

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

FILED WITH
Executive Secretary
September 10, 2014
IOWA UTILITIES BOARD

IN RE:

ELIGIBILITY, CERTIFICATION, AND
REPORTING REQUIREMENTS FOR
ELIGIBLE TELECOMMUNICATIONS
CARRIERS AND RELATED
CONFIDENTIALITY PROVISIONS [199
IAC 1 AND 39]

DOCKET NO. RMU-2014-0002

WINDSTREAM'S STATEMENT OF POSITION AND COMMENTS

Pursuant to the Utilities Board's ("Board") Order Commencing Rulemaking, issued July 17, 2014, Windstream Iowa Communications, Inc. ("Windstream") offers the limited comments set out below concerning the Board's intended amendments to its existing Eligible Telecommunications Carriers ("ETC") rules. Windstream is supportive of the Board's reviewing and updating its rules and commends the Board for its efforts. Below, Windstream addresses several specific rule sections of particular interest and requests clarification on one general matter.

1. Section 39.3 (476) Applying for designation as an Eligible Telecommunications Carrier.

Proposed rule 39.3 includes a requirement that when "a telecommunications carrier acquires another carrier with an ETC designation, either through a sale or transfer, the

acquiring company must apply for an ETC designation.” The proposed rule is not clear as to whether the requirement is applicable if the acquiring company is already an ETC. Windstream seeks clarification on this point and suggests the rule contain an exception for cases where the acquiring company is already an ETC. In the scenario where the buyer is already an ETC, the ETC designation of the seller is not being transferred. The seller’s customers are being transferred to the buyer, and the buyer, already an ETC, has been through the designation process and is thus bound by the laws and regulations associated with ETC status. Accordingly, an ETC application should not be required in this scenario, and the proposed rule should be changed to reflect such an exception.

2. Section 39.6(2) Inclusion of Lifeline offering in contracts.

This proposed rule requires that a carrier’s lifeline offering be included in service agreements that a carrier may have with its customers. The circumstances in which this proposed rule applies should be narrowed. In the Board’s Information Order and Order Requesting Responses, dated May 30, 2014, in RMU-2014-0003, the Board stated,

Once a local exchange tariff is withdrawn, LECs are expected to make the rate and service information previously included in those tariffs accessible to customers by providing that information in another medium. For example, a list of the exchanges where a LEC provides service, or the LEC’s customer service rules, could be made available on a company’s Web site or in an online catalog. The Board notes that the filed tariff doctrine will no longer make these customer service rules automatically binding on customers. Each LEC will need to take additional steps to achieve that result, such as entering into a customer service agreement with each customer.

In the past, carriers like Windstream did not enter separate service agreements with its residential customers.¹ Instead, the terms of service and the availability of lifeline credits were set out in filed / posted tariffs. In the quoted language above, the Board acknowledges that service information could still be available on a company's website or in an online catalog. Windstream therefore recommends that the proposed rule be clarified to reflect that a carrier is permitted to address the availability of Lifeline offerings on its website or in an online catalog. In those instances where the carrier provides Lifeline availability information online, the carrier should so notify the Board and provide links to the online information.

3. Section 39.6(7) Audits.

This proposed rule requires that an ETC file with the Board audits that are conducted pursuant to FCC rule, 47 CFR Section 54.420. Per the Audit Plan the FCC's Wireline Competition released on April 2, 2014,² audits of Windstream (and several other Iowa ETCs) may not include the state of Iowa. There is no indication in the Board's proposed rule that filing the final audit report with the Board would be required if Iowa was not among an ETC's audited states. Windstream therefore suggests that the proposed rule be clarified to reflect that the filing requirement only apply if the state of Iowa is part of the FCC required audit.

4. Incorporation of FCC Rules By Reference.

Throughout the proposed rules, the Board refers to specific FCC rules and typically refers to said rules as of a certain point in time, i.e. the last date on which the FCC rule was

¹ Although the proposed rule does not specify that it applies only to agreements with residential customers, that is implied.

² <http://www.fcc.gov/document/release-final-lifeline-biennial-audit-plan-announced>

amended.³ The Board's Order also states that the proposed rules "are largely based on federal requirements." Windstream understands the desire for precision and fairness when incorporating external resources/materials by reference, such as the FCC rules here. But as the Board acknowledges, "periodic amendments may be necessary when the federal rules change." Order at p. 3. The prospect of such future amendments raises a general question about process. Specifically, Windstream asks for clarification as to whether the Board contemplates any particular procedure(s) to address situations where there has been a change to an FCC rule/requirement on which the Board's rules rely, including possible streamlining of the Board's rulemaking proceedings.

WHEREFORE, Windstream respectfully submits this Statement of Position and Comments for the Board's consideration.

Respectfully submitted,

This 10th Day of September, 2014, by:

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³ E.g. proposed rule 39.7(3)(a) refers to FCC rules 54.313 and 54.422(a) as amended March 31, 2014, and June 28, 2012, respectively, and proposed rule 39.7(3)(c)(i) refers to FCC rule 54.5, as amended April 1, 2013.