

ITEM NO. CA1

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: September 21, 2004**

REGULAR _____ CONSENT X EFFECTIVE DATE _____ N/A _____

DATE: September 10, 2004

TO: Commissioners Lee Beyer, Ray Baum and John Savage

FROM: Damara Paris

THROUGH: Rick Willis and Victoria McLean

SUBJECT: RCC MINNESOTA INC: (Docket No. UM 1166) Petition for Designation as an Eligible Telecommunications Provider, Providing Services to Customers Under the Federal Lifeline/Link Up Program and the State of Oregon OTAP Program

STAFF RECOMMENDATION:

Staff recommends that the Commission grant the RCC Minnesota, Inc. request to be designated an Eligible Telecommunications Provider (ETP) pursuant to Oregon Administrative Rule (OAR) 860-033-0005. Granting the petition will authorize RCC Minnesota to participate in the federal Lifeline/Link Up program as well as the Oregon Telecommunications Assistance Program.

DISCUSSION:

A. The Petition of RCC Minnesota, Inc.

Commission Order No. 04-355 designated RCC Minnesota a federal eligible telecommunications carrier (ETC) authorized to receive federal universal service high cost support. The company now seeks designation as an ETP in order to participate in the federal Lifeline/Link Up telephone subsidy program and the State of Oregon Telephone Assistance Program (OTAP).

B. The Federal Lifeline/Link UP Program

The federal Lifeline/Link Up program is a universal service fund (USF) supported mechanism designed to increase the availability of telecommunications services to low-income customers. According to the FCC's most recent rule and order (FCC 04-87), approximately 6.5 million consumers received Lifeline benefits in 2002, approximately 33% of the total number of potentially eligible consumers. Over 12.5 million have paid reduced connection charges under Lifeline since 1987.

The Lifeline portion of the Lifeline/Link Up program reimburses telephone companies for providing low-income consumers with a discount on the cost of residential basic local exchange service. Lifeline support enables low-income consumers to save up to \$13.50. Of this amount, the OTAP program contributes \$3.50 per month. Consumers living on tribal lands may qualify for alternate Lifeline discounts based on their area of tribal residence.

The Link Up portion of the Lifeline/Link Up program reimburses telephone companies for providing low-income consumers with a discount on the cost of connecting their residential basic local exchange service. Link Up support enables low-income consumers to save up to 50 percent on connection fees, or \$30, whichever is less. Participants may also establish a deferred payment schedule for remaining connection charges of up to \$200. Consumers living on tribal lands may qualify for tribal Link Up discounts.

Telecommunications service providers provide funding for federal Lifeline/Link Up. Carriers are required to contribute a percentage of their interstate revenues towards federal USF support mechanisms, including high cost support and rural healthcare programs. Most telecommunications service providers pass this cost on to their customers via a surcharge on end user bills.

C. Oregon Telephone Assistance Program

In 1987, the Commission established OTAP in response to the law enacted by the Oregon Legislature stating that all Oregonians have a right to access to basic telecommunication services under the Residential Service Protection Fund (RSPF). OTAP was one of three telecommunication assistance programs that the Commission established under the RSPF.

OTAP is administered by Commission staff and serves as an additional source of support to the Lifeline portion of the federal Lifeline/Link UP program. The state contributes \$3.50 per eligible consumer for basic local exchange telephone service while the federal government contributes up to \$10 per consumer.

Funding for all of the RSPF programs, including OTAP, is provided by a surcharge of up to \$0.35 per month assessed on the telephone bills of retail end users. The surcharge is identified as the Residential Service Protection Fund (RSPF) surcharge or similar wording and is set by the Commission on an annual basis. Currently the RSPF surcharge is \$0.13 per line, which will be in effect until December 31, 2004, when the Commission may implement a new surcharge rate. The Oregon State Treasury holds funds collected through the RSPF surcharge. As of June 30, 2004, the RSPF fund balance was 4.1 million. At present, 34 ILECs and 1 CLEC currently participate in the OTAP and federal Lifeline/Link UP program. Approximately 56,000 low-income customers in Oregon currently receive OTAP and Lifeline support.

D. Consumer Eligibility for Lifeline, Link Up and OTAP

In states that maintain their own low-income support programs, the FCC requires consumers to meet state eligibility requirements in order to receive federal Lifeline/Link Up support. In states that do not have their own income support programs, consumers are required to meet default federal eligibility requirements. In Oregon, consumers are eligible to receive OTAP and Lifeline/Link Up assistance if they are currently receiving federal food stamps or assistance from another low-income program for which eligibility requirements do not exceed 135 percent of the federal poverty level. In addition to food stamps, consumers receiving assistance such as Temporary Aid to Needy Families, Supplemental Security Income or coverage under an approved medical program may qualify.

E. The Federal ETC Designation Process

Before a telecommunications service provider can receive federal USF support (whether high cost support or Lifeline/Link Up), it must be designated as a federal ETC by a state public utility commission. On June 24, 2004, RCC Minnesota was granted an ETC designation by the Commission through Order No. 04 355, Docket UM 1083.

F. State ETP Designation Process

In order to be designated as a state ETP and to participate in OTAP, a telecommunications service provider must comply with the federal requirements contained in C.F.R. § 54.101. The applicant must also demonstrate that it will comply with OAR 860-033-0005 through OAR 860-033-0100, which are the rules applicable to OTAP.

G. Analysis of RCC Minnesota's Petition

Prior to filing their petition to be designated as an ETP for OTAP and Lifeline/Link Up, staff worked with RCC Minnesota to assist them in providing a petition that will satisfy Commission requirements and concerns regarding OTAP services.¹ Commission staff provided RCC Minnesota with a sample of an approved petition to provide OTAP services and a list of questions that Commission staff developed to address the state requirements.

RCC Minnesota filed UM 1166 on August 23, 2004 (see attached). The original petition had a number of exhibits that were labeled "Redacted" and "Confidential." These exhibits addressed RCC Minnesota's list of existing cell sites in Oregon, and their employee confidentiality policies. These documents were released to the Commission after a motion for protective order was granted on September 2, 2004, through Commission Order No. 04-496.

After reviewing the documents, staff requested only two clarifications that were quickly addressed. One of the clarifications dealt with Section C.14, page 5 of UM 1166. Under this section, it appeared that RCC Minnesota did not understand that only the Commission had the authority to approve OTAP benefits for consumers. The second clarification was in regard to their statement under D. 17, page 6 of UM 1166, that they would provide Tribal Lifeline to three tribal lands, but only named two reservation areas (Umatilla Indian Reservation and Burns Paiute Colony).

On September 3, 2004, RCC Minnesota clarified that it understood the Commission's role in authorizing, or terminating, OTAP benefits. In addition, RCC Minnesota erroneously stated they would provide Tribal Lifeline to three reservation areas, when in reality, they had determined prior to the petition that a third area (Fort McDermitt Tribal Area) was out of their geographical service area.

Further analysis of UM 1166 by Commission staff found that RCC Minnesota satisfied the requirements to become an ETP for the purposes of providing OTAP and Lifeline/Link Up benefits. In particular:

1. RCC Minnesota met the requirements to be designated as an ETP to provide OTAP as set forth in OAR 860-033-0005(2).

¹ Commission staff is currently working on a formalized process for applying to become an ETP of OTAP and Lifeline/Link Up services.

2. Through designation as an ETC by the Commission on June 24, 2004, RCC Minnesota meets the requirements set by 47 C.F.R. § 214 (e) (2) and §51.101 to provide Lifeline/Link Up services.
3. RCC Minnesota understands the requirements for complying with OTAP under OAR 860-033-0005 through OAR 860-033-0100, including the fact that only the Commission has authority to approve, deny or terminate OTAP benefits, as well as the expectation that RCC Minnesota maintain consumer confidentiality.
4. RCC Minnesota plans to follow federal requirements for providing Tribal Lifeline Services, particularly in the Umatilla Indian Reservation and Burns Paiute Colony.

PROPOSED COMMISSION MOTION:

That the application by RCC Minnesota, for designation as an ETP, so it can provide services to customers under the federal Lifeline/Link Up program and the State of Oregon OTAP program be approved.