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March 10, 2014

Burl W. Haar
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul, Minnesota 55101-2147

RE: **Comments of the Minnesota Department of Commerce**
Docket No. P571/AM-14-147

Dear Dr. Haar:

Attached are the comments of the Minnesota Department of Commerce in the following matter:

The Petition of Winnebago Cooperative Telecom Association for Designation as an
Eligible Telecommunications Carrier

The petition was filed on February 18, 2014 by:

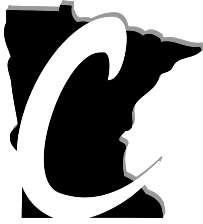
Thomas G. Burns
Consultant to Winnebago Cooperative Telecom Association
Olsen-Thielen & Company
2675 Long Lake Road
Saint Paul, MN 55113

The Department recommends **approval of the petition**, and is available for any questions the Commission may have.

Sincerely,

/s/ KATHERINE DOHERTY
Rates Analyst

KD/sm
Attachment



BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

COMMENTS OF THE MINNESOTA DEPARTMENT OF COMMERCE

DOCKET NO. P571/AM-14-147

I. BACKGROUND

A. PROCEDURAL BACKGROUND

On February 18, 2014, Winnebago Cooperative Telecom Association (WCTA) filed a petition for designation as an eligible telecommunications carrier (ETC) for the receipt of support from the federal universal service program. WCTA requested ETC designation in the Qwest Corporation dba CenturyLink (Qwest) exchanges of Albert Lea and Glenville.

B. HISTORICAL BACKGROUND

WCTA offers local exchange service as an incumbent local exchange carrier (ILEC) in the Conger, Emmons, Twin Lakes, and North Rake exchanges. On March 30, 2007, in Docket No. P571/AM-07-387, the Minnesota Public Utilities Commission (Commission) approved WCTA's application to amend its existing certificate of authority to allow the Company to provide facilities based local exchange service as a competitive local exchange carrier (CLEC) in the Albert Lea exchange of Qwest.

On 12/30/2010, in Docket No. P571/AM-10-1217, the Commission approved WCTA's petition to expand its service area to enable WCTA to operate as a CLEC in the Qwest Glenville exchange. In the current docket WCTA seeks ETC designation only for its CLEC operations in the Albert Lea and Glenville exchanges.

II. STATEMENT OF ISSUES

1. Whether WCTA has demonstrated the intent and capability of providing and advertising the services required in 47 CFR Section 54.101(a) for the purpose of establishing eligibility for federal universal service funds in its requested service area.
2. Whether designation of WCTA as an ETC for the purpose of receiving support from the federal universal service fund is in the public interest.

III. DISCUSSION OF LAW

A. APPLICABLE LAW

Federal Law

FCC Rules 47 C.F.R. §201(b) and (c) provide for state designation of ETCs, stating that:

b) A state commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (d) of this section as an eligible telecommunications carrier for a service area designated by the state commission.

c) Upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements of paragraph (d) of this section. Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the state commission shall find that the designation is in the public interest.

FCC Rule 47 C.F.R. 54.201 (d) requires that a common carrier designated as an eligible telecommunications carrier, must (throughout its designated service area):

- (1) Offer the services that are supported by federal universal service support mechanisms under subpart B of this part and section 254(c) of the Act, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and
- (2) Advertise the availability of such services and the charges therefore using media of general distribution.

FCC Rule 47 C.F.R. § 54.101 (a) defines the supported services that must be offered by eligible telecommunications carriers and states:

(a) *Services designated for support.* Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

(b)

FCC Rule 47 C.F.R. §54.202 sets forth specific requirements that common carriers must meet in order to be designated as an ETC under section 214 (e)(6) of the Telecommunications Act:

(a) In order to be designated an eligible telecommunications carrier under section 214(e)(6), any common carrier in its application must:

(1) (i) Certify that it will comply with the service requirements applicable to the support that it receives.

(ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area. Each applicant shall estimate the area and population that will be served as a result of the improvements. ***Except, a common carrier seeking designation as an eligible telecommunications carrier in order to provide supported services only under subpart E of this part does not need to submit such a five-year plan.***(emphasis added)

(2) Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

(3) Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.

(4) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only

under subpart E of this part, demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E of this part.

(5) For common carriers seeking designation as an eligible telecommunications carrier for purposes of receiving support only under subpart E of this part, submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

b) Public interest standard. Prior to designating an eligible telecommunications carrier pursuant to section 214(e)(6), the Commission determines that such designation is in the public interest.

State Law

Minn. Rules 7812.0100, subp. 15 provides that “Eligible telecommunications carrier” or “ETC” means a local service provider designated by the commission as eligible to receive federal universal support in accordance with United States Code, title 47, section 254, and relevant federal regulations.

Minnesota Rule 7812.1400, subpart 2, states as follows:

Designation of CLECs upon petition. Upon request and consistent with the public interest, convenience, and necessity, the commission may designate a competitive local exchange carrier (CLEC) as an ETC and eligible to receive universal support from the federal universal support mechanisms under section 254 of the federal act and any state universal service fund established under Minnesota Statutes, section 237.16, subdivision 9, if the CLEC qualifies as an ETC under 7812.0100, subpart 15. Before designating an additional eligible telecommunications carrier, the commission shall find that the designation is in the public interest.

Minnesota Rule 7812.1400, subp. 3 provides for Commission determination of the applicable universal service area.

A decision on a petition for designation to receive universal service support under this part must include a determination of the applicable universal service area. The commission shall determine

whether the LEC serving the area for which the CLEC seeks designation to receive universal service support is a rural telephone company if the competitive local exchange carrier's petition or another party's initial comments under subpart 8 assert that the LEC is a rural telephone company. If the applicable LEC has 50,000 or more subscribers and is not found by the commission to be a rural telephone company, the commission shall designate the local exchange carrier's exchange area as the universal service area unless the commission finds that a smaller geographic unit would be more appropriate, based on consideration of the relevant high-cost areas designated by the FCC and the public interest.

IV. ANALYSIS

WCTA's Facilities

WCTA currently provides local exchange service using some or all of its own facilities in its proposed ETC service area. WCTA's petition indicates that it will provide facilities-based service throughout the service area using its existing copper facilities and newly installed fiber optic cable facilities, and its digital switch located in Lake Mills, IA. WCTA made the following statement:

WCTA is committed to provide service throughout the Service Area to all customers making a reasonable request for service. WCTA certifies that it will: (a) provide service on a timely basis to requesting customers within the Service Area where WCTA's network already passes the potential customer's premises; and (b) provide service within a reasonable period of time, if the potential customer is within the Service Area but not passed by WCTA's current network facilities, if service can be provided at reasonable cost by constructing network facilities.¹

WCTA's Basic Universal Service Offering

WCTA currently provides telecommunications services to customers in the area for which it is requesting ETC status, including "Voice Telephony" as defined in 47 C.F.R. §54.201(a)

¹ Petition, page 2.

Additionally, WCTA has demonstrated compliance with 47 C.F.R. §54.101(a) by meeting the requirements of Minnesota Rule 7812.0600 (“Basic Local Service”) in its application for a certificate of authority to provide local exchange telecommunications service in Minnesota.²

WCTA has provided sample tariff provisions for its basic universal service offering, Lifeline and Tribal Linkup. WCTA offers its basic residential one party service with unlimited local usage (including the four supported services) at a monthly rate of \$15.00 and a non-recurring rate of \$16.00.

WCTA’s Advertising Plan

WCTA has provided information regarding its plans to advertise the availability of Lifeline, Tribal Linkup, and its basic universal service offering.³ WCTA currently advertises its services through several different channels of general distribution, including newspaper, and direct mail. In addition, the availability of its universal service offering will be listed continuously on WCTA’s website currently anticipated to be located at <http://www.wctatel.net>. The universal service offering will be published at least annually in the local newspaper, and will be posted at the WCTA offices in Lake Mills, IA.

5-year Plan for the Use of Universal Service Support

WCTA has not submitted a detailed investment plan. However, under the FCC’s updated portability rules WCTA would not receive federal high cost support.⁴ WCTA would receive Lifeline support to the extent it serves customers qualified to receive Lifeline. In addition, as an ETC, WCTA would have the opportunity to bid for funding in any reverse auctions conducted by

² MN Rule 7812.0600 (BASIC SERVICE REQUIREMENTS) subpart 1 requires a local service provider to provide, as part of its local service offering, the following to all customers within its service area:

- A. single party voice-grade service and touch-tone capability
- B. 911 or enhanced 911 access;
- C. 1 + intraLATA and interLATA presubscription and code-specific equal access to interexchange carriers subscribing to its switched access service;
- D. access to directory assistance, directory listings, and operator services;
- E. toll and information service-blocking capability without recurring monthly charges;
- F. one white pages directory per year for each local calling area;
- G. a white pages and directory assistance listing, or, upon customer request, a private listing that allows the customer to have an unlisted or unpublished telephone number;
- H. call-tracing capability;
- I. blocking capability and
- J. telecommunications relay service capability or access necessary to comply with state and federal regulations.

In addition, subp. 2. requires each LSP to offer the services identified in subpart 1 as a separate tariff or price list offering on a flat rate basis.

³ Petition, Exhibit C.

⁴ In the *CAF-ICC Order*, the FCC eliminated the requirement, known as the identical support rule, in Section 54.307 of the Commission’s rules, which allowed competitive ETCs serving rural areas to receive the same level of high-cost universal service support per line as incumbent carriers.

the FCC, including rural broadband experiments currently contemplated by the FCC,⁵ in which WCTA has expressed interest.⁶ The Department believes that in the future, should WCTA become eligible for the receipt of universal service funds, it should be required to provide a five year investment plan for the specific use of such funds. In addition, should WCTA receive funding, its use of such funds would be appropriately evaluated in the course of the Commission's annual certification of ETCs' use of support.

The Department believes that WCTA has adequately demonstrated the intent and capability of providing the four supported services throughout its service area. The Department notes that in future years, as a designated ETC, WCTA will be required to file reports on an annual basis, pursuant to the Commission's Order in Docket No. P999/M-05-741 and the FCC's requirements itemized in the November 18, 2011 Order (which the FCC extended to all ETCs), including five year service improvement plans and reports on its progress toward the fulfillment of those plans.⁷

Ability to Remain Functional in Emergency Situations

WCTA has included sufficient information in its petition to demonstrate that it has a reasonable amount of backup power to remain functional without an external power source. WCTA states that in the event of a commercial power outage its central office is equipped with electrical generators and sufficient battery power supply to continue to provide service. In the event of a network failure, the WCTA network will automatically through the use of fiber optic rings in its interconnection facilities to neighboring telecommunications providers.⁸

Acknowledgement Regarding Equal Access

On page 4 of its petition, WCTA notes that, as a CLEC, it is obligated to, and does, provide equal access to long distance carriers within its proposed service area.

The Department believes that WCTA has adequately demonstrated the intent and capability of providing "Voice Telephony" throughout its service area.

A. PUBLIC INTEREST

While the Telecommunications Act does not require a state commission to make a determination that the designation of more than one ETC in an area served by a non-rural carrier is in the public

⁵ See In the Matter of Connect America Fund, et al., WC Docket 10-90 et al, *Order, Report and Order and Further Notice of Proposed Rulemaking, Report and Order and Further Notice of Proposed Rulemaking, Proposal for Ongoing Data Initiative*, January 31, 2014, paras 86 through 137. The FCC determined that entities selected to receive funding in an experiment must obtain ETC designation. With respect to the currently contemplated rural broadband experiment, the FCC determined that applicants need not be designated as ETCs prior to applying for funding, but may seek and obtain ETC designation after being selected (para 117-118).

⁶ See DOC-Attachment A.

⁷ Codified in 47 C.F.R. 54.313.

⁸ Petition page 4.

interest, Minnesota Rule 7812.1400, subpart 2, does require a public interest determination for all additional CLECs designated as ETCs.

The Commission has found, in general, that the designation of qualifying competitive ETC's is in the public interest and comports with Minnesota's telecommunications goals of supporting universal service, maintaining just and reasonable rates, promoting customer choice, encouraging fair and reasonable competition for local exchange telephone service in a competitively neutral manner, maintaining or improving quality of service, and promoting customer choice.⁹

In addition to the level of demonstrated intent by the petitioner to invest in network infrastructure in Minnesota and the general public interest benefits of competition, the Commission has chosen, in previous dockets designating ETCs in Minnesota, to consider affordability and service quality as part of its public interest analysis.

Affordability

Although the Commission has not specifically defined the term "affordable" in its previous ETC designations, each Minnesota CLEC and wireless carrier that has been granted designation as an ETC has offered at least one "affordable" choice to its customers.

WCTA's basic universal service with unlimited local usage is offered at \$15.00 monthly and can be installed for a non-recurring charge of \$16.00.

A comparison to the monthly rates of the incumbent carrier (Qwest) that serves WCTA's proposed service area is detailed below:

Exchange	WCTA One-Party Residential Rate	Qwest Residential Rate (including applicable EAS)
Albert Lea	\$15.00	\$16.67
Glenville	\$15.00	\$16.96

The Department believes that the proposed rate is "within the range" of rates offered by incumbent local exchange carriers in Minnesota, which the Commission has deemed acceptable in past ETC designations. In addition, designating WCTA as an ETC would provide the benefit of Lifeline and Tribal Link-Up discounts to qualifying subscribers and would allow WCTA to participate in any reverse auctions conducted by the FCC for distribution of universal service funds. WCTA has met the expectation that it offer at least one basic "affordable service" as well as the requirement that it offer local usage plans comparable to those offered by the incumbent local exchange carrier (ILEC) in the areas for which it seeks designation.

⁹ Minnesota Statute §237.011.

Service Quality

The Department notes that, as a CLEC, WCTA is subject to the Commission's rules pertaining to service quality, including those relating to adequacy of service, network performance, operator services, and business office practices. In addition, WCTA has included specific provisions in its Minnesota tariff outlining the following:

- Billing Practices
- Appropriate handling of customer complaints and billing disputes
- Disconnection and notice requirements

The Department believes that the specific provisions in WCTA's tariff, as well as the Commission's service quality rules by which WCTA is bound, assure acceptably high levels of service quality.

B. PROPOSED SERVICE AREA

WCTA proposes to provide universal service throughout selected exchanges served by Qwest. WCTA has provided a narrative description of its proposed service area. 47 U.S.C Subsections 214(e)(2) and 214(e)(5) require state commissions to designate the area throughout which a non-rural carrier must provide universal service in order to be eligible to receive universal service support. Commission rules permit the service area to be as small as a single exchange unless the ETC seeks designation in a region served by a rural local exchange carrier.¹⁰

WCTA's proposal does not conflict with Minnesota Rules and does not require redefinition of Qwest's service area.

V. COMMISSION ALTERNATIVES

1. Find that WCTA has made a credible showing of its capability and intent to provide and advertise an affordable, quality "Voice Telephony" offering throughout its proposed service area, and that its designation is in the public interest. Approve WCTA's petition for designation as an ETC in the Qwest Minnesota exchanges of Albert Lea and Glenville.
.
2. Find that WCTA has not provided sufficient evidence of its capability and intent to provide and advertise an affordable, quality "Voice Telephony" offering, throughout its proposed service area, or that its designation is not in the public interest. Deny WCTA's petition for designation as an ETC in its proposed service area.

¹⁰ Minn. Rules part 7812.011, subpt. 51.

3. Approve the petition with other conditions or requirements that the Commission deems appropriate.

VI. RECOMMENDATION

The Department recommends Alternative 1.

The Commission should find that WCTA has made a credible showing of its capability and intent to provide and advertise an affordable, quality Voice Telephony offering throughout its proposed service area, and that its designation is in the public interest. Approve WCTA's petition for ETC designation in the Qwest exchanges of Albert Lea and Glenville.

/sm



Winnebago Cooperative Telecom Association

704 E. Main St. • Lake Mills, IA 50450

Phone: 641.592.6105 • Fax: 641.592.6102

E-Mail: wcta@wctatel.net

DATE: March 3, 2014

FROM: Mark Thoma – General Manager
Winnebago Cooperative Telecom Association, Lake Mills, IA

TO: Federal Communications Commission (FCC) Staff

SUBJECT: Expression of Interest – Rural Trials
Docket No. 10-90

To Whom It May Concern,

Winnebago Cooperative Telecom Association (WCTA), a rural telecom provider (ILEC and CLEC) based in Lake Mills, IA would like to submit an Expression of Interest in obtaining funding through the Connect America Fund Rural Trial program. We have been in business since 1950 providing advanced telecommunications services to 19 rural communities in northern Iowa and southern Minnesota.

WCTA's current customer base can request broadband plans with speeds ranging from 5 Mbps to 50 Mbps. WCTA also combines IP video with its broadband service.

WCTA would like to request funding to go into the following Census Tracts to reach more rural customers in the price cap areas where no other broadband is currently available.

- 27047180100
- 27047180200
- 27047180300
- 27047180500
- 27047180700
- 27047181000
- 19195690100
- 19195690300



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Currently, WCTA does not have an estimate to complete this project but it is simply economically impossible without financial assistance from the FCC Connect America Fund. WCTA has proven it is not only capable, but is willing to construct facilities to meet the needs of consumers wanting broadband in and near its serving area. In the last 5 years, WCTA has expanded its serving area to cover an additional 300 square miles of area to provide voice and broadband. If chosen to participate in the FCC experiment, WCTA could efficiently put a plan together to cost effectively serve more of the customers in the unserved areas identified above.

Thank you for your consideration.

Sincerely,

Winnebago Cooperative Telecom Association
www.wctatel.net