



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
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WESTERN WIRELESS CORPORATION PETITION FOR CLARIFICATION OR RULEMAKING

CC Docket No. 96-45

Released Date: November 3, 1998

On October 15, 1998, Western Wireless Corporation (Western Wireless) filed a Petition with the Commission to seek a clarification or change in the Commission's policy regarding the distribution of federal universal high cost support to carriers other than incumbent local exchange carriers (ILECs) that have been designated as Eligible Telecommunications Carriers (ETCs) pursuant to Section 214(e) of the Communications Act of 1934, as amended.

Specifically, Western Wireless asserts that certain rules regarding the distribution of high cost support appear to establish a formula that favors ILECs and disadvantages competitive ETCs that are not ILECs. Western Wireless states that competitive ETCs may have to wait as long as two years after entering a market before receiving support and that this delay is particularly burdensome for new entrants, and has anti-competitive consequences. Western Wireless also states that competitive ETCs' high cost support apparently is to be based on data as much as 24 months out of date, with no apparent opportunity to provide updated information, while ILECs can update their data quarterly.

Western Wireless requests that the Commission issue a clarification that a competitively neutral approach was intended, and that its current rule authorizes both ILECs and competitive ETCs to submit updated information. In the alternative or in addition, Western Wireless requests that the Commission change these rules; to make them consistent with the Commission's commitment to competitive neutrality in the universal service program.¹

On October 26, 1998, the Commission released a Memorandum Opinion and Order and Further Notice of Proposed Rulemaking seeking comment on the extent to which our rules facilitate the provision of services eligible for universal service support by providers, such as wireless telecommunications providers and cable operators, that historically have not supplied such services.² Because Western Wireless appears to question whether certain of our rules are

¹ Western Wireless states that its request could be treated as a Petition for Rulemaking pursuant to Section 1.401 of the Commission's Rules, 47 C.F.R. § 1.401. It also asserts that the Commission could treat this filing as an *ex parte* presentation and could address the problem described herein in an order responding to pending reconsideration petitions.

² Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 98-278 (rel. Oct. 26, 1998), paras. 44-45 (*Further Notice*).

competitively or technologically neutral, we welcome interested parties to comment on Western Wireless' petition in their comments and replies in response to the *Further Notice*. We are not establishing a separate pleading cycle for Western Wireless' petition.

Procedure for Filing

See Federal-State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 96-45, FCC 98-278 (rel. Oct. 26, 1998), paras. 74-77.

For further information, contact Adrian Wright, Accounting Policy Division, Common Carrier Bureau at (202) 418-7400, TTY (202) 418-0484.

-- Action by Accounting Policy Division --