10-90, et al., Report and Order and Further Notice of Proposed

Rulemaking, FCC 11-161, 26 F.C.C.R. 17663 (rel. Nov. 18, 2011) ("*Transformation Order*"), and *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Docket Nos. 11-42 et al., CC Docket No. 96-45, FCC 12-11 (rel. Feb. 6, 2012) ("*Lifeline Reform Order*"). In the *Transformation Order*, the FCC replaced the existing high-cost fund with a new Connect America Fund (CAF), which will eventually replace the high-cost program and is designed to support wireline broadband. The FCC also created the CAF Mobility Fund, which is intended to support wireless and mobile broadband service. The FCC replaced the former list of nine supported services with a single supported service identified as "voice telephony service" and extended federal annual reporting requirements to state-designated ETCs, among other changes.

In the *Lifeline Reform Order*, the FCC made several changes to the Lifeline program, which provides support for telephone service for low-income consumers. Reforms include eliminating toll limitation service support, eliminating Link Up support with certain exceptions, and relieving Lifeline-only ETCs from certain requirements.

As a result of the changes to federal rules made in the *Transformation Order*, *Lifeline Reform Order*, and subsequent clarification orders from the FCC, some of the eligibility and reporting requirements in the Board's current ETC rules are no longer consistent with federal rules.

The amendments adopted in this proceeding eliminate outdated provisions in the Board's current rules, align the Board's rules with the reforms to the federal USF, and clarify the process by which telecommunications carriers seeking ETC

designation from the Board apply for the designation. The Board is also amending its rule at 199 IAC 1.9(5)"c" governing requests for confidential treatment which are deemed granted. The amendments were proposed by the Board in an order issued July 17, 2014, in a rule making proceeding identified as RMU-2014-0002.

The proposed amendments were published on August 6, 2014, in the Iowa Administrative Bulletin in Vol. XXXVII, No. 3 (8/6/14) p. 172, as ARC 1563C. The Board is adopting the proposed amendments with certain revisions based upon comments received from stakeholders and based upon the Board's further review of the proposed amendments. The comments and revisions are discussed below. The specific amendments adopted by the Board are set out in the "Adopted and Filed" notice attached to this order and incorporated herein by reference. The Code Editor may make editorial changes prior to publication. The final version of the adopted amendments will be available in the Iowa Administrative Bulletin. The amendments will become effective on April 8, 2015.

The Board received four sets of written comments regarding the amendments proposed in the Notice of Intended Action. Comments were filed on September 10, 2014, by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Qwest Corporation, d/b/a CenturyLink (CenturyLink), the Iowa Communications Alliance (ICA), and Windstream Iowa Communications, Inc. (Windstream).

Consumer Advocate, CenturyLink, and ICA appeared at the oral comment proceeding held on October 28, 2014.

On January 23, 2015, the Board issued an "Order Establishing Filing Date for Additional Comments" seeking comment on possible revisions to proposed subrule 39.3(1), which states, in part, that an "ETC designation is not transferable." Consumer Advocate and ICA responded to the Board's order. Consumer Advocate had no objection to the new language discussed in the Board's January 23, 2015, order. ICA made suggestions for further changes to the proposed revision, which are discussed below.

II. DISCUSSION OF COMMENTS AND REVISIONS

A. Item 1: Amendments to confidentiality provisions

In Item 1 of the Notice of Intended Action, the Board proposed to revise the rule at 199 IAC 1.9(5)"c," which lists materials exempted from public disclosure pursuant to requests deemed granted by the Board. The Board explained that the proposed revisions were intended to reduce administrative burdens on both ETCs and the Board and to ensure that the list of ETC-related materials included on the list accurately reflects information the Board will receive and that such items are properly withheld from public inspection. The Board proposed four revisions to rule 1.9(5)"c":

1. Adding a reference to progress reports and extensions relating to two-year network improvement plans required by the Board.
2. Clarifying which type of wireless coverage area maps are entitled to confidential treatment.
3. Striking the reference to service outage reports filed with the Board pursuant to current rule 39.5(5) because the Board proposed to eliminate the state-specific service quality reports which included outage information.

4. Adding revenue recovery amounts filed with the Board pursuant to proposed new rule 39.7(2) (the annual eligible recovery certifications and financial reports filed with the Board on the form used by the FCC for the annual report, FCC Form 481).

In its written comments, CenturyLink supported the effort to simplify the process of filing confidential information and proposed that the list of materials for which requests for confidential treatment are deemed granted be amended to include forward-looking future investment or build-out plans that may be filed with the Board, either due to a state requirement or as may be required by the FCC. CenturyLink listed the following items as things that should be covered by "blanket confidential treatment": loop counts included in rate floor filings; Customer Proprietary Network Information or direct customer correspondence that may be included in FCC Form 481 Tribal Engagement reporting; broadband speeds and exchanges included in the Federal Form 481 broadband pricing report; and network outages included in Form 481, which CenturyLink asserts are treated as confidential when filed with the FCC.

ICA agreed with expanding the range of information entitled to confidential treatment but stated that the Board's proposed revisions did not go far enough. ICA suggested that the Board should treat all ETC-related filings as confidential and exempt from public disclosure. ICA urged the Board to amend the ETC rules to grant blanket confidential treatment to all ETC reporting filings. ICA proposed that the Board dispense with the requirement that ETCs file a request for confidential treatment to be deemed granted. Instead, ICA proposed that the information be automatically deemed confidential as "trade secrets" within the meaning of Iowa Code chapter 22.

Because not all of the information filed with the Board on the various FCC forms is necessarily confidential, the Board will not adopt a "blanket confidentiality" provision or language that treats all information included in the federally-required reports as trade secrets. The Board agrees with Consumer Advocate's statement at the oral comment proceeding that issuing a "blanket grant of confidentiality" to all ETC-related materials regarding the High-Cost Fund Program or other USF programs is not appropriate and not likely to be consistent with the requirements of Iowa Code chapter 22, which establishes a policy of free and open examination of public records.

Nor will the Board adopt CenturyLink's proposal to expand the "deemed granted" list to include Customer Proprietary Network Information or direct customer correspondence that may be included in FCC Form 481 Tribal Engagement reporting, broadband speeds and exchanges included in the FCC Form 481 broadband pricing report, and network outages included in FCC Form 481. As will be provided in rule 39.7(3)"f"(2), if an ETC considers those materials to be confidential, the carrier can file a request for confidential treatment pursuant to Board rule 1.9(6). After more experience with receiving filings under the new federal rules, if it appears that filings containing these kinds of materials are numerous, the Board may consider adding them to the list of requests deemed granted.

Based on the Board's further review of the proposed amendment and the written comments, the Board is revising the proposed amendment to clarify and expand the list of ETC-related materials covered by the rule to include the following:

- *all* network improvement and maintenance plans and related extensions and progress reports, not just those filed by competitive ETCs (CETCs); and
- loop or line count data submitted as part of the annual eligible recovery certifications filed pursuant to rule 39.7(2); financial reports and loop or line count data filed with rate floor data submitted with the annual report filed pursuant to 39.7(3); and loop or line count data submitted as part of the rate floor data updates filed pursuant to new subrule 39.7(4).

The Board is also adopting two other amendments to rule 1.9(5)"c." First, in its present format, rule 1.9(5)"c" can be difficult to read. The items for which requests for confidential treatment will be deemed granted are identified in a list, separated only by commas. The Board adopts a revised rule 1.9(5)"c" which uses a numbered list. Second, the Board is revising the rule to provide that when an item on the list in 1.9(5)"c" is filed through the Board's electronic filing system (when the filer receives a notice of electronic filing) a request for confidential treatment of that item will be deemed granted without further review or acknowledgment by the Board. Presently, for some of the items included on the list in 1.9(5)"c," Board staff prepares a letter for Records Center to send to the filer to acknowledge the filing. With this amendment, the Board is eliminating that step. In this context, ETCs submitting materials for which requests for confidential treatment are deemed granted under rule 1.9(5)"c" will not need to submit a full-blown request for confidential treatment but will need to adhere to the requirements for filing confidential material found in Board rule 14.12 and submit a statement in which an attorney for the company or corporate officer avers that the material satisfies the requirements of Iowa Code §§ 22.7(3) or 22.7(6), or both.

B. Item 1: Strike existing rules at 199 IAC 39, replace with new rules

1. Rule 39.1 – Authority and purpose. The Board adopts rule 39.1 as proposed, without revision.

2. Rule 39.2 – Definition of terms

a. Reference to federal rules

Throughout the proposed rules, where it was necessary to refer to a federal rule, the Board included a reference to the "as amended date" of the federal rule. The proposed rules were drafted with these references to comply with the rule writing style guide published by the Iowa Code Editor; that document instructs drafters to include a date certain when citing CFRs in a rule. Also, the Iowa Attorney General has advised against delegating state lawmaking power to the federal government, stating that [a state legislature] "can incorporate existing federal laws and regulations but cannot incorporate future federal laws or regulations, because adoption of future federal actions would be a total delegation of state legislative authority to the federal government." See *Opinion of the Attorney General, Ovrom to Ballou, Executive Director, Iowa Department of Environmental Quality, (1981)*. The approach of adopting a federal regulation using a date certain guarantees that the Iowa agency reviews and formally adopts any federal revisions before they automatically become part of Iowa law.

Some of the participants objected to this approach to writing the rules. For example, ICA argued that if the Board's rules refer to specific versions of federal rules, the Board's rules will quickly be outdated given that the federal rules are

subject to frequent revisions. ICA recommended that the Board's rules simply refer to the relevant federal rule without including a specific effective date of that rule.

The Board is adopting the approach it raised at the oral comment proceeding of amending the definition section of the rules (rule 39.2) to include a statement that whenever a reference in the rules in chapter 39 is made to provisions found in 47 CFR Parts 36, 51 or 54, those references include any amendments through the effective date of the Board's rules. The Board has removed the "as amended to" dates in the individual rules. When the referenced federal rules change, the only part in the Iowa rules that will need to be amended will be the language in the definition section.

b. Definition of "Connect America fund"

ICA suggested in written comments that the Board should more closely coordinate its proposed definitions with the definitions in the relevant federal regulations. ICA urges the Board not to paraphrase the federal definitions, and points to the proposed definition of "Connect America fund" as an example of the problems associated with paraphrasing the federal definition of a program that continues to evolve. Based on ICA's comments, the Board adopts a revised version of the definition of "Connect America fund" to eliminate some of what could be viewed as language paraphrasing the intent of the reforms to the USF.

c. Definition of "Voice telephony service"

ICA also offered written comments on the Board's proposed definition of the term "Voice telephony service." Current subrule 39.2(1) lists nine services an ETC

must provide throughout its approved service area, including toll limitation service (TLS) for qualifying low-income consumers. TLS was intended to limit or block the amount of long distance charges a customer could receive in one month. In the *Transformation Order*, the FCC replaced its former list of nine supported services with a single supported service designated as "voice telephony service."¹ The Board's proposed definition of "voice telephony service" included in the Notice of Intended Action mirrors the new federal definition, except for leaving out the reference to TLS. In the *Lifeline Reform Order*, the FCC maintained the requirement for ETCs "to offer TLS at no charge to the low-income consumer only for service plans for which the ETC charges a fee for toll calls, either domestic or international, that is in addition to the per month or per billing cycle price of the consumer's Lifeline service." *Lifeline Reform Order*, ¶ 230. However, because there was no longer a valid policy reason to require all ETCs to offer TLS and in light of concerns that there could be "significant waste or abuse in claims for TLS support," *Lifeline Reform Order*, ¶ 233, the FCC eliminated support for TLS over a period of time. TLS support was eliminated and unavailable at the beginning of 2014. *Lifeline Reform Order*, ¶ 234.

In written comments, ICA noted that eliminating the reference to TLS from the definition of "voice telephony service" could create confusion about whether Iowa's

¹ *Transformation Order*, ¶ 62. The FCC amended its rule at 47 CFR § 54.101 to specify that "[e]ligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in 47 CFR Part 54 Subpart E." *Transformation Order*, ¶ 78.

ETCs are offering telecommunications services that qualify for support. Based on ICA's comments and the Board's further review, the Board concludes that this definition should include a reference to TLS in the event there are any carriers in Iowa that still offer this kind of service plan. The Board adopts a revised version of the definition of "Voice telephony service" that includes a reference to TLS.

3. Rule 39.3 – Applying for designation as an ETC

a. Effect of corporate transactions on ETC designations

As proposed, rule 39.3(1) states, in part, that an

ETC designation is not transferable. Where a telecommunications carrier acquires another carrier with an ETC designation, through a sale or transfer, the acquiring company must apply for an ETC designation.

In written comments, ICA stated that the Board should make a distinction between the structure of the transaction and the circumstances of the transferring company and the acquiring company. ICA suggested that where an existing ETC purchases another entity that holds an ETC designation and the purchased entity is "folded into" the acquiring company's holding company, the ETC status does transfer and there would be no need to apply for a new ETC designation. In this situation, ICA stated that the rules could require the acquiring carrier to notify the Board of the transfer and certify that the acquiring carrier will assume the ETC status of the acquired entity and responsibilities in the acquired service area.

ICA also suggested that where an ETC acquires an entity that does not have an ETC or CETC designation, but the acquiring carrier wishes to obtain ETC status for the new study area, the acquiring carrier should be required to apply for

designation. And where one carrier acquires a company with an ETC designation but does not want to assume ETC status for all or a portion of the acquired entity's designated service area, ICA suggested it would be appropriate for the acquiring carrier to comply with the Board's requirements for relinquishing ETC designation.

Finally, ICA suggested that a company with an ETC designation that purchases another ETC should be allowed to adopt the acquired entity's network improvement plan.

Windstream also commented on the provision, stating in written comments that the proposed rule was not clear as to whether the requirement applies if the acquiring company already has an ETC designation. Windstream asked for clarification on this issue and suggested that the rule include an exception for a carrier that already has been designated as an ETC. Windstream explained that where the acquiring carrier is already an ETC, the ETC designation of the seller is not being transferred – the selling entity's customers are being transferred. The acquiring carrier has already been through the designation process and is bound by the laws regarding the obligations of an ETC. Windstream suggested that the Board revise the proposed amendment to allow this exception.

There was discussion at the oral comment proceeding about the proposed provision that ETC designations are not transferable. The participants and Board discussed whether an ETC designation transfers upon the acquisition of a company depends on the type of transaction, i.e., a stock versus an asset transaction. ICA stated that at the federal level, there has been guidance suggesting that in cases

involving a carrier acquiring the stock of an ETC, the ETC status does not automatically transfer as part of that transaction. ICA suggested that in the context of a program in which federal authority has been delegated to the states, the federal guidance is instructive. According to ICA, if the Board adopts the federal approach, the Board should consider what will be expected of participants in a stock transaction. With respect to asset transactions, ICA stated that it is more clear that ETC status is not an asset that one entity can transfer to another. ICA indicated that ETCs that acquire another carrier with an ETC designation would expect to assume those obligations and would not object to filing a form certifying they will accept those obligations and service area.

The Board's current rules do not address what happens to an ETC designation in the event of a change in ownership of an ETC. To fill that void, and after consideration of the comments responding to the proposed statement that ETC designations are not transferable, the Board drafted a revised subrule to give more explicit guidance to telecommunications carriers involved in transactions that involve at least one carrier with an ETC designation. On January 23, 2015, the Board issued an order explaining it was considering changing proposed rule 39.3 based on the principle that ETC designations do not automatically transfer upon a change in ownership or control of an ETC, and that the Board must evaluate whether a previously-undesignated carrier satisfies the requirements for being designated as an ETC. The new language also incorporated a provision allowing existing ETCs to amend their designations.

The proposed revision addressed scenarios involving transactions between incumbent local exchange carriers (in which case the carriers would use the SPU process required by Iowa Code § 476.20 to notify the Board and certify that the acquiring carrier intends to amend its ETC designation by assuming the obligations of the acquired ETC); transactions between Lifeline-only ETCs (in which case the acquiring carrier would notify the Board of the acquisition and certify that the acquiring carrier intends to amend its designation to assume the acquired carrier's ETC obligations); transactions where a non-ETC acquires an ETC (in which case the acquiring carrier must file an application for ETC designation); and transactions where an ETC expands its service area after winning an FCC auction or acquiring a new service area in a transaction not subject to Iowa Code § 476.20 (in which case the carrier would notify the Board of the transaction and ask the Board to amend the carrier's ETC designation).

Consumer Advocate filed a statement on February 2, 2015, indicating it did not object to the proposed new subrule 39.3(3).

ICA filed comments on February 2, 2015, proposing that the Board expand the revised subrule to include all transactions that may involve carriers with ETC designations. According to ICA, the policy reflected in the proposed revision should apply to all ETCs designated by the Board, with certain revisions proposed by ICA. ICA suggested that the Board divide the transactions in an expanded subrule

into two categories – asset transactions and transfer of control transactions.² Under the "asset transaction" category, ICA stated it is appropriate to distinguish between transactions involving ETCs other than Lifeline-only ETCs and transactions involving Lifeline-only ETCs. ICA agreed with the Board's proposal to allow a carrier to request to amend an existing designation in connection with a discontinuance of service proceeding where the Board's jurisdiction under § 476.20 is implicated.

In the subsection addressing transactions between Lifeline-only ETCs, ICA proposed to delete the statement that "[t]he board will issue an order amending the designation." According to ICA, deleting that statement would eliminate confusion about whether the Board has discretion to disapprove a proposed transaction between Lifeline-only ETCs. ICA pointed to the controlling provision in subrule 39.3(3) stating that "[w]here the board approves of the amendment, the board will issue an order amending the designation."

Next, ICA proposed that a "transfer of control" transaction be defined and addressed in a new subparagraph. ICA proposed to define a "transfer of control" as a "purchase of stock or other equity interests, merger, share exchange or similar

² The Board's understanding is that in this context, an "asset transaction" is one in which the company being acquired through the transaction would cease providing service and a transfer of customer base would be necessary. A "transfer of control" transaction is one in which there would be a change in ownership, but the company with the ETC designation would continue to exist and provide service. The FCC uses the terms "transfer of control" and "assignment of license" in its rules requiring prior approval of certain corporate transactions. The FCC defines "transfer of control" as "a transaction in which the authorization remains held by the same entity, but there is a change in the entity or entities that control the authorization holder." An "assignment of license" is defined as a transaction in which an "authorization is assigned from one entity to another entity. Following an assignment, the authorization is held by an entity other than the one to which it was originally granted." See 47 CFR §§ 63.24(b) and (c). The Board understands that the FCC treats a sale of a customer base by one carrier to another as a sale of assets and treats such a transaction as an assignment requiring prior FCC approval.

transaction in which neither the legal existence of the acquired carrier nor ownership of its assets is altered." ICA proposed that these transactions should not be treated as altering or amending the ETC status of an acquired carrier and should not require prior Board approval. ICA stated that this kind of transaction does not change the public interest commitments and obligations of an acquired ETC. According to ICA, this approach is consistent with the Board's treatment of transfers of control involving certificated local exchange carriers.

ICA referred to its statement at the oral comment proceeding about FCC guidance that ETC status does not automatically transfer in connection with transfers of control. ICA cites the FCC's July 24, 2014, FCC Public Notice,³ as the source of that guidance. ICA pointed out that the FCC's statement was limited to Lifeline-only ETCs which do not operate over their own facilities or use a combination of their own facilities and resold facilities. ICA concluded by suggesting that the Board's approach to transfers of control of an ETC does not need to be different from the Board's approach to transfers of control in other areas of the Board's authority.

The Board agrees with ICA that ICA's proposed revisions are consistent with the way the Board treats transfer of control transactions in other contexts. For example, the Board receives numerous filings notifying the Board of pro forma transactions between telecommunications carriers which do not affect the associated

³ *Wireline Competition Bureau Reminds Carriers of Eligible Telecommunications Carrier Designation and Compliance Plan Approval Requirements for Receipt of Federal Lifeline Universal Service Support*, WC Docket No. 09-107 et al., Public Notice, 29 FCC Rcd 9144, 2014 WL 3695419 (Rel. Jul. 24, 2014) .

certificates of public convenience and necessity held by the acquired carriers. These filings are typically made in "M" dockets and the Board does not issue orders responding to the filings. Where a transaction involves a transfer of customer base, a proposed discontinuance of service, or a certificate transfer, however, the Board does require notice and issues orders approving or disapproving those transactions.

While transactions under the "Transfer of control" category proposed by ICA would not require Board approval, the Board would be notified of the transaction. Moreover, the provision explicitly states that the ETC obligations continue.

The Board will adopt most of ICA's proposed language in the following new subrule 39.3(3). The Board has made some minor changes to the wording of ICA's proposal and has added provisions specifying the time for advance notice of certain types of transactions.

The Board will adopt rule 39.3 as proposed, with the following revisions. The adopted version of the rule includes language about an expedited application (discussed later in this order), a separately numbered subrule 39.3(3) regarding amendments to existing ETC designations, and most of ICA's proposed language.

199—39.3 (476) Applying for designation as an eligible telecommunications carrier.

39.3(1) A telecommunications carrier must be designated as an ETC to qualify for support from the federal universal service fund. The Iowa utilities board reviews applications for designation as an ETC for compliance with 47 U.S.C.

§ 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board. ~~An ETC designation is not transferable. Where a telecommunications carrier acquires another carrier with an ETC designation, through a sale or transfer, the acquiring company must apply for an ETC designation.~~ If an applicant requests an expedited ruling from the board on an application to be designated as an ETC or on an amendment to an existing ETC designation, the applicant shall specify why an expedited process is necessary and why an expedited review would not be contrary to the public interest.

* * *

39.3(3) Amendments to ETC designations. ETCs may request that the board amend an existing ETC designation as provided in the following situations. Where the board approves of the amendment, the board will issue an order amending the designation.

a. Asset transactions between ETCs other than Lifeline-only ETCs. Where a telecommunications carrier that has been designated by the board as an ETC, other than a Lifeline-only ETC, acquires another carrier with an ETC designation, through an acquisition involving a sale or transfer of assets, and the acquiring carrier intends to serve as an ETC in the newly acquired service area, the acquiring carrier shall notify the board of the acquisition and certify that the acquiring carrier intends to amend its designation to assume the acquired carrier's ETC obligations. The certification also shall indicate whether the acquiring carrier intends to adopt the network improvement plan of the acquired carrier. The notice of acquisition and

certification shall be filed at least 90 days before the acquired carrier discontinues service. Where the acquisition involves a discontinuance of service by an incumbent local exchange carrier, the required notice and certification may be included with or as part of the acquired carrier's application for discontinuance of service filed pursuant to Iowa Code section 476.20. The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8.

b. Asset transactions between Lifeline-only ETCs. Where a telecommunications carrier that has been designated by the board as a Lifeline-only ETC acquires another carrier that has been designated by the board as a Lifeline-only ETC through an acquisition involving a sale or transfer of assets, and the acquiring carrier intends to serve as a Lifeline-only ETC in the newly acquired service area, the acquiring carrier shall notify the board of the acquisition and certify that the acquiring carrier intends to amend its designation to assume the acquired carrier's ETC obligations. The notice and certification shall be filed using the carriers' ETA docket numbers at least 90 days before the acquired carrier will cease providing Lifeline service. The filing shall include copies of relevant documents filed with the FCC. The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8.

c. Non-ETC acquires an ETC. Where an entity that has not been designated by the board as an ETC acquires a telecommunications carrier that has been designated by the board as an ETC, and the acquiring entity intends to serve as an ETC in the newly-acquired service area, the acquiring entity shall file with the board

an application for designation as an ETC as provided in 199—39.3. The acquired carrier shall comply with the requirements for relinquishing an ETC designation 199—39.8.

d. Other amendments. Where a telecommunications carrier that has been designated by the Board as an ETC intends to serve as an ETC in a new service area for the purposes of receiving support from the CAF Phase II auction or other similar purpose, or after acquiring a new service area pursuant to a transaction not subject to the provisions of Iowa Code § 476.20, the carrier shall file a notice of expansion or acquisition 30 days in advance of the expansion or acquisition and shall certify that the carrier intends to amend its designation to serve as an ETC in the expanded service area.

e. Transfer of control transactions. Where a carrier that has been designated by the board as an ETC is acquired through an acquisition involving a direct or indirect transfer of control, including through a purchase of stock or other equity interests, merger, share exchange or similar transaction in which neither the legal existence of the acquired carrier nor ownership of its assets is altered, the acquiring carrier shall file with the board a notice of the transfer of control 30 days in advance of the transfer of control. The notice shall be filed using an "M" docket designation. The board will acknowledge receipt of the notice by letter. Following a transfer of control, the ETC designation and ETC obligations of the acquired carrier shall continue without amendment or modification, unless the acquired carrier complies with the requirements for relinquishing an ETC designation in 199—39.8. For purposes of

this rule, any merger, share exchange or similar transaction in which the legal existence of the acquired carrier or ownership of its assets is altered will be deemed to be an acquisition involving a sale or transfer of assets and not a transfer of control.

b. Paragraph 39.3(2)"f" – Advertising

Proposed subrule 39.3(2) contains the required elements of an application for ETC designation. Proposed paragraph 39.3(2)"f" requires an applicant to describe "how the applicant advertises the availability of supported services and the charges therefore using media of general distribution." In the Order Commencing Rule Making, the Board explained that current rule 39.2(3)"b" requires ETCs to "[a]dvertise the availability of the required services and the charges for the services using media of general distribution to residential customers" and to "advertise at least annually, in a publication of general circulation, throughout its approved service area." The Board asked for comment about whether the Board should require advertising at a specific interval.

ICA stated in written comments that proposed rule 39.3(2)"f" adopts the federal provision which contains no detail on time intervals for the advertising, what constitutes "media of general distribution," or what is an acceptable amount of advertising. (The federal provision at 47 CFR § 54.201(d)(2) provides that a common carrier designated as an ETC shall "[a]dvertise the availability of [supported services] and the charges therefore using media of general distribution".) ICA suggested that the Board not add anything to the proposed language. ICA also stated that the history of audits conducted by the Universal Service Administrative Company (USAC)

has shown that current ETCs have been meeting the advertising standard. ICA stated it did not believe this element of the application needed any additional specifications.

CenturyLink stated in written comments that requiring advertising to be done at a specific timeframe could crowd advertising space as multiple companies in Iowa try to meet the requirement. CenturyLink encouraged the Board to mirror the federal requirements for Lifeline advertising. (The issue of advertising the availability of Lifeline services is discussed later in this order.)

Based on the written comments and the Board's further review of the issue, the Board adopts paragraph 39.3(2)"f" as proposed, without adding any additional specifications regarding the frequency or means of advertising. As proposed, the rule requires applicants to describe "how the applicant advertises the availability of supported services and the charges therefore using media of general distribution." If the Board has any questions about how an applicant plans to advertise the availability of supported services and the applicant's choice of media, the Board's staff can discuss the issue with the applicant in the course of reviewing the application for designation as an ETC.

4. Paragraph 39.3(2)"j" - Remaining functional in emergency situations

As proposed, paragraph 39.3(2)"j" requires that an applicant for ETC designation demonstrate "how the applicant will 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."

In its written comments, ICA noted that while the proposed language is identical to the federal provision, it is not entirely clear how an applicant would demonstrate how it would remain functional in an emergency or make the other required demonstrations. ICA suggested that the Board could add clarity by revising the proposed amendment to require the applicant to "make an affirmative statement" or to give examples of how an applicant would comply with the required demonstrations.

Current paragraph 39.2(3)"h" requires carriers to "[c]ertify the ability to maintain a minimum of two hours of backup power to ensure functionality without an external power source." As proposed, paragraph 39.3(2)"j" reflects the FCC's requirement that applicants demonstrate they have a reasonable amount of back-up power, rather than the Board's current specific two-hour standard. The Board agrees with ICA that the proposed rule could be clarified to direct an applicant to make an affirmative statement, which includes examples, of how the applicant would comply with the requirements of having a reasonable amount of back-up power to ensure functionality in emergency situations, having the ability to reroute traffic, and being capable of managing traffic spikes. The Board will adopt a revised version of paragraph 39.3(2)"j" that requires an applicant to submit an affirmative statement explaining how the applicant will remain functional in emergency situations and

requires the applicant to include examples illustrating that the applicant has a reasonable amount of back-up power.

5. Rule 39.4 – Lifeline-only applicants. No comments were received on this proposed rule specifying requirements applicable to carriers seeking designation for the limited purpose of participating in the Lifeline program. The Board will adopt the rule as proposed.

6. Rule 39.5 – Service area

As proposed, rule 39.5 explains that the approved service area for universal service fund support calculations is the same as the service area approved for local service by the Board. The proposed rule is largely the same as the Board's current rules at 39.2(5)"c"(1) and (2), except the proposed rule does not include the waiver provision found in the current rule. The Board asked for comment on whether any changes to the proposed rule were necessary.

ICA indicated in written comments that it generally agrees with the proposed rule but suggested the Board consider the implications of the pending CAF Phase II auctions, where a successful bidder must become an ETC in the winning areas before continuing with the project and receiving federal funding. ICA suggested that the Board consider how to balance the need for an expedited process (such as that which would be required to allow a successful bidder to obtain an ETC designation) with the need for time to allow an adequate investigation into whether awarding an ETC designation would be in the public interest. ICA suggested that an expedited process might be appropriate where an established ETC seeks to expand its service

area. At the oral comment proceeding, ICA reiterated its suggestion about the need for an expedited process.

The Board will adopt rule 39.5 as published. The Board believes that ICA's comments about proposed rule 39.5 are more appropriately addressed in the context of a discussion of rule 39.3, the rule explaining how to apply for an ETC designation. The Board's current rules do not specify how much time the Board is allowed to take in reviewing an application for ETC designation. ICA did not specify how much time the Board would have to review an application in an expedited process.

ICA's comments seem to indicate that ICA would expect an established ETC to have to file a new application for designation to expand its service area in the event the ETC is a successful bidder in an FCC auction. The Board will not require an established ETC to file a new application for designation to serve as an ETC in new areas. The Board anticipates that sufficient review of a proposed change to the ETC's service area could be done in response to the ETC's application to amend its existing ETC designation. As discussed above, the Board is adopting new subrule 39.3(3), which will allow established ETCs to amend their designations to reflect changes in service area resulting from acquisitions of other carriers. The Board anticipates that paragraph 39.3(3)"d" would apply to the situation discussed by ICA, where an established ETC seeks to expand its designated ETC service area for purposes of receiving support from the CAF Phase II auction or other similar purpose, or other specified reason. Also as noted above, the Board is adopting revisions to rule 39.3 to allow new applicants and established ETCs seeking to

amend their existing designations to request an expedited ruling on the application.

The revision requires entities seeking an expedited review to explain why an expedited process is necessary and not contrary to the public interest.

7. Rule 39.6 – Lifeline program, filing of customer service agreements

The Board's current subrule 39.3(6) restates the federal requirement that all ETCs must offer Lifeline service and contain specific requirements about how carriers must inform consumers about the Lifeline program, including specific instructions about where informational brochures are to be provided. Current subrule 39.3(1) requires carriers to include in their tariffs specific provisions about Lifeline; the rule directs carriers that do not file tariffs with the Board to include information about Lifeline in their customer service agreements.

To reflect the recent legislative change eliminating the requirement that carriers file local service tariffs, proposed rule 39.6 requires ETCs to file with the Board copies of their current customer service agreements. The Board asked for comment on how often such agreements should be filed, or, instead of filing the agreements, whether ETCs could demonstrate to the Board in other ways that they include their Lifeline offerings in the agreements, perhaps by providing the Board with a link to the agreements.

ICA suggested in written comments that it would be inefficient to require ETCs to file hard copies of their customer service agreements with the Board only to establish compliance with the Lifeline rules. Instead, ICA anticipates that as a result of detariffing, ETCs will make their service agreements publicly available. ICA

suggested that ETCs provide the Board with a link to the latest version of the agreements. ICA urged the Board not to require hard copies or even electronic copies of each version of the customer service agreement. ICA also suggested that the Board limit requirements about Lifeline service offerings to an obligation to include in residential service contracts a notice of the availability of Lifeline, as long as the ETC includes details about eligibility and enrollment in the terms and conditions for residential service. ICA asked the Board to clarify that providing this notice and information would not by itself satisfy the requirement to advertise the availability of Lifeline service.

CenturyLink stated in written comments that the language in proposed subrule 39.6(2) applies more appropriately to companies with specific offerings for Lifeline-eligible customers. CenturyLink explained it does not have separate "offerings" for Lifeline customers but instead applies applicable state and federal discounts to the voice service the customer selects.

Windstream suggested in written comments that the circumstances in which proposed subrule 39.6(2) (which requires a carrier's Lifeline offering be included in service agreements a carrier has with its customers) applies should be narrowed. Windstream explained it previously has not entered into separate service agreements with its residential customers, but instead has included terms of service and information about the availability of Lifeline credits in filed and posted tariffs. Windstream recommended that the Board modify proposed subrule 39.6(2) to clarify that a carrier will be permitted to address the availability of Lifeline offerings on the

carrier's Web site or in an online catalog. According to Windstream, where a carrier provides information about Lifeline offerings online, the carrier should be required to notify the Board and provide links to the information.

CenturyLink also commented on proposed rule 39.6(3), in which the Board lists the eligibility criteria for Lifeline service with specific reference to 47 CFR § 54.409. CenturyLink suggested that instead of listing the criteria from the federal regulation, the Board should modify the proposed rule to simply refer to the federal rule to avoid potential conflicts if the FCC changes the criteria in the regulation.

Proposed rule 39.6 was discussed at the oral comment proceeding. Referring to the detariffing process, Consumer Advocate observed that many of the companies (25 out of the 100 that had withdrawn their local service tariff by the time the oral comment proceeding) do not have Web sites. ICA explained that its members inform their residential customers about the availability and terms and conditions of the Lifeline program in a variety of ways, including providing information on bill stuffers and fliers available at the local service office, and using newspaper advertising, as well as making information available on Web sites. CenturyLink indicated it uses a variety of means to make Lifeline information available, including bill inserts. Both ICA and CenturyLink noted they are in a transition process as they withdraw local tariffs.

Consumer Advocate emphasized the importance of having state rules in this context, even if they follow federal rules, because the Board knows the state, knows

the market, and could respond more quickly than the FCC if a carrier were not advertising Lifeline services.

ICA observed that before detariffing, carriers would comply with the requirement by including a paragraph about Lifeline in their local service tariff, but consumers more likely learned about Lifeline through other outreach efforts. ICA pointed out that some carriers may choose to use a streamlined service agreement that refers to terms and conditions of service available on the carrier's Web site. ICA asked if those carriers must include information about Lifeline in such an agreement or if the Lifeline language could be included on the Web site.

Based on the written comments and the discussion at the oral comment proceeding, the Board will adopt a revised version of proposed rule 39.6. The primary purpose of this rule is to codify in state rules the federal requirement that all ETCs must offer Lifeline service and to ensure that ETCs inform consumers about the availability of Lifeline service. The current rules gave the Board an opportunity to monitor whether ETCs were informing consumers about the availability of Lifeline service by requiring that information to be included in retail tariffs filed with the Board or in customer service agreements, in cases where tariffs were not required. The comments in this proceeding demonstrate that there are a variety of ways carriers communicate information about Lifeline service to consumers and that it is not clear that consumers relied on tariffs to learn about Lifeline.

Revisions to proposed rule 39.6 are necessary to better reflect the transition from tariffs to the means by which carriers will communicate with their customers and

the Board. Rules governing what will replace tariffs are being developed in Docket No. RMU-2014-0003. In this proceeding, the Board proposed in rule 39.6 that ETCs file copies of their customer service agreements with the Board. That rule may prove to be too restrictive once rules in Docket No. RMU-2014-0003 are finalized. In RMU-2014-0003, the Board is considering other ways carriers will be allowed to inform customers about the terms and conditions of service and other ways the Board can have access to that information.

The Board will eliminate the requirement in proposed subrule 39.6(2) that carriers file copies of their customer service agreements with the Board. The Board will replace that language with a provision that carriers shall provide the Board with information about their customer service agreements upon request. In the event a rule is developed in Docket No. RMU-2014-0003 that specifies how carriers will inform the Board about the information included in their customer service agreements, i.e., providing the Board with a link to the agreement or an online catalog, a corresponding amendment to rule 39.6 could be considered in Docket No. RMU-2014-0003.

Windstream explained in its written comments that it has not entered into separate service agreements with its residential customers and suggested the Board revise the proposed rule to acknowledge that information about the terms and conditions of service (including Lifeline) could be provided to customers on the company's Web site or online catalog. The Board will not revise the proposed rule to offer that option. Once the Board clarifies its expectations about what will replace

filed tariffs, clarifying amendments to the ETC rules can be considered in Docket No. RMU-2014-0003.

The Board is also revising proposed subrule 39.6(2) to add a provision based on the federal rule that requires ETCs to publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service. (See 47 CFR § 54.405(b).) The Board has retained the existing requirement that carriers include a description of their Lifeline offerings in their customer service agreements, but has modified that provision to add a reference to "discounts" as suggested by CenturyLink. Also, based on ICA's comments, The Board has added "residential" to subrule 39.6(2) because Lifeline is a program available only to residential customers, not business customers.

With respect to CenturyLink's suggested revision to proposed subrule 39.6(3), which specifies what constitutes a qualifying low-income consumer, the Board believes it is useful and informative to spell out the requirements in the Board's rules. The Board adopts proposed subrule 39.6(3) as published.

8. *Lifeline program audits*

Proposed subrule 39.6(7) requires ETCs to file with the Board final reports of audits of the low-income program conducted pursuant to 47 CFR § 54.420. Windstream stated in written comments that pursuant to the FCC's audit plan, federal audits of Windstream and other Iowa ETCs may not include the state of Iowa. Windstream observed that there is no indication in the proposed rule that an ETC would be required to file the final audit report if Iowa was not among the ETC's

audited states. Windstream asks the Board to clarify that the filing requirement in proposed subrule 39.6(7) would apply only if the state of Iowa is part of the audit required by the FCC.

The Board agrees with Windstream's suggestion and will adopt revisions to subrule 39.6(7) clarifying that the subrule requires ETCs to file final audit reports with the Board where the audit involved the ETC's Iowa operations.

9. Rule 39.7 – Schedule of filings, filing instructions

Proposed rule 39.7 contains a list of filings ETCs are required to make with the Board. The proposed rule also provides filing instructions. The two state-specific filings required are (1) the annual certifications from carriers seeking to continue to receive high-cost support (required by proposed rule 39.7(3)"c") and (2) the progress reports and extensions on previously-filed two-year network improvement and maintenance plans (required by proposed rule 39.7(3)"d"). The other filings included in the list are those required by the FCC to be submitted to the FCC, USAC, and the state commissions.

CenturyLink asked the Board to extend the deadline for the state-specific filing requirements in 39.7(3)"c" (the annual certification from ETCs receiving high-cost support) and "d" (the progress reports and extensions on previously-filed two-year network improvement plans) from July 1 to August 1. The Board will not extend the deadline. The annual certifications from the carriers (in which ETCs attest they have used and will use the funds for their intended purposes) are the basis for the Board's subsequent certification to the FCC and USAC that the ETC has used and will use

the support for its intended purposes (the Board's filing is due October 1). The annual certifications will be submitted as part of the annual report filing (which will include either the Federal Form 481 or Federal Form 690 and progress reports on previously filed network improvement and maintenance plans). Because Iowa has such a high number of ETCs (and thus a high number of annual filings to process) the Board is reluctant to extend the deadline by which ETCs must file their annual certifications. The Board also is concerned that adopting a separate deadline for one piece of the collection of documents associated with the annual reporting requirement could cause confusion.

Since the updated ETC rules were proposed, the Board has identified another federal filing ETCs are required to provide to state commissions which should be included in the Board's schedule of filings. The Board will adopt rule 39.7 as proposed (with minor editorial changes not specifically discussed), with the addition of the following new subrule 39.7(4), which addresses rate floor data updates filed pursuant to 47 CFR § 54.313(h)(2):

39.7(4) Rate floor data updates.

a. On or before January 2 of each year, or other date established by the FCC, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) that is subject to the FCC's mandatory rate floor data reporting requirements in 47 CFR § 54.313(h)(2) shall file with the board the rate floor data update filed with the FCC. Carriers that elect to file rate floor data updates with the FCC shall also file the updates with the board.

b. Filing instructions for rate floor data updates. The rate floor data updates shall be filed using the board's electronic filing system in accordance with 199—14, unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "FCC Section 54.313(h)(2) Rate Floor Data Update," with a reference to the year for which the update is filed. The document title for the report shall be "Rate Floor Data Update." The board's records and information center will assign each filing an FER docket number, signifying "Federal ETC Report," and indicating the year of filing and the carrier's company number.

c. Confidential information.

(1) Requests to withhold from public inspection line or loop count data submitted as part of a rate floor data update will be deemed granted as provided in 199—1.9(5)"c."

(2) If a carrier considers other information filed on or with a rate floor data update to be confidential, the carrier shall file both a public and confidential version of the material according to 199 —14.12, and a separate request for confidential treatment pursuant to 199—1.9 and Iowa Code section 22.7. Where a request for confidential treatment of information filed on or with a rate floor data update is based on a protective order issued by the FCC, the carrier's request for confidential treatment shall include a reference to the relevant protective order.

10 . Rule 39.8 - Relinquishment of ETC designation

The current version of chapter 39 does not contain a rule on relinquishment of an ETC designation. Proposed rule 39.8 covers relinquishment of an ETC designation and provides that before the Board allows an ETC to cease providing

universal service in an area served by more than one ETC, the Board shall require the remaining ETC to ensure that all customers served by the relinquishing carrier will continue to be served; the proposed rule also states that the Board shall require sufficient notice to permit the purchase or construction of facilities by the remaining ETC. The rule is based on the federal statute, 47 U.S.C. § 214(e)(4).

ICA stated in written comments that the Board should be cautious in requiring one ETC to purchase or construct facilities to serve the customers previously served by the relinquishing ETC. ICA did not make a specific proposal for how the Board should modify the proposed rule and this issue was not discussed at the oral comment proceeding.

The Board will adopt rule 39.8 as proposed. The Board anticipates that concerns about requiring a remaining ETC to purchase or construct facilities to serve the customers of the ETC seeking to relinquish its designation would be carefully considered in any proceeding involving a proposed relinquishment.

III. ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. Amendments to the Board's rules at 199 IAC 1 and 199 IAC 39 are adopted as described in the "Adopted and Filed" notice attached to this order and incorporated herein by reference.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Elizabeth S. Jacobs

/s/ Nick Wagner

ATTEST:

/s/ Joan Conrad
Executive Secretary

/s/ Sheila K. Tipton

Dated at Des Moines, Iowa, this 13th day of February 2015.

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 476.2, 476.15 and 476.102 and 47 U.S.C. section 214(e), the Utilities Board (Board) gives notice that on February 13, 2015, the Board issued an order in Docket No. RMU-2014-0002, In re: Eligibility, Certification, and Reporting Requirements for Eligible Telecommunications Carriers and Related Confidentiality Provisions [199 IAC Chapters 1 and 39] "Order Adopting Amendments."

The order adopted amendments, with certain revisions, which were published under "Notice of Intended Action" published in the Iowa Administrative Bulletin, IAB Vol. XXXVII, No. 3 (8/6/14) p. 172, as **ARC 1563C**. The amendments are to the rules governing the Board's designation of telecommunications carriers eligible to receive support from the federal universal service fund.

Under federal law, state utility regulatory commissions have primary responsibility for designating which telecommunications carriers are eligible to receive support from the federal universal service fund. The Board's rules governing designation of eligible telecommunications carriers (ETCs) are found at 199 IAC chapter 39. These amendments were necessary to eliminate outdated provisions, to align the Board's rules with recent reforms to the federal universal service fund, and to clarify the process by which telecommunications carriers seeking an ETC designation from the Board apply for the designation. The Board also adopted amendments to its rules at 199 IAC

chapter 1 governing requests for confidential treatment of information filed with the Board.

The Board received four sets of written comments regarding the amendments proposed in the Notice of Intended Action. Comments were filed on September 10, 2014, by the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Qwest Corporation, d/b/a CenturyLink (CenturyLink), the Iowa Communications Alliance (ICA), and Windstream Iowa Communications, Inc. (Windstream). Consumer Advocate, CenturyLink, and ICA appeared at the oral comment proceeding held on October 28, 2014.

The Board also received follow-up comments responding to an order issued on January 23, 2015, seeking comment on a revision to a provision included in the Notice of Intended Action stating that ETC designations were not transferable.

In Item 1, the Board revises its rule at 199 IAC 1.9(5)"c," which lists materials exempted from public disclosure pursuant to requests deemed granted by the Board. The amendment strikes the existing rule and replaces it with a numbered list for better readability. This amendment streamlines the process by which the Board responds to requests for confidential treatment deemed granted. The amendment provides that a request for confidential treatment of material included on the list in the rule is deemed granted upon the filer's receipt of a notice of electronic filing without further staff review or acknowledgment by the Board. The amendment also updates the list of ETC-related materials included on the list to accurately reflect information the Board will receive and to ensure that such items are properly withheld from public inspection. The Board did

not agree with the suggestions of CenturyLink or the ICA that the Board should adopt a blanket confidentiality provision for ETC filings.

In Item 2, the Board strikes chapter 39 in its entirety and replaces it with new ETC rules. The Board mirrors the new federal definitions, eligibility requirements, and reporting requirements, and also includes certain state-specific provisions. The new rules cover the following topics: the Board's authority to designate ETCs (rule 39.1); definitions (rule 39.2); the process by which carriers seeking designation as an ETC apply for designation (rule 39.3); provisions applicable to carriers seeking designation for the limited purpose of participating in the Lifeline program (rule 39.4); provisions regarding an ETC's service area (rule 39.5); provisions regarding the Lifeline and Tribal Link Up programs (rule 39.6); a schedule of required filings (rule 39.7); and provisions regarding relinquishment of an ETC designation (rule 39.8).

Major changes to the amendments as published relate to the issue of how to refer to federal regulations throughout the rules and the issue of how certain corporate transactions affect ETC designations. The Board has eliminated the references to the "as amended dates" of the federal rules and adopts a new provision in rule 39.2 stating that a reference in chapter 39 to federal regulations includes any amendments to those regulations through the effective date of the Board's rules.

The Board adopts most of the suggestions ICA made in its additional comments filed on February 2, 2015, regarding a distinction between asset transactions and transfer of control transactions. The Board incorporates the suggestions of ICA in new subrule 39.3(3) which addresses amendments to existing ETC designations.

The Board's order explains in detail all changes made to the rules as they were published in the Notice of Intended Action. The order adopting amendments and approving this "Adopted and Filed" notice can be found on the Board's Electronic Filing System (EFS) Web site, <http://efs.iowa.gov>, in Docket No. RMU-2014-0002.

After analysis and review of this rule making, the Board tentatively concludes that the adopted amendments will have a beneficial effect on the provision of telecommunications service in Iowa. The availability of telecommunications service is necessary for economic development, so the amendments will have a beneficial effect on jobs in Iowa, although that effect cannot be quantified.

These rules are intended to implement Iowa Code sections 17A.4, 476.2, 476.15, and 476.102 and 47 U.S.C. Section 214(e).

The amendments will become effective April 8, 2015.

The following amendments are adopted.

ITEM 1. Rescind 199—1.9(5)"c" and adopt the following **new** rule in lieu thereof:

c. Materials exempted pursuant to requests deemed granted by the board.

Requests to withhold from public inspection the materials and information listed in the subparagraphs below are deemed granted by the board pursuant to Iowa Code sections 22.7(3), 22.7(6), or both, provided that the confidential portions of the filings are identified as confidential and filed as provided in 199-14.12 and an attorney for the company or corporate officer avers that the material or information satisfies the requirements in Iowa Code sections 22.7(3), 22.7(6), or both. The material or information filed pursuant to this paragraph will be deemed confidential upon the filer's receipt of a notice of electronic filing without further review or acknowledgement by the

board and the information shall be withheld from public inspection subject to the provisions of subparagraph 1.9(8)"b"(3).

- (1) Negotiated transportation rates and prices for natural gas supply.
- (2) Reservation charges for portfolio gas supply contracts.
- (3) Terms and prices for all hedging activity including financial hedges and weather-related information.
- (4) Sales data by individual natural gas customer.
- (5) Natural gas purchase volumes by individual receipt point, by pipeline.
- (6) Specific gas costs included in interstate pipeline contracts and contracted volume quantities, invoices, commodity contracts, and individual commodity purchases and invoices.
- (7) Design day forecasting model reserve margin calculations for natural gas service.
- (8) Negotiated purchase prices for electric power, fuel, and transportation.
- (9) Electric customer-specific information.
- (10) Power supply bills in support of energy adjustment clause filings.
- (11) Network improvement and maintenance plans and related extensions and progress reports filed with the board pursuant to 199—subrule 39.7(3).
- (12) Wireless coverage area maps depicting signal strength filed with the board pursuant to 199—paragraph 39.3(2)"g."
- (13) Revenue recovery amounts and loop or line count data filed with the board pursuant to 199—subrule 39.7(2).
- (14) Financial reports and loop or line count data included in rate floor data filed with

the board pursuant to 199—subrule 39.7(3).

(15) Loop or line count data included in rate floor data updates filed with the board pursuant to 199—subrule 39.7(4).

(16) The financial records filed by applicants for certificates of convenience and necessity to provide competitive local exchange service.

ITEM 2. Rescind 199—Chapter 39 and adopt the following new chapter in lieu thereof:

CHAPTER 39

UNIVERSAL SERVICE

199—39.1(476) Authority and purpose. These rules relate to the board's designation of telecommunications carriers as eligible to receive support from the federal universal service fund and are prescribed by the board pursuant to Iowa Code sections 17A.4, 476.2, 476.15 and 476.102 and 47 U.S.C. §§ 214(e) and 254. These rules are intended to preserve and advance universal service by implementing the board's authority to designate eligible telecommunications carriers (ETCs). These rules establish procedures for applying for designation as an eligible telecommunications carrier and for relinquishing such designation; adopt service requirements for eligible telecommunications carriers; and establish state certification and reporting requirements consistent with federal requirements.

199—39.2(476) Definition of terms. For the purposes of the board's implementation of federal universal service fund requirements, the following definitions apply. Whenever a reference in this chapter is made to provisions found in 47 CFR Parts 36, 51 or 54, that reference includes any amendment through April 8, 2015.

“Competitive eligible telecommunications carrier” means a carrier that meets the definition of an “eligible telecommunications carrier” below and does not meet the definition of an “incumbent local exchange carrier” in 47 CFR § 51.5.

“Connect America fund” or *“CAF”* means the federal universal service fund, as reformed by the Federal Communications Commission, to phase down and replace support previously provided through high-cost mechanisms, as referenced in 47 CFR §§ 54.304 and 54.312.

“Eligible telecommunications carrier” or *“eligible carrier”* means a carrier designated by the board as eligible to receive universal service support pursuant to 47 U.S.C. § 214(e).

“Facilities” means any physical components of the telecommunications network that are used in the transmission or routing of the services designated for universal service fund support.

“Federal poverty guidelines” means the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2).

“High-cost program” means the component of the federal universal service fund that includes the following support mechanisms: high-cost loop support, safety net support, safety valve support, local switching support, interstate common line support, high-cost model support, interstate access support, and the connect America fund, which includes funding to support and advance networks that provide voice and broadband services, both fixed and mobile.

“High-cost support” means those support mechanisms in existence as of October 1, 2011, specifically, high-cost loop support, safety net additive support and safety valve support provided pursuant to 47 CFR Part 36, Subpart F; local switching support pursuant to 47 CFR § 54.301; forward-looking support pursuant to 47 CFR § 54.309; interstate access support pursuant to 47 CFR §§ 54.800 through 54.809; interstate common line support pursuant to 47 CFR §§ 54.901 through 54.904; support provided pursuant to 47 CFR §§ 51.915, 51.917, and 54.304; support provided to competitive eligible telecommunications carriers as set forth in 47 CFR § 54.307(e); connect America fund support provided pursuant to 47 CFR § 54.312; and mobility fund support provided pursuant to 47 CFR Part 54, Subpart L.

“Lifeline-only ETC” means a telecommunications carrier that seeks limited designation as an ETC only to participate in the Lifeline program.

“Lifeline program” means the federal universal service program providing support for low-income consumers that is defined in 47 CFR § 54.401, to mean a nontransferable retail service offering (1) for which qualifying low-income consumers pay reduced charges as a result of application of the Lifeline support amount described in 47 CFR § 54.403, and (2) which provides qualifying low-income consumers with voice telephony service as defined in 47 CFR § 54.101(a).

“Mobility fund” means the wireless component of the connect America fund which provides support for the extension of mobile broadband networks in otherwise unserved areas.

“National Lifeline accountability database” means the electronic system, with associated functions, processes, policies and procedures, to facilitate the detection and

elimination of duplicative support, as directed by the Federal Communications Commission and as defined in 47 CFR § 54.400.

“Qualifying low-income consumer” means a consumer who meets the qualifications for Lifeline as specified in 47 CFR § 54.409.

“Tribal Link Up” means an assistance program for eligible residents of tribal lands seeking telecommunications service from a telecommunications carrier that is receiving high-cost support on tribal lands, that provides a reduction of the customary charge for commencing telecommunications service for a single telecommunications connection at a subscriber’s principal place of residence and a deferred schedule of payments of the customary charge for commencing telecommunications service as defined in 47 CFR § 54.413(a).

“Voice telephony service” means the service designated by the Federal Communications Commission at 47 CFR § 54.101, as eligible for support by the federal universal service support mechanisms. “Voice telephony service” is service which provides:

1. Voice grade access to the public switched network or its functional equivalent;
2. Minutes of use for local service at no additional charge to end users;
3. Access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier’s service area has implemented 911 or enhanced 911 systems; and
4. Toll limitation services to qualifying low-income consumers as provided in 47 CFR Part 54 Subpart E.

199—39.3(476) Applying for designation as an eligible telecommunications carrier.

39.3(1) A telecommunications carrier must be designated as an ETC to qualify for support from the federal universal service fund. The Iowa utilities board reviews applications for designation as an ETC for compliance with 47 U.S.C. § 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board. If an applicant requests an expedited ruling from the board on an application to be designated as an ETC or on an amendment to an existing ETC designation, the applicant shall specify why an expedited process is necessary and why an expedited review would not be contrary to the public interest.

39.3(2) An application for an ETC designation must contain the following:

- a. Where an applicant offers more than one type of communications service, a clear statement of which entity is requesting the designation.
- b. A clear statement of the purposes for which the designation is sought, and a statement of financial and technical qualification to provide the supported service. An applicant shall specify whether designation is sought for purposes of receiving support from the high-cost fund or mobility fund; for Lifeline purposes only; or other specified purpose recognized by the Federal Communications Commission (FCC).
- c. A certification that the applicant offers or intends to offer all services designated for support throughout the applicant's approved service area. The services designated for support are identified in 47 CFR § 54.101.
- d. An explanation of how the carrier will provide voice telephony service as defined in 199—39.2(476) and 47 CFR § 54.101.

e. A certification that the applicant offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services. "Own facilities" includes unbundled network elements, in whole or in part. The facilities providing the services supported by the universal service fund need not be physically located in the area served. Wireless resellers shall provide the name of the facilities-based wireless carrier(s) whose services they are reselling and demonstrate they have an agreement with the carrier(s) in Iowa that will cover the applicant's proposed designated service area. Except for wireless resellers seeking ETC designation for Lifeline purposes only that have obtained FCC approval of a compliance plan and committed to certain 911 conditions, the board will not designate as an eligible telecommunications carrier a carrier that offers the services supported by federal universal service support mechanisms exclusively through the resale of another carrier's services.

f. A description of how the applicant advertises the availability of supported services and the charges therefore using media of general distribution.

g. A detailed description, including a map or maps, of the geographic service area for which the applicant requests an ETC designation from the board. Wireless telecommunications carriers, defined as commercial mobile radio service providers in 47 CFR Parts 20 and 24, shall file coverage area maps and maps that depict signal strength. Requests to withhold from public inspection maps depicting signal strength will be deemed granted as provided in 199—paragraph 1.9(5)"c."

h. Where the application is from a carrier seeking a designation as an ETC for an area served by a rural telephone company as defined in 47 CFR 51.5, a demonstration that the requested designation is in the public interest.

i. A five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. Applicants seeking designation only for purposes of receiving support from the Lifeline program are not required to submit a network improvement plan.

j. An affirmative statement explaining how the applicant will remain functional in emergency situations. The statement shall include examples illustrating that the applicant 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.

k. A certification that the applicant will comply with the service requirements applicable to the support that it seeks to receive.

l. A certification that the applicant will satisfy applicable consumer protection and service quality standards. Wireless ETC applicants shall commit to complying with the following minimum consumer protection standards:

(1) Disclose rates and terms of service to consumers. For each service plan offered to new consumers, wireless carriers will disclose to consumers at point of sale and on their Web sites at least the following information, as applicable: (a) the coverage area for the service; (b) any activation or initiation fee; (c) the monthly access fee or base charge; (d) the amount and nature of any voice, messaging, or

data allowances included in the plan (such as night and weekend minutes); (e) the charges for domestic usage in excess of any included allowances or outside of the coverage area; (f) for prepaid service plans, the period of time during which any balance is available for use; (g) whether there are prohibitions on data service usage and whether there are network management practices that will have a material impact on the customer's wireless data experience; (h) whether any additional taxes, fees or surcharges apply; (i) the amount or range of any such fees or surcharges that are collected and retained by the carrier; (j) the amount or nature of any late payment fee; (k) whether a fixed-term contract is required and its duration; (l) the amount and nature of any early termination fee that may apply; and (m) the trial period during which a consumer may cancel service without any early termination fee, as long as the consumer complies with any applicable return policy.

(2) Make available maps showing where service is generally available. Wireless carriers will make available at point of sale and on their Web sites maps depicting approximate domestic coverage applicable to each of their service plans currently offered to consumers. To enable consumers to make comparisons among carriers, these maps will be generated using generally accepted methodologies and standards to depict the carrier's outdoor coverage. All such maps will contain or link to an appropriate legend concerning limitations or variations, or both, in wireless coverage and map usage, including any geographic limitations on the availability of any services included in the plan. Wireless carriers will periodically update such maps as necessary to keep them reasonably current. If necessary to show the extent of service coverage available to customers from carriers' roaming partners, carriers will request from roaming partners

and incorporate coverage maps that are generated using similar industry-accepted criteria, or if such information is not available, incorporate publicly available information regarding roaming partners' coverage areas.

(3) Provide contract terms to customers and confirm changes in service. When a customer initiates new service or a change in existing service, the carrier will provide or confirm any new material terms and conditions of the ongoing service with the customer.

(4) Allow a trial period for new service. When a customer initiates postpaid service with a wireless carrier, the customer will be informed of and given a period of not less than 14 days to try out the service. The carrier will not impose an early termination fee if the customer cancels service within this period, provided that the customer complies with applicable return policies and exchange policies. Other charges, including usage charges, may still apply.

(5) Provide specific disclosures in advertising. In advertising of prices for wireless service plans or devices, wireless carriers will disclose material charges and conditions related to the advertised prices and services, including if applicable and to the extent the advertising medium reasonably allows: (a) whether activation or initiation fees apply; (b) monthly access fees or base charges; (c) the amount and nature of any voice, messaging, or data service allowances included in the plan; (d) the charges for any domestic usage in excess of any included allowances or outside of the coverage area; (e) for prepaid service plans, the period of time during which any balance is available for use; (f) whether there are network management practices that will have a material impact on the customer's wireless data experience; (g) whether any additional taxes, fees or surcharges apply; (h) the amount or range of any such fees or surcharges

that are collected and retained by the carrier; (i) whether a fixed-term contract is required and its duration; (j) early termination fees; (k) the terms and conditions related to receiving a product or service for “free”; (l) for any service plan advertised as “nationwide” (or using similar terms), the carrier will have available substantiation for this claim; and (m) whether prices or benefits apply only for a limited time or promotional period and, if so, whether any different fees or charges will apply for the remainder of the contract term.

(6) Separately identify carrier charges from taxes on billing statements. On customers’ bills, carriers will distinguish (a) monthly charges for service and features, and other charges collected and retained by the carrier, from (b) taxes, fees and other charges collected by the carrier and remitted to federal, state or local governments. Carriers will not label cost recovery fees or charges as taxes.

(7) Provide customers the right to terminate service for changes to contract terms. Carriers will not modify the material terms of their postpaid customers’ contracts in a manner that is materially adverse to those customers without providing a reasonable advance notice of a proposed modification and allowing those customers a time period of not less than 14 days to cancel their contracts with no early termination fee.

(8) Provide ready access to customer service. Customers will be provided a toll-free telephone number to access a carrier’s customer service during normal business hours. Customer service contact information will be provided to customers online and on billing statements. Each wireless carrier will provide information about how customers can contact the carrier in writing, by toll-free telephone number, via the Internet or otherwise with any inquiries or complaints, and this information will be

included, at a minimum, on all billing statements, in written responses to customer inquiries and on carriers' Web sites. Each carrier will also make such contact information available, upon request, to any customer calling the carrier's customer service departments.

(9) Promptly respond to consumer inquiries and complaints received from government agencies. Inquiries for information or complaints to a wireless ETC shall be resolved promptly and courteously. If a wireless ETC cannot resolve a dispute with the applicant or customer, the wireless ETC shall inform the applicant or customer of the right to file a complaint with the board. The wireless ETC shall provide the following board address and toll-free telephone number: Iowa Utilities Board, Customer Service, 1375 E. Court Avenue, Room 69, Des Moines, Iowa 50319-0069; 1-877-565-4450. When the board receives a complaint, the procedures set out in 199—Chapter 6, "Complaint Procedures," shall be followed to enforce the minimum consumer protection standards in paragraph 39.3(2)"1." When the board receives a complaint alleging the addition or deletion of a product or service for which a separate charge is made to a customer account without the verified consent of the customer, the complaint shall be processed by the board pursuant to 199—Chapter 6. In any complaint proceeding pursuant to this subparagraph, if the wireless ETC asserts that the complainant is located in an area where the wireless ETC is not designated as an ETC, the wireless ETC must submit evidence in support of its assertion.

(10) Abide by policies for protection of customer privacy. Each wireless carrier will abide by a policy regarding the privacy of customer information in accordance with applicable federal and state laws, and will make available to the public its privacy policy

concerning information collected online. Each wireless carrier will abide by the Cellular Telecommunications and Internet Association's Best Practices and Guidelines for Location-Based Services.

(11) Provide consumers with free notifications for voice, data and messaging usage, and international roaming. Each wireless provider will provide, at no charge: (a) a notification to consumers of currently offered and future domestic wireless plans that include limited data allowances when consumers approach and exceed their allowance for data usage and will incur overage charges; (b) a notification to consumers of currently offered and future domestic voice and messaging plans that include limited voice and messaging allowances when consumers approach and exceed their allowance for those services and will incur overage charges; and (c) a notification to consumers without an international roaming plan/package whose devices have registered abroad and who may incur charges for international usage. Wireless providers will generate the notifications described above to postpaid consumers based on information available at the time the notification is sent. Wireless consumers will not have to affirmatively sign up in order for these notifications to be sent. Wireless providers will clearly and conspicuously disclose tools or services that enable consumers to track, monitor or set limits on voice, messaging and data usage.

(12) Abide by the mobile wireless device unlocking standards established in the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service.

m. For applications from wireless carriers seeking designation as an ETC, a certification that the wireless carrier will contribute to the dual party relay service, as provided in Iowa Code section 477C.7(2)“a.”

n. For applications from carriers seeking designation as an ETC for any part of tribal lands, the applicant shall provide a copy of its application to the affected tribal government and tribal regulatory authority at the time it files the application with the board.

39.3(3) Amendments to ETC designations. ETCs may request that the board amend an existing ETC designation as provided in the following situations. Where the board approves of the amendment, the board will issue an order amending the designation.

a. Asset transactions between ETCs other than Lifeline-only ETCs. Where a telecommunications carrier that has been designated by the board as an ETC, other than a Lifeline-only ETC, acquires another carrier with an ETC designation, through an acquisition involving a sale or transfer of assets, and the acquiring carrier intends to serve as an ETC in the newly acquired service area, the acquiring carrier shall notify the board of the acquisition and certify that the acquiring carrier intends to amend its designation to assume the acquired carrier's ETC obligations. The certification also shall indicate whether the acquiring carrier intends to adopt the network improvement plan of the acquired carrier. The notice of acquisition and certification shall be filed at least 90 days before the acquired carrier discontinues service. Where the acquisition involves a discontinuance of service by an incumbent local exchange carrier, the required notice and certification may be included with or as part of the acquired carrier's

application for discontinuance of service filed pursuant to Iowa Code section 476.20.

The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8.

b. Asset transactions between Lifeline-only ETC transactions. Where a telecommunications carrier that has been designated by the board as a Lifeline-only ETC acquires another carrier that has been designated by the board as a Lifeline-only ETC through an acquisition involving a sale or transfer of assets, and the acquiring carrier intends to serve as a Lifeline-only ETC in the newly acquired service area, the acquiring carrier shall notify the board of the acquisition and certify that the acquiring carrier intends to amend its designation to assume the acquired carrier's ETC obligations. The notice and certification shall be filed using the carriers' ETA docket numbers at least 90 days before the acquired carrier will cease providing Lifeline service. The filing shall include copies of relevant documents filed with the FCC. The acquired carrier shall comply with the requirements for relinquishing an ETC designation in 199—39.8.

c. Non-ETC acquires an ETC. Where an entity that has not been designated by the board as an ETC acquires a telecommunications carrier that has been designated by the board as an ETC, and the acquiring entity intends to serve as an ETC in the newly-acquired service area, the acquiring entity shall file with the board an application for designation as an ETC as provided in 199—39.3. The acquired carrier shall comply with the requirements for relinquishing an ETC designation 199—39.8.

d. Other amendments. Where a telecommunications carrier that has been designated by the Board as an ETC intends to serve as an ETC in a new service area

for the purposes of receiving support from the CAF Phase II auction or other similar purpose, or after acquiring a new service area pursuant to a transaction not subject to the provisions of Iowa Code § 476.20, the carrier shall file a notice of expansion or acquisition 30 days in advance of the expansion or acquisition and shall certify that the carrier intends to amend its designation to serve as an ETC in the expanded service area.

e. Transfer of control transactions. Where a carrier that has been designated by the board as an ETC is acquired through an acquisition involving a direct or indirect transfer of control, including through a purchase of stock or other equity interests, merger, share exchange or similar transaction in which neither the legal existence of the acquired carrier nor ownership of its assets is altered, the acquiring carrier shall file with the board a notice of the transfer of control 30 days in advance of the transfer of control. The notice shall be filed using an "M" docket designation. The board will acknowledge receipt of the notice by letter. Following a transfer of control, the ETC designation and ETC obligations of the acquired carrier shall continue without amendment or modification, unless the acquired carrier complies with the requirements for relinquishing an ETC designation in 199—39.8. For purposes of this rule, any merger, share exchange or similar transaction in which the legal existence of the acquired carrier or ownership of its assets is altered will be deemed to be an acquisition involving a sale or transfer of assets and not a transfer of control.

199—39.4(476) Lifeline-only applicants. Where an applicant is seeking designation only for purposes of receiving support from the Lifeline program, the following requirements apply in addition to those specified in 199—39.3(476):

39.4(1) *Approved compliance plan required.* The applicant shall submit a copy of a compliance plan submitted to the Federal Communications Commission and a copy of the Commission's notice of approval.

39.4(2) *Terms and conditions of voice telephony service offered to Lifeline subscribers.* The applicant shall submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for such plan. To the extent the applicant offers plans to Lifeline subscribers that are generally available to the public, the applicant may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

39.4(3) *Demonstration of financial and technical capability to provide supported services.* The applicant shall demonstrate that it is financially and technically capable of providing the supported Lifeline service in compliance with 47 CFR Subchapter B, Part 54, Subpart E, as required by 47 CFR § 54.201(h). Relevant considerations include, but are not limited to, how long the carrier has been in business, whether the applicant intends to rely exclusively on universal service fund disbursements to operate, whether the applicant receives or will receive revenue from other sources, and whether the applicant has been subject to enforcement action or ETC revocation proceedings in any state.

199—39.5(476) Service area.

39.5(1) Unless otherwise ordered by the board, the approved service area for universal service fund support calculations will be the same as the service area currently approved

for local service by the board. Those carriers not currently approved to provide local service are required to provide documentation showing their service area.

39.5(2) In the case of a service area served by a rural telephone company, “service area” means such company’s “study area” unless and until the FCC and the states, after taking into account recommendations of a federal-state joint board instituted under Section 410(c) of the Telecommunications Act of 1996, establish a different definition of service area for such company.

39.5(3) In the case of a wireless telecommunications carrier, “service area” means that area where the wireless company has been licensed by the FCC to provide service.

199—39.6(476) Universal service support for low-income consumers (Lifeline program and Tribal Link Up program).

39.6(1) *Carrier obligation to offer Lifeline.* Pursuant to 47 CFR § 54.405, which specifies the Lifeline obligations of eligible telecommunications carriers, all eligible telecommunications carriers must make available Lifeline service, as defined in 47 CFR § 54.401, to qualifying low-income consumers, defined as consumers who meet the qualifications for Lifeline as specified in 47 CFR § 54.409.

39.6(2) *Customer notification.* Eligible telecommunications carriers shall include a description of their Lifeline offerings or discounts in their residential service agreements. Eligible telecommunications carriers shall provide the board with information about their residential service agreements upon request. Eligible telecommunications carriers shall publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for service as required by 47 CFR. § 54.405(b).

39.6(3) Consumer qualification for Lifeline. To constitute a qualifying low-income consumer, a consumer's household income as defined in 47 CFR § 54.400(f) and (h), must be at or below 135 percent of the federal poverty guidelines for a household of that size or such percentage as may be determined by the FCC or the consumer, one or more of the consumer's dependents, or the consumer's household must participate in one of the following federal assistance programs: Medicaid; Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; or Temporary Assistance for Needy Families. A consumer who lives on tribal lands is eligible for Lifeline service as a qualifying low-income consumer if the consumer meets the qualifications for Lifeline specified in 47 CFR § 54.409(a), or if the consumer, one or more of the consumer's dependents, or the consumer's household participates in one of the following tribal-specific federal assistance programs specified in 47 CFR § 54.409(b): Bureau of Indian Affairs general assistance; tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations. A consumer may only receive Lifeline service from one telephone provider per household.

39.6(4) Determination of subscriber eligibility. Iowa eligible telecommunications carriers are responsible for establishing consumer eligibility for Lifeline assistance. Iowa eligible telecommunications carriers shall ensure that their Lifeline subscribers are eligible to receive Lifeline services in accordance with 47 CFR § 54.410. Eligible telecommunications carriers shall:

- a. Implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services;
- b. Confirm a subscriber's income-based or program-based eligibility according to 47 CFR § 54.410(b) or (c);
- c. Provide prospective subscribers Lifeline certification forms that comply with 47 CFR § 54.410(d); and
- d. Recertify all subscribers' Lifeline eligibility annually and at 90-day intervals (where subscribers have provided a temporary address) in accordance with 47 CFR § 54.410(f) and (g).

39.6(5) *Annual certifications by eligible telecommunications carriers.* Eligible telecommunications carriers shall make and submit to the Universal Service Administrative Company (USAC) annual certifications relating to the Lifeline program as required by 47 CFR § 54.416. Eligible telecommunications carriers shall file their annual Lifeline certifications with the board as provided in 39.7(1)"a" and, if applicable, with the relevant tribal governments.

39.6(6) *Tribal Link Up.* A telecommunications carrier receiving high-cost support on tribal lands that is offering the Tribal Link Up assistance program, as defined in 199—39.2(476), to eligible residents of tribal lands, as defined in 47 CFR § 54.400(e), must provide (1) a 100 percent reduction of the customary connection charge for commencing service at a subscriber's residence, and (2) a deferred schedule of interest-free payments for the connection charge, pursuant to 47 CFR § 54.413. Prior to enrolling an eligible resident of tribal lands in the Tribal Link Up program, an ETC must obtain from the resident a certification form that complies with 47 CFR § 54.410.

39.6(7) Audits. Eligible telecommunications carriers shall file with the board finalized reports of audits involving the audited ETC's operations in Iowa conducted pursuant to 47 CFR § 54.420 requiring low-income program audits. The audit reports will not be considered or deemed confidential. The audit reports shall be filed with the board within 30 days of issuance of the final audit report.

199—39.7(476) Schedule of filings.

39.7(1) Annual Lifeline compliance certifications.

a. Federal Form 555. On or before January 31 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board the carrier's certification of compliance with federal Lifeline rules filed with the Federal Communications Commission and the Universal Service Administrative Company pursuant to 47 CFR § 54.416 using Federal Form 555.

b. Filing instructions. FCC Form 555 shall be filed using the board's electronic filing system in accordance with 199—14 (17A,476), unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Annual Lifeline Eligible Telecommunications Carrier Certification," with a reference to the year for which the certification is filed. The document title for the FCC form shall be "FCC Form 555 Filing." The board's records and information center will assign each filing an FLR docket number, signifying "Federal Lifeline Report." The annual Lifeline compliance certifications are not subject to protection from public disclosure.

39.7(2) Annual eligible recovery certifications. On or before the date on which carriers file their access tariffs with the FCC, each price cap and rate-of-return carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board certifications of eligible recovery amounts as follows, as required by 47 CFR § 54.304(c) and (d).

a. Price cap carriers. Each price cap carrier designated by the board as an ETC shall file with the board the carrier's certification to the FCC and USAC regarding the connect America fund intercarrier compensation support amount the carrier is eligible to recover pursuant to 47 CFR § 51.915 and the certification that the carrier is not seeking duplicative recovery in Iowa for any eligible recovery subject to the federal recovery mechanisms.

b. Rate-of-return carriers. Each rate-of-return carrier designated by the board as an ETC shall file with the board the carrier's certification to the FCC and USAC regarding the connect America fund intercarrier compensation support amount the carrier is eligible to recover pursuant to 47 CFR § 51.917 and the certification that the carrier is not seeking duplicative recovery in Iowa for any eligible recovery subject to the federal recovery mechanisms.

c. Filing instructions. The annual eligible recovery certifications shall be filed using the board's electronic filing system in accordance with 199—14 (17A,476), unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Connect America Fund— Intercarrier Compensation Recovery and Certification," with a reference to the year for which the certification is filed. The document title for the FCC form shall be "Annual Reporting Requirements for Section

54.304.” The board’s records and information center will assign each filing an “ETR” docket number, signifying “Eligible Telecommunications Carrier Report.”

d. Confidential information.

(1) Requests to withhold from public inspection revenue recovery amounts and loop or line count data will be deemed granted as provided in 199—paragraph 1.9(5)“c.”

(2) If a carrier considers other information filed on or with the annual Section 54.304 report to be confidential, the carrier shall file both a public version and a confidential version of the material according to 199—14.12(17A,476), and a separate request for confidential treatment pursuant to 199—1.9(22) and Iowa Code section 22.7. Where a request for confidential treatment of information filed on or with the Section 54.304 report is based on a protective order issued by the FCC, the carrier’s request for confidential treatment shall include a reference to the relevant protective order.

39.7(3) Annual reporting requirements.

a. Federal Form 481. On or before July 1 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) shall file with the board the carrier’s annual report filed with the FCC pursuant to 47 CFR § 54.313 (for ETCs receiving high-cost support), or 47 CFR § 54.422(a) (for ETCs receiving Lifeline support only), using Federal Form 481 or such other form designated by the FCC as the form for the annual report for ETCs.

b. Federal Form 690. On or before July 1 of each year, or other date established by the Federal Communications Commission, each carrier designated by the board as an

eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) and that receives mobility fund support shall file with the board the carrier's annual report filed with the FCC pursuant to 47 CFR § 54.1009.

c. Annual certifications from carriers seeking to continue to receive high-cost support. Any carrier seeking to continue to receive federal high-cost universal service support shall file with the board no later than July 1 of each year an affidavit titled "Certification of [Company Name]." The company name shall be the name used on the carrier's initial application for ETC designation and its current name, if its name has changed.

(1) Contents of affidavit. The affidavit shall include the study area code (SAC) number associated with the company. The affidavit shall be sworn and notarized and shall be executed by an authorized corporate officer. The affidavit shall certify that the carrier has used and will use the high-cost support the carrier receives pursuant to 47 CFR Subchapter B, Part 54, Subparts D and L, and as defined in 47 CFR § 54.5, only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. In addition, the affidavit shall certify that the carrier has complied with and will continue to comply with applicable service quality standards and consumer protection rules, certify that the carrier has a reasonable amount of back-up power to ensure functionality without an external power source, certify that the carrier is offering a local usage plan comparable to that offered by the incumbent local exchange carrier in the relevant service areas, and certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other eligible carrier is providing equal access within the ETC's designated service area. The affidavit shall also certify to the following: as an eligible telecommunications carrier, the

carrier agrees to provide timely responses to board requests for information related to the status of local voice service markets or facilities.

(2) Certifications subject to complaint or investigation. Any certification filed by a carrier shall be subject to complaint or investigation by the board.

(3) State certification of eligibility. An ETC's certification shall be the basis of the board's certification to the FCC and USAC pursuant to 47 CFR § 54.314 that the ETC has used and will use the support for the purposes intended.

d. Progress reports and extensions on previously filed two-year network improvement and maintenance plans. In addition to any network improvement plans and associated progress reports required by 47 CFR § 54.313, competitive ETCs whose universal service support is being phased down must file with the board progress reports and extensions on previously filed two-year network improvement and maintenance plans during the phase-down period. Each competitive ETC subject to this requirement shall file a rolling one-year extension and a progress report on its network improvement and maintenance plan detailing the prior calendar year's activities. The progress report shall include coverage area maps detailing progress toward plan targets, an explanation of how much universal service support was received, and how the support was used to improve signal quality, coverage, or capacity. If support was used for something other than improving signal quality, coverage, or capacity, the report shall include an explanation of how the support was used. The report shall identify any network improvement targets that have not been met and shall include an explanation of why targets were not met. The report shall indicate if there have not been any changes to the ETC's coverage area and shall include an

explanation of why no changes were made. Any reporting of expense and investment information shall include an explanation of how the expenses and investments benefited specific wire centers in the ETC's designated service area. For purposes of this paragraph, "wire center" shall be defined as determined by the North American numbering plan administrator.

e. Filing instructions for annual report filings. FCC Form 481 (including rate floor data filed pursuant to 47 CFR § 54.313(h)), the affidavit certifying compliance, any required network improvement plan progress report and extension, and FCC Form 690 shall be filed using the board's electronic filing system in accordance with 199—14 (17A,476), unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled "Annual Eligible Telecommunications Carrier Reporting Requirements," with a reference to the year for which the report is filed. The document title for the FCC form shall be "FCC Form 481 Filing" or "FCC Form 690 Filing," as appropriate. The document title for the affidavit certifying compliance shall be "Carrier Certification." The document title for any required network improvement plan report shall be "Network Improvement Plan Report." The board's records and information center will assign each filing an FER docket number, signifying "Federal ETC Report," and indicating the year of filing and the carrier's company number.

f. Confidential information.

(1) Requests to withhold from public inspection network improvement and maintenance plan extensions and progress reports, financial reports, and loop or line count data included in the rate floor data reports included in the annual report filings will be deemed granted as provided in 199—paragraph 1.9(5)"c."

(2) If a carrier considers other information filed on or with FCC Form 481 to be confidential, the carrier shall file both a public version and a confidential version of the material according to 199—14.12(17A,476), and a separate request for confidential treatment pursuant to 199—1.9(22) and Iowa Code section 22.7. Where a request for confidential treatment of information filed on or with FCC Form 481 is based on a protective order issued by the FCC, the carrier's request for confidential treatment shall include a reference to the relevant protective order.

39.7(4) *Rate floor data updates.*

a. On or before January 2 of each year, or other date established by the FCC, each carrier designated by the board as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) that is subject to the FCC's mandatory rate floor data reporting requirements in 47 CFR 54.313(h)(2) shall file with the board the rate floor data update filed with the FCC. Carriers that elect to file rate floor data updates with the FCC shall also file the updates with the board.

b. Filing instructions for rate floor data updates. The rate floor data updates shall be filed using the board's electronic filing system in accordance with 199—14, unless the board directs otherwise by order issued in advance of the filing deadline. The filing shall be titled " FCC Section 54.313(h)(2) Rate Floor Data Update," with a reference to the year for which the update is filed. The document title for the report shall be "Rate Floor Data Update." The board's records and information center will assign each filing an FER docket number, signifying "Federal ETC Report," and indicating the year of filing and the carrier's company number.

c. Confidential information.

(1) Requests to withhold from public inspection loop or line count data submitted as part of a rate floor data update will be deemed granted as provided in 199—1.9(5)"c."

(2) If a carrier considers other information filed on or with a rate floor data update to be confidential, the carrier shall file both a public and confidential version of the material according to 199 —14.12, and a separate request for confidential treatment pursuant to 199—1.9 and Iowa Code section 22.7. Where a request for confidential treatment of information filed on or with a rate floor data update is based on a protective order issued by the FCC, the carrier's request for confidential treatment shall include a reference to the relevant protective order.

199—39.8(476) Relinquishment of ETC designation.

39.8(1) The board may permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier. An eligible telecommunications carrier that seeks to relinquish its eligible telecommunications carrier designation for an area served by more than one eligible telecommunications carrier shall give 90 days' advance notice to the board of such relinquishment.

39.8(2) Prior to permitting a telecommunications carrier designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the board shall require the remaining eligible telecommunications carrier or carriers to ensure that all customers served by the relinquishing carrier will continue to be served and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible

telecommunications carrier. The board shall establish a time, not to exceed one year after the board approves such relinquishment under this rule, within which such purchase or construction shall be completed.

February 13, 2015

/s/ Elizabeth S. Jacobs
Elizabeth S. Jacobs
Chair