

STATE OF FLORIDA

E. LEON JACOBS, JR.,
CHAIRMAN



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Public Service Commission

September 4, 2001

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FCC MAIL ROOM

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW, Room TW-204B
Washington, DC 20554

Re: CC Docket No. 96-45 Certification pursuant to 47 C.F.R. §54.314

Dear Secretary Salas:

Pursuant to the requirements of 47 C.F.R. §54.314, the Florida Public Service Commission (FPSC) hereby certifies to the Federal Communications Commission that all federal high-cost funds flowing to Florida rural carriers for the year commencing January 1, 2002, and ending December 31, 2002, will be utilized in a manner consistent with §254(e) of the Telecommunications Act of 1996. The Florida rural carriers hereby certified are: ALLTEL Florida, Inc.; Frontier Communications of the South, Inc.; Quincy Telephone Company d/b/a TDS Telecom/Quincy; Smart City Telecommunications LLC d/b/a Smart City Telecom; Northeast Florida Telephone Company, Inc.; Indiantown Telecommunications Systems, Inc.; and GTC, Inc. d/b/a GT Com. As required by §254(e), these companies will only utilize the federal high-cost support for which they are eligible in the year 2002 for the provision, maintenance and upgrading of facilities and services for which the support is intended.

The representations and certifications provided herein arose from the Commission's proceedings in Docket No. 010977-TL. A copy of the FPSC's order certifying these companies for the year 2002 is attached.

Sincerely,

E. Leon Jacobs, Jr.
Chairman

Enclosure

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION SEP 10 2001

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In re: State certification of
rural telecommunications
carriers pursuant to 47 C.F.R.
54.314.

DOCKET NO. 010977-TL
ORDER NO. PSC-01-1768-FOF-TL
ISSUED: August 30, 2001

The following Commissioners participated in the disposition of this matter:

E. LEON JACOBS, JR., Chairman
J. TERRY DEASON
LILA A. JABER
BRAULIO L. BAEZ
MICHAEL A. PALECKI

FINAL ORDER REGARDING RURAL LOCAL EXCHANGE COMPANY CERTIFICATION

BY THE COMMISSION:

On May 23, 2001, the Federal Communications Commission (FCC) released its Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256 (hereafter, the RTF order). In this order the FCC modified its rules for providing high-cost interstate universal service support to rural telephone companies, in response to various proposals made previously by the Rural Task Force (RTF); these modified rules applicable to rural carriers are designed to be in place for five years, while the FCC continues to develop a long-term coordinated universal service plan for rural and non-rural carriers.

The RTF submitted its Recommendation to the Federal-State Universal Service Joint Board on September 29, 2000. The RTF consisted of representatives drawn from throughout the telephone industry and their final report, the product of exhaustive deliberations, reflected a consensus proposal. This consensus proposal consists of various modifications to the existing embedded cost methodology used to determine high-cost funding for rural telephone companies; on balance, the effect of these proposals is an increase over the next five years in funding to rural carriers.

Section 254(e) of the Telecommunications Act of 1996 provides that a carrier that receives universal service support ". . . shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended." In its Ninth Report and Order in CC Docket No. 96-45, which dealt with high-cost funding for non-rural carriers, the FCC concluded that the purpose of interstate high-cost support was to enable the reasonable comparability of intrastate rates. Since state commissions have primary jurisdiction over intrastate rates, the FCC further concluded that it was reasonable for states to determine whether support was being used in accord with Section 254(e). Thus, the FCC adopted a rule requiring that states who wish for non-rural carriers in their states to receive federal high-cost support must file a certification annually with the FCC and with the Universal Service Administrative Company (USAC). This certification is to state that all federal high-cost funds flowing to non-rural carriers in the state, or to competitive eligible telecommunications carriers requesting support for serving within a non-rural carrier's service area, will be used in a manner that comports with Section 254(e).

In the RTF Order the FCC has now extended the state certification requirement to rural carriers. The key new rule provisions are:

§54.314. State certification of support for rural carriers.

- (a) *State certification.* States that desire rural incumbent local exchange carriers and/or eligible telecommunications carriers serving lines in the service area of a rural incumbent local exchange carrier within their jurisdiction to receive support pursuant to §§54.301, 54.305, and/or 54.307 of this part and/or part 36, subpart F of this chapter must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. . .

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(c) *Certification format.* A certification pursuant to this section may be filed in the form of a letter from the appropriate regulatory authority for the State, and shall be filed with both the Office of the Secretary of the Commission clearly referencing CC Docket No. 96-45, and with the Administrator of the high-cost universal service support mechanism, on or before the deadlines set forth below in subsection (d). . . .

47 C.F.R. §54.314.

The FCC requires that initial certifications for the first full year, January 1, 2002 - December 31, 2002, must be submitted by October 1, 2001, in order for a rural carrier to be eligible for high-cost universal service support for all of calendar year 2002.

Herein, we address certification of Florida's rural local exchange companies (LECs) for 2002.

We note that unless we submit certifications to the FCC and to USAC by October 1, 2001, Florida's seven rural carriers will receive no interstate high-cost universal service funds during the first quarter of 2002. Furthermore, failure to certify would result in these LECs being denied all support during 2002. With the exception of Frontier, these rural LECs are under intrastate price regulation, and thus, regulatory oversight over their operations is somewhat limited. However, the FCC anticipated that certain state commissions may have restricted authority:

In the case of non-rural carriers, we concluded that states nonetheless may certify to the Commission that a non-rural carrier in the state had accounted to the state commission for its receipt of federal support, and that such support will be "used only for the provision, maintenance and upgrading of facilities and services for which the support is intended." We determined that, in states in which the state commission has limited

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jurisdiction over such carriers, the state need not initiate the certification process itself. . . . We conclude that this approach is equally appropriate here with regard to rural carriers and competitive eligible telecommunications carriers serving lines in the service area of a rural local exchange carrier.

RTF Order, ¶188.

Each of the seven Florida rural LECs has submitted an affidavit, Attachments A through G to this Order, which are incorporated by reference herein, in which they have certified that their use of interstate high-cost universal service support received during 2002 will comport with section 254(e) of the Act and applicable FCC rules. Given these LECs' attestations to us of their compliance, we hereby certify to the FCC and to the USAC that these LECs will be using interstate high-cost universal service support in 2002 in a manner that complies with Section 254(e).

It is therefore

ORDERED by the Florida Public Service Commission that we hereby certify that ALLTEL Florida, Inc., Frontier Communications of the South, Inc., Quincy Telephone Company d/b/a TDS Telecom/Quincy, Smart City Telecommunications LLC d/b/a Smart City Telecom, Northeast Florida Telephone Company, Inc., Indiantown Telecommunications Systems, Inc., and GTC, Inc. d/b/a GT Com will be using interstate high-cost universal service support in 2002 in a manner that complies with Section 254(e) of the federal Telecommunications Act of 1996. It is further

ORDERED that Attachments A through G to this Order are incorporated by reference herein. It is further

ORDERED that this docket shall remain open to handle subsequent year's certifications for Florida's rural local exchange companies.

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By ORDER of the Florida Public Service Commission this 30th
Day of August, 2001.

/s/ Blanca S. Bayó

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

This is a facsimile copy. Go to the
Commission's Web site,
<http://www.floridapsc.com> or fax a request
to 1-850-413-7118, for a copy of the order
with signature.

(S E A L)

SOME (OR ALL) ATTACHMENT PAGES ARE NOT ON ELECTRONIC DOCUMENT.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and

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Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.