



*Universal Service, CC Docket No. 96-45 (November 8, 1996), and First Report and Order, In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45 (May 8, 1997) (Universal Service Order).*

- 4 The Act provides that ETCs may draw from the universal service fund in order to provide the described services to low-income consumers. The following services must be provided by an ETC in order to be eligible for federal universal service report: single-party service; voice-grade access to the public switched network; dual-tone multi-frequency signaling or its functional equivalent; access to emergency services, including, in some circumstances, access to 911 and E911; access to operator services; access to interexchange services; access to directory assistance; and lifeline and link-up programs, including free toll-limitation services for qualifying low-income consumers.
- 5 Congress left to the state public utility commissions the task of designating ETCs. *47 U.S.C. § 214 (e)(2)*. Section 214 (e)(1) sets forth the criteria for ETC designation, which are: (1) the carrier must offer the “services” that are supported by the federal fund, and (2) the carrier must advertise the availability of those services. The carrier must fulfill these criteria “throughout the service area for which the designation is received.” *47 U.S.C. § 214 (e)(1)*.
- 6 The Commission is authorized to take actions, conduct proceedings, and enter orders as permitted or contemplated for a state commission under the Federal Telecommunications Act of 1996. *RCW 80.36.610*.

## DISCUSSION

- 7 Facilities leased as UNE-P satisfy the requirement that a carrier use, at least in part, its own facilities to provide service. *47 C.F.R. § 54.201(f)*.
- 8 All wireline petitioners that had requested ETC designation prior to Vilaire’s petition had requested an exemption from the requirement to provide toll limitation as a prerequisite for obtaining ETC designation. Those petitioners had demonstrated that exceptional circumstances exist justifying an exemption from the requirement to provide toll limitation, as authorized by *47 C.F.R. § 54.101(c)*. It is not technically feasible for wireline carriers to provide this service at this

time. Although Vilaire did not petition for the exemption, it is reasonable to conclude that Vilaire cannot provide toll limitation because it uses the service of a company that cannot provide toll limitation. Thus, the Commission finds it reasonable to waive the toll limitation requirement for Vilaire, as well.

- 9 A carrier's obligation to "offer the services that are supported by federal universal service support mechanisms," as required by 47 U.S.C. § 214(e)(1)(A), requires not just willingness to offer the services, but actual provision of the services. Provision of telecommunications services in Washington implies that the services will be at an adequate service level. As set forth below, whether an ETC actually is providing adequate service could arise in a proceeding to modify, revoke, or suspend ETC designation.
- 10 Requiring adequate service also is consistent with the pro-competitive policies of the 1996 Act. No company should be able to obtain a competitive advantage by avoiding its service-quality responsibilities. All ETCs must comply with applicable Commission rules.
- 11 The Commission may from time to time re-open ETC proceedings in order to modify the geographic area for which companies are designated as ETCs. Such a proceeding may be commenced by an ETC, a petitioner for ETC designation, by the Commission on its own motion, or by another person or entity with standing to do so.
- 12 In addition to geographic area modifications, the Commission has the authority to modify, revoke, or suspend ETC designations, should the prerequisites to the original designation cease to exist. If the Commission at a later date must decide whether Vilaire continues to offer such services, the Commission will look not just to whether the services are available as advertised, but will consider the actual and timely delivery of the services, in accordance with currently accepted industry standards, including, but not limited to, the quality of service rules contained in Chapter 480-120 WAC.
- 13 The Commission may modify this Order for other reasons permitted by the Act.

## FINDINGS AND CONCLUSIONS

- 14 (1) The Commission has jurisdiction over the subject matter of this proceeding and Stan Efferding d/b/a Vilaire. *47 C.F.R. § 214(e), RCW 80.01.040(3), 80.36.080, 80.36.090, 80.36.140, 80.36.230, 80.36.610.*
- 15 (2) Stan Efferding d/b/a Vilaire, is a telecommunications company authorized to conduct business in the state of Washington.
- 16 (2) After taking into account and considering fully the recommendations of the Federal-State Joint Board, the Commission finds that the appropriate service area for the Petitioner is at the exchange level.
- 17 (3) The Petitioner offers, or will offer, all of the services that are supported by the federal universal service support mechanisms set forth in *47 C.F.R. §54.101(a)*, with the exception of toll limitation.
- 18 (4) The Petitioner will advertise the availability of its service using media of general distribution as required by *47 U.S.C. §214(e)(1)(B)*.
- 19 (5) Granting the relief requested in the petition, except as otherwise modified by this Order, is consistent with the public interest, convenience, and necessity, and is consistent with applicable state and federal law.
- 20 (6) Stan Efferding, d/b/a Vilaire, does not have a study area. The Commission may designate companies as ETCs for geographic areas other than their study areas without conducting an adjudicatory proceeding prior to such designation.

## ORDER

### THE COMMISSION ORDERS:

- 21 (1) The petition of Stan Efferding d/b/a Vilaire for designation as an eligible telecommunications carrier is granted.

- 22 (2) The geographic area for which the designation is granted consists of the exchanges served by Qwest Corporation (See Appendix A).
- 23 (3) The requirement to provide toll control is waived until it is economically and technically feasible to provide it.
- 24 (4) The Commission has authority to modify, suspend or revoke this designation, including the service areas accompanying this designation, at a future date.

The Commissioners, having determined this Order to be consistent with the public interest, directed the Secretary to enter this Order.

DATED at Olympia, Washington, and effective this 23rd day of April, 2003.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

CAROLE J. WASHBURN, Secretary

Appendix A

Qwest Exchanges for which Vilaire is designated an ETC

Aberdeen	Liberty Lake	Sunnyside
Auburn	Longview	Tacoma
Bainbridge Island	Loon Lake	Vancouver
Battleground	Maple Valley	Vancouver Orchards
Belfry	Moses Lake	Warden
Bellevue	Newman Lake	Waitsburg
Bellingham	Newport	Walla Walla
Bremerton	Ocean Shores	Winlock
Black Diamond	Olympia	Yakima
Buckley	Omak	
Castle Rock	Oroville	
Centralia	Othello	
Chehalis	Pasco	
Colby	Pateras	
Colfax	Pomeroy	
Colville	Port Angeles	
Coulee Dam	Port Orchard	
Dayton	Port Ludlow	
Deer Park	Port Townsend	
Des Moines	Puyallup	
Easton	Renton	
Elk	Ridgefield	
Ephrata	Rochester	
Greenbluff	Roy	
Graham	Seattle	
Hoodsport	Sequim	
Issaquah	Shelton	
Joyce	Silverdale	
Kent	Spokane	
Lacey	Sumner	

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