GOVERNMENT OF THE VIRGIN ISLANDS
OF THE
UNITED STATES

Public Services Commission

To: **Marlene H. Dortch**
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Vice President – High Cost & Low Income Division
Universal Service Administrative Company
2000 L Street, N.W. Suite 200
Washington, DC 20036

RE: CC Docket 96-45, WC Docket 14-58 – Annual State Certification of Support for Eligible Telecommunications Carriers Pursuant to 47 C.F.R. § 54.314

Pursuant to the requirements of 47 C.F.R. § 54.314, the Virgin Islands Public Services Commission hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that Choice Communications, LLC, is eligible to receive federal high-cost support for the program years cited.

The Public Services Commission of the Virgin Islands certifies for Choice Communications, LLC, that all federal high-cost support provided to that carrier was used in the preceding calendar year (2014) and will be used in the coming calendar year (2016) only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

I am authorized to make this certification on behalf of the Public Services commission of the Virgin Islands. This certification is for study area 649002 for the Territory of the United States Virgin Islands.

Dated ~~this~~ **25th** day of September 2015.

Andrew Rutnik
Vice-Chairman
Virgin Islands Public Services Commission
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September 14, 2015

Mr. Johann Clendenin
Chairman
Public Services Commission of the
United States Virgin Islands
P.O. Box 40
Charlotte Amalie, USVI 00804

Re: Federal USF Certification – Choice Communications, Docket 589

Dear Mr. Clendenin:

This letter presents GCG's analysis in connection with the annual certification from the Virgin Islands Public Services Commission ("PSC" or "Commission") that Choice Communications, LLC ("Choice") has complied with Section 254(e) of the federal Telecommunications Act of 1996 ("Federal Act") during calendar year 2014 and will comply in the upcoming calendar year. Choice receives monies from interstate universal service funds (USF) that are designated to support local services, build needed infrastructure and improve service quality.

Annual certification is required under Section 54.314(a) of the FCC rules. USF will be denied to any "Eligible Telecommunications Carrier" ("ETC") that is not certified by its state regulatory agency. If the Commission does not file the certification with the FCC and USAC by October 1, the ETC will be denied funds on a pro-rata basis for the period that the certification is delayed. [1]

Please note that states must certify that USF support was used only for the provision, maintenance and upgrading of the facilities and services for which the support is intended, BOTH for the most recent calendar year AND for the upcoming calendar year. This rule applies regardless of the high-cost or CAF program under which the support was provided. In order for the Commission to be comfortable making this certification, the Commission must rely on the recent performance by Choice and on the Commission's ongoing monitoring efforts. Our review was based primarily on performance during calendar year 2014 but was supplemented, where appropriate, by available data for year-to-date 2015.

[1] The FCC modified its rule regarding late filings in its Report and Order, *In the Matter of Connect America Fund, ETC Annual Reports and Certifications, et al,* WC Docket No. 10-90, et al, Released December 18, 2014, FCC 14-190. Previously, support was denied for each quarter the certification was delayed.

Background

Until the end of 2011, USF high-cost support was provided on a per-line basis for each working telephone served by a Competitive Eligible Telecommunications Carrier ("CETC") like Choice. The amount of support per line was based on the per-line support provided to the incumbent local exchange carrier, in this case, VITELCO. In 2011, the FCC eliminated the "identical support rule" and started phasing out CETC support over a five year period in order to provide some of the funding for the new Connect America Fund ("CAF") and Mobility Fund. Starting January 1, 2012, monthly support was based on one twelfth of the total support the CETC received in 2011. This amount is called "baseline support." Starting July 1, 2012, support was based on 80% of the monthly baseline support. From July 1, 2013 to June 30, 2014, ETC support dropped to 60% of the monthly baseline support. The FCC initially planned to reduce ETC support by another 20% each year until the phase-out is completed in 2017. However, it has decided to maintain the 60% level until the competitive bidding process for awarding Mobility Phase II funds is in place.[2] For wireless ETCs that do not win the bid, the phase down would continue after the Mobility Phase II winner is announced. However, for those wireless ETCs whose high-cost USF is less than 1% of total wireless revenues, the FCC is proposing to eliminate that support completely.[3] If the FCC adopts its proposal for accelerated phase-down of CETC funding, Choice will no longer receive any high-cost support in the future because USF is less than 1% of total wireless revenues. Although support beyond 2015 is uncertain, for purposes of this review we assume it will remain at current levels through 2016.

Choice received a total of $67,260 in high-cost support during calendar year 2014. In view of the limited amount of USF Choice could receive in the future, we limited our review to ensuring that Choice complied with the checklist of reporting items required by the FCC and to a high-level review of Choice's existing five-year plan.

ETC Requirements

On March 17, 2005, the FCC released the *ETC Designation Order*, adopting specific requirements for ETCs granted designation pursuant to Section 214(e)(6) of the Federal Act.[4] These requirements included ongoing reporting obligations. Although these reporting requirements were applicable to federally designated ETCs, the FCC urged the states to adopt the same rules for the ETCs they designated. Accordingly, the PSC included these requirements in the Order granting Choice's ETC designation. In its November 18, 2011,

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[2] The timing of Mobility Phase II has not yet been determined by the FCC.

[3] *In the Matter of Connect America Fund, et. al.,* WC Docket No. 10-90, et. al., Report and Order, Declaratory Ruling, Memorandum Opinion and Order, Seventh Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 14-54 (released June 10, 2014)("*CAF Omnibus Order*"), para. 250.

[4] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (released March 17, 2005) (the "*ETC Designation Order*").

USF Transformation Order, the FCC extended the reporting requirements to all ETCs, including those designated by the states.[5]

The specific requirements are included in Section 54.313 of the federal rules:

(a) Any recipient of high-cost support shall provide:

(1) A progress report on its five-year service quality improvement plan pursuant to §54.202(a), including maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve service quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled in the prior calendar year. The information shall be submitted at the wire center level or census block as appropriate;

(2) Detailed information on any outage in the prior calendar year, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect

(i) At least ten percent of the end users served in a designated service area; or

(ii) A 911 special facility, as defined in 47 CFR 4.5(e).

(iii) Specifically, the eligible telecommunications carrier's annual report must include information detailing:

(A) The date and time of onset of the outage;

(B) A brief description of the outage and its resolution;

(C) The particular services affected;

(D) The geographic areas affected by the outage;

(E) Steps taken to prevent a similar situation in the future; and

(F) The number of customers affected.

(3) The number of requests for service from potential customers within the recipient's service areas that were unfulfilled during the prior calendar year. The carrier shall also detail how it attempted to provide service to those potential customers;

(4) The number of complaints per 1,000 connections (fixed or mobile) in the prior calendar year;

(5) Certification that it is complying with applicable service quality standards and consumer protection rules;

(6) Certification that the carrier is able to function in emergency situations as set forth in §54.202(a)(2);

(7) The company's price offerings in a format as specified by the Wireline Competition Bureau;

(8) The recipient's holding company, operating companies, affiliates, and any branding (a "dba," or "doing-business-as company" or brand designation), as well as universal service identifiers for each such entity by Study Area Codes, as that term is used by the Administrator. For purposes of this paragraph, "affiliates" has the meaning set forth in section 3(2) of the Communications Act of 1934, as amended.

[5] *In the Matter of Connect America Fund, et. al.*, WC Docket No. 10-90, et. al., Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (released November 18, 2011)("*USF Transformation Order*"), para. 573.

Analysis of Choice's Submission

On June 29, 2015, Choice filed a copy of FCC Form 481, which covers most of the checklist items in Section 54.313 in compliance with FCC rules. On August 14, 2015, Choice filed an update to the five-year plan originally submitted with its ETC application.

Even though USF support has been greatly reduced, Choice continued to build wireless facilities substantially in conformity to the five-year plan commitments made when Choice was granted its ETC designation. The Company continues to add new sites and increase capacity. Since USF support is a small fraction of the total construction program, we believe the funds were used as intended during 2014. The construction program will continue adding sites and capacity for at least the next four years. If high-cost USF support continues, we believe the funds will be used as intended during 2016.

Choice reported that it had no unfulfilled requests for service and did not have any reportable service outages in calendar year 2014. It also reported that there were few customer complaints. According to the Form 481 filed with the FCC, there were only 0.156 complaints per 1,000 customers. In the absence of evidence to the contrary, we accept these assertions.

Choice indicated that it was in compliance with all service quality standards and consumer protection requirements including those in the CTIA Consumer Code. Choice also certified that it would remain functional in emergencies. We accept Choice's certifications.

This year we requested Choice to provide the number of Lifeline subscribers for whom it received support. All ETCs are required to offer a Lifeline program and to perform outreach to ensure that potential customers know about the program. Choice reported that it had 1,770 Lifeline subscribers as of December, 2014.

In view of the above, we recommend that Choice's request for annual "Use" certification be GRANTED. A draft letter to the FCC and USAC is attached.

Please call us if you have any questions about this report.
Cordially,

Jim Madan

Jamshed K. Madan

Cc: Walter Schweikert

Public Services Commission of the
United States Virgin Islands

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Federal Communications Commission
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Dated this __th day of , 2015.

Johann Clendenin
Chairman
Virgin Islands Public Services Commission
(340) 778-6010