

Agenda Date: December 29, 2004  
Item Number: A1

**Docket:** UT-043121  
Company Name: Hood Canal Telephone Company

Staff: Robert Shirley, Telecommunications Policy Analyst

**Recommendation:**

Designate Hood Canal Telephone Company as an Eligible Telecommunications Carrier (ETC) for the areas described by the exchange boundaries for the Belfair, Hoodspport, and Shelton exchanges operated by Qwest Corporation.

**Discussion:**

Background

ETCs are common carriers designated by state commissions as eligible to receive federal universal service support funds. 47 U.S.C. § 214(e). In exchange for support, ETCs must provide nine services and offer discounts to low-income consumers through Lifeline and Link Up. 47 C.F.R. §§ 54.101 and 54.400 et seq. Where an ETC's service area includes a federally recognized Indian Reservation, the ETC must also participate in the Enhanced Tribal Lifeline Program. An ETC must provide services supported by federal funds throughout the geographic area for which it is designated, and it must advertise the availability of those services in media of general distribution. 47 U.S.C. § 214(e)(1).

In summary, ETC designation consists of a determination that a carrier offers the required services; a determination that designation is in the public interest; and a determination of a geographic service area for which the designation is effective. Geographic service areas of one ETC may be coincident with or overlap, in whole or in part, one or more service areas of other ETCs. 47 U.S.C. § 214(e)(2).<sup>1</sup>

Hood Canal's Petition Demonstrates It Provides the Federally Required Services

Hood Canal Telephone Company ("Hood Canal") is the first rural telephone company since 1997 to request designation as an ETC to serve areas also served by a non-rural wireline ETC;<sup>2</sup> it is also the first rural telephone company to request designation for areas served by two reseller ETCs and two wireless ETCs. Qwest, Tel West, Vilaire, and AT&T Wireless have each been designated for service areas described by the exchange boundaries for the Belfair, Hoodspport, and Shelton exchanges operated by Qwest Corporation. United States Cellular Corporation (USCC) is an ETC for a service area

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<sup>1</sup> See also *In the Matter of the Petition of Sprint Corporation, d/b/a/ Sprint PCS, Sprintcom, Inc., Sprint Spectrum, L.P., and WirelessCo., L.P. for Designation as an Eligible Telecommunications Carrier*, Docket No. UT-031558, Order No. 01 (Oct. 29, 2003) ("*Sprint PCS Non-Rural Order*"), ¶ 7-9.

<sup>2</sup> In 1997, Whidbey Telephone Company requested designation in its so-called Supplemental Service Area (SSA). See *In the Matter of the Petitions for Designation as Eligible Telecommunications Carriers*, Docket Nos. UT-970333-970354; 970356, Order Designating Eligible Telecommunications Carriers (Dec. 23, 1997), Part VI, C.

described by the exchange boundaries for Shelton exchanges operated by Qwest Corporation.

Hood Canal states in its petition<sup>3</sup> that it provides the services required by federal rules. *Supplemental Petition* ¶ 4. It states that it advertises its services in the Union exchange (where it is currently an ETC) and will do so in Belfair, Hoodsport and Shelton if designated. *Id.* ¶ 5. Similarly, Hood Canal states that it participates in the federal Lifeline and Link Up programs in Union and will participate in those programs in the new service areas. *Id.* ¶ 6. Hood Canal participates in the state WTAP program. *Id.*

Hood Canal also states in its petition that it serves the Hoodsport and Shelton exchanges as a competitive local exchange carrier (CLEC) for purposes of 47 C.F.R. § 54.706(a)<sup>4</sup> and 47 U.S.C. 254(d), and will soon serve the Belfair exchange in that capacity.<sup>5</sup> *Id.* ¶ 3. While not a CLEC under state law, it appears to Commission Staff that CLEC is the correct term under federal rules.

Designation of Hood Canal is in the Public Interest

Hood Canal asserts that granting its request is consistent with the public interest under 47 U.S.C. 214(e). *Id.* ¶ 7. In its initial filing, Hood Canal states it already serves customers in two areas for which it requests designation, and that it will soon serve the third area. Hood Canal states that ETC designation will permit it to receive Lifeline and Link Up support for services to low-income customers.

Congress did not elaborate on the meaning of “public interest.” In making the public interest determination for ETC designations in areas served by incumbent carriers, this Commission has considered whether the additional ETC will benefit customers as contemplated by the federal Telecommunications Act of 1996.<sup>6</sup> The Commission has held that customers will benefit from competition because additional customer choices will bring downward pressure on prices, greater availability of innovative products, and more attention to customer service. Commission Staff does not read the Act to require Hood Canal to demonstrate with particular facts that competition will occur as a result of

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<sup>3</sup> Hood Canal made its initial request on December 1, 2004, and supplemented that filing on December 7, 2004. While not in the form common to petitions, Commission Staff believes Hood Canal’s original and supplemental requests provide information similar to that supplied by previous petitioners. See *In the Matter of the Petition of RCC Minnesota, Inc., d/b/a Cellular One For Designation as an Eligible Telecommunications Carrier*, WUTC Docket No. UT-023033, Order Granting Petition for Designation as an Eligible Telecommunications Carrier (August 14, 2002) (“RCC Order”), ¶¶ 17-26, 43-47.

<sup>4</sup> The original reference, to § 703(a), was corrected after communication from Hood Canal.

<sup>5</sup> Hood canal’s tariff for the Belfair exchange became effective December 15, 2004. *Docket No. UT-041997*.

<sup>6</sup> The Act has the “interrelated goals of fostering competition and advancing universal service.” *Wash. Indep. Tel. Ass’n v. Wash. Utils. & Transp. Comm’n*, 149 Wn.2d 17, 28. (citing *Alenco Communications, Inc. v. Fed. Communications Comm’n*, 201 F.3d 608, 615 (5th Cir. 2000) (“FCC must see to it that both universal service and local competition are realized; one cannot be sacrificed in favor of the other.”)).

its designation and that low-income consumers will reap some of the benefits of competition.

Access to telecommunications service for low-income customers is one of the goals of the federal Act. 47 U.S.C. § 254(b)(3). Designation of Hood Canal will promote competition and its benefits for low-income consumers who will be able to obtain discounts from Hood Canal should low-income consumers perceive Hood Canal to offer better service or superior quality than current ETCs.

If designated for the areas requested, Hood Canal will have an ETC service area that includes some or all of the Skokomish Indian Reservation, and another ETC service area that includes the Squaxin Island Indian Reservation. As a result, residents of the reservations will have an additional choice of providers that must offer the Enhanced Tribal Lifeline Program discounts. 47 C.F.R. § 54.403(a)(4). Increased consumer choice on Indian Reservations is in the public interest.

#### Granting Hood Canal's Petition Is Consistent With Previous Decisions Designating Additional ETCs

Commission Staff recommends designation of Hood Canal consistent with past designations of ETCs for service areas that coincide with service areas of previously designated ETCs. Rural telephone companies opposed previous designations that resulted in multiple ETCs with coincident or overlapping service areas. Hood Canal is a rural telephone company that already serves in the areas for which it seeks designation. This issue has been before the Commission in the past and the Commission has found there are no facts suggesting that coincident or overlapping ETC service areas harm consumers or create any unfair competitive advantage for carriers.<sup>7</sup>

Rural telephone companies have also opposed designations for limited areas when a company could serve a greater area. Hood Canal may choose when and where to compete without the limitations imposed, for e.g., on wireless companies by licenses. The Commission has determined in the past that to prevent cream-skimming or an unfair competitive advantage it need not require designation where it is not requested. Commission Staff has no evidence that Hood Canal seeks, or will obtain, an unfair advantage by limiting its request for designation to areas immediately adjacent to its Union exchange.

Consistent with the Commission's recent decision designating Qwest as an ETC where Qwest does not receive HCF support (including service areas that correspond to the area within the boundaries of the Qwest Belfair, Hoodsport, and Shelton exchanges), Commission Staff recommends that Hood Canal not be required to create electronic maps

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<sup>7</sup> See *In the Matter of the Petition of AT&T Wireless PCS of Cleveland, LLC, et al. for Designation as an Eligible Telecommunications Carrier*, Docket No. UT-043011, Order Designating Eligible Telecommunications Carrier (April 13, 2004) ¶¶ 42-49; RCC Order, ¶¶ 8, 41, 62, 65-67, and 87.

until such time as HCF support is available and the maps will then aid in administration of HCF.

**Recommendation:**

Designation of Hood Canal for service areas described by the exchange boundaries for the Belfair, Hoodport, and Shelton exchanges operated by Qwest Corporation will promote customer choice (competition); will preserve and advance universal telecommunications service; and is consistent with the public interest.