

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C.**

In the Matter of)	
)	
Connect America Fund)	<u>WC Docket No. 10-90</u>
)	
ETC Annual Reports and Certifications)	<u>WC Docket No. 14-58</u>
)	
Developing an Unified Intercarrier Compensation Regime)	<u>CC Docket No. 01-92</u>

**COMMENTS OF THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

The Public Service Commission of the State of Missouri (“MoPSC”) submits comments in response to the Federal Communications Commission’s (FCC’s) Further Notice of Proposed Rulemaking (FNPRM) released March 30, 2016.¹ These comments respond to the portion of the FCC’s FNPRM regarding streamlining Eligible Telecommunications Carrier (ETC) annual reporting requirements. The ETC annual reporting requirement at issue is the Form 481 report. The FCC is considering modifying or eliminating requirements contained in the Form 481 report.

These comments describe how the MoPSC uses the Form 481 report and recommend the FCC maintain the requirement for ETCs to file the Form 481 with state commissions. ETCs receiving financial support from any government program should expect to be held accountable by providing documentation of the company’s compliance with program requirements. Improvement may be needed for several Form 481 reporting requirements; however, these comments primarily focus on the requirement for an

¹ *Report and Order, Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking*; WC Docket No. 10-90 et al In the Matter of Connect America Fund; FCC 16-33; adopted March 23, 2016 and released March 30, 2016.

ETC to report “unfulfilled service requests”. Presumably this reporting measure refers to situations whereby a customer requests service but service was subsequently not installed due to a lack of facilities.² The goal of providing high-cost support to ETCs is to ensure service is available in high-cost areas and this reporting measure may be one important measure of how well a company is meeting this goal. Unfortunately issues exist regarding the reporting of unfulfilled service requests. These comments point out issues and observations about this reporting measure.

Form 481 and how it is used by MoPSC

The MoPSC uses Form 481 information “...to validate the recipient companies’ support, if any, that it is eligible to receive from the high-cost support mechanism and/or the Lifeline and Link Up support mechanism.”³ Form 481 has contained a variety of information such as a progress report on the company’s 5-Year plan, outages, unfulfilled requests for service, complaints, quality and consumer protection certification, emergency certification and so on. The form is annually filed by July 1st and is currently filed with the FCC, USAC and the appropriate state commission.

The MoPSC reviews Form 481 reports for the companies receiving USF support in Missouri. This review is part of the MoPSC’s responsibility to annually certify high-cost support recipients.⁴ Missouri ETCs are required to provide additional

² This term is not defined or clarified in FCC rules or the FCC’s *Instructions for Completing FCC Form 481* at www.fcc.gov/licensing-databases/forms.

³ See ¶ 1 of the FCC’s *Instructions for Completing FCC Form 481*

⁴ See FCC rule §54.314. This FCC rule has a state certify “...that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.”

information with the Form 481 report.⁵ MoPSC Staff reviews the Form 481 reports and additional information as well as performs periodic reviews of selected company operations.

Need for ETC annual reporting requirements

Missouri's retail telecommunications service is essentially deregulated.⁶ Consequently the amount of information available to the MoPSC regarding Missouri's telecommunications services has become more limited. For example Missouri telecommunications companies have the option to de-tariff. In addition, companies no longer are required to file outage reports or quality of service reports with the MoPSC. Consequently Missouri's annual ETC filing requirement that includes the Form 481 report and periodic annual reviews of selected ETCs are the primary information relied upon by the MoPSC in certifying high-cost recipients.

Accountability should be required for companies receiving financial support from any government programs. Companies should provide relevant information to help ensure a company is meeting its obligations. If oversight is weakened then the program may be more susceptible to waste, fraud and abuse. Maintaining accountability for ETCs is important; MoPSC reminds the FCC of the criminal activity involving two Missouri telecommunications companies in the mid-2000s whereby an official pled guilty to a conspiracy to defraud the federal USF.⁷ In addition, ETCs solely providing

⁵ Annual filing requirements for ETCs are identified in 4 CSR 240-31.130(3) of the MoPSC rules.

⁶ Section 392.611 RSMo is the relevant statute outlining the MoPSC's current authority over telecommunications carriers.

⁷ See MoPSC Staff Reports for Case No. TC-2005-0357; Staff of the Public Service Commission of the State of Missouri (Complainant) vs. Cass County Telephone Company Limited Partnership and Local Exchange Company LLC. In particular see Staff reports contained in Item No. 43 in the case file.

Lifeline service (and who also file a Form 481 report) continue to raise questions about company compliance.⁸ Consequently the MoPSC urges the FCC to require reasonable and adequate ETC reporting requirements. Moreover the existing burden placed on an ETC of compiling and filing Form 481 is minimal and estimated to only be 20 hours.⁹

ETCs Differ on Reporting Unfulfilled Service Requests

The FCC seeks feedback on whether to modify or eliminate the reporting of unfulfilled service requests. The FCC has concerns ETCs are not consistently reporting such information.¹⁰

The MoPSC agrees with the FCC's concern. Based on a recent and ongoing MoPSC investigation, ETCs appear to have different interpretations on classifying service requests as unfulfilled.¹¹ The application of construction charges to extend facilities and whether the consumer agrees to pay them is an issue the MoPSC is investigating. For example, based on information provided in the Commission's investigatory docket, if a consumer declines to pay for construction then it appears ETCs have different perspectives on whether the service request should be considered an unfulfilled service request.¹² In addition, some ETCs indicate there is no formal

⁸ See Notice of Apparent Liability For Forfeiture and Order; In the Matter of Total Call Mobile, Inc.; File No. EB-IHD-14-00017650; FCC 16-44; released April 7, 2016. See also MoPSC Case File RC-2016-0278; In the Matter of the Revocation of the Eligible Telecommunications Carrier Designation of Total Call Mobile, Inc. See also FCC Commissioner Ajit Pai's letter to USAC requesting USAC to investigate four Lifeline providers who are thought to be abusing the USF; April 18, 2016.

⁹ FCC's Form 481 Instructions.

¹⁰ FCC FNPRM ¶390.

¹¹ See case file for Case No. TO-2016-0184; *In the Matter of an Investigation in Which to Gather Information about the Facility Extension Practices of ETCs Eligible to Receive High Cost USF Support.*

¹² In Case No. TO-2016-0184, the MoPSC raised the issue of how a company classifies a service request in Form 481 if the customer declines to pay construction charges. 12 companies stated such a request should not be considered unfulfilled. 1 company indicated the request should be considered "fulfilled" while only

obligation to track or report this type of information. In the MoPSC's opinion, it seems relevant in certifying receipt of high cost funds to monitor an ETC's ability to have adequate facilities in place to respond to service requests.

The MoPSC urges the FCC to consider whether the current Form 481 reporting requirements are adequate in ensuring an ETCs obligations for receiving high-cost support. The regulatory landscape has changed whereby ETCs have greater regulatory flexibility. Form 481 is essentially one of the few ways state regulators obtain information about company compliance.

Maintain the requirement for ETCs to file Form 481 reports with state commissions

Currently Form 481 is filed with the FCC, USAC and appropriate state commission; however, the FCC is proposing ETCs simply file the report with USAC. In turn, USAC is expected to establish an online tool to permit access to this type of report. The FCC tentatively concludes this arrangement will be more beneficial for states and less burdensome to ETCs.¹³

The MoPSC urges the FCC to reject the tentative conclusion for ETCs to no longer file a duplicate copy of Form 481 with states. As previously indicated ETCs already are required to provide to the MoPSC additional information beyond the Form 481 report. Such information is electronically filed by companies with the MoPSC and is accessible to the public. The MoPSC fails to see how only filing Form 481 with USAC is beneficial to states because an ETC's annual filings in Missouri will be split between two different locations. The MoPSC also fails to see how this arrangement provides relief for

5 companies label this type of request as "unfulfilled." 30 other companies responded "Not Applicable" from the standpoint the company has not applied construction charges.

¹³ FCC FNPRM ¶392.

ETCs for it is easy for an ETC to file a copy of a report with a state commission. Nevertheless, if the FCC ultimately approves the proposal for ETCs to file Form 481 solely with USAC the FCC should clarify that state commissions may require the ETC to also file a copy of the Form 481 with state commissions. Prior FCC statements appear to suggest states have this ability to request such information from ETCs.¹⁴

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Dated: May 2016

¹⁴ See *Report and Order and Further Notice of Proposed Rulemaking*; In the Matter of Connect America Fund et al; WC Docket No. 10-90; FCC 11-161, released November 18, 2011; ¶574. The FCC said, "...Consistent with this federal framework, state commissions may require the submission of additional information that they believe is necessary to ensure that ETCs are using support consistent with the statute and our implementing regulations, so long as those additional reporting requirements do not create burdens that thwart achievement of the universal service reforms set forth in this Order."