

December 14, 2018

Daniel P. Wolf  
Executive Secretary  
Minnesota Public Utilities Commission  
121 7<sup>th</sup> Place E. Suite 350  
St. Paul, MN 55101-2147

RE: **In the Matter of a Notice to Connect America Fund II (CAF II) Grant Winners**  
Docket No: P999/CI-18-634

Dear Mr. Wolf:

On August 28, 2018, the Federal Communications Commission (FCC) notified fifteen companies serving in Minnesota that they were winning bidders in the Connect America Fund (CAF) II auction. The FCC imposed some conditions upon winning bidders, which includes documentation of high-cost ETC designation, in all areas where support is sought, by February 25, 2019. Fourteen of those winning bidders requested that this Commission grant them ETC status<sup>1</sup> and four companies filed for either new authority or an expansion of their current authority. Two companies (LTD Broadband and Broadband Corp) chose to not file for authority to serve, yet petitioned this Commission to grant ETC status.

Most of the ETC applications were reviewed by the Department of Commerce, with comments being filed prior to the most recent decision from the Eighth Circuit.<sup>2</sup> In the absence of any action that would stay or alter the Eighth Circuit's decision, VoIP services, whether fixed or nomadic, are information services in those states that are part of the Eighth Circuit. Thus, in the Eighth Circuit, companies may not use their VoIP service offering to satisfy the requirement that an ETC must be a provider of telecommunications services.<sup>3</sup>

In the Department's comments filed on each of the ETC applications prior to the Eight Circuit decision to deny the Commission's petition for review en banc (December 4, 2018, with the courts mandate anticipated as December 11, 2018), the Department understood the state of the law to be: VoIP

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<sup>1</sup> Johnson Telephone Company did not file for ETC certification, and indicated by telephone that they would be declining the award.

<sup>2</sup> See *Charter Advanced Services (MN), LLC v. Nancy Lange, et. al.*, 903 F.3d 715 (8th Cir. 2018) (on December 4, 2018, the Eighth Circuit denied the petition for rehearing en banc and rehearing by the panel).

<sup>3</sup> "Telecommunications carriers' are defined as 'any provider of telecommunications services [and a] telecommunications carrier shall be treated as a common carrier under this chapter **only to the extent that it is engaged in providing telecommunications services.**'" See *id.* National Association of Regulatory Commissioners' Motion Seeking Leave to File Brief of Amici Curiae Supporting Defendant-Appellant's Petition for Rehearing En Banc (citing 47 U.S.C. § 153(51) (emphasis added)).

services were telecommunications services and thus qualified the petitioner for ETC status. With the Eighth Circuit decision that VoIP is an information service, each of the petitioners need to demonstrate that they will provide telecommunications service in those areas where the petitioner is seeking ETC status. The Department believes that this letter should serve to inform those companies of the need to address the telecommunications provision issue.

Sincerely,  
/s/ JOY GULLIKSON  
Rate Analyst

JG/jl

## **CERTIFICATE OF SERVICE**

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce  
Letter**

**Docket No. P999/CI-18-634**

**Dated this 14<sup>th</sup> day of December 2018**

**/s/Sharon Ferguson**

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Kristine	Anderson	kanderson@jagcom.net	Jaguar Communications, Inc.	213 S Oak Ave Ste 2000  Owatonna, MN 55060	Electronic Service	No	OFF_SL_18-634_Official Service List
Scott	Anderson	scott_anderson@Midco.com	Midcontinent Communications	3901 N Louise Ave  Sioux Falls, SD 57107	Electronic Service	No	OFF_SL_18-634_Official Service List
Tracy	Bandemer	Tracy.Bandemer@itctel.com	Interstate Telecommunications Cooperative, Inc..	312 4th St W PO Box 920 Clear Lake, SD 57226	Electronic Service	No	OFF_SL_18-634_Official Service List
Kevin	Becker	kmbeck@wiktel.com	Wikstrom Telephone Company	21307 220th St  Greenbush, MN 56726	Electronic Service	No	OFF_SL_18-634_Official Service List
Kevin	Beyer	kbeyer@fedtel.net	Farmers Mutual Telephone Company	301 2nd St S  Bellingham, MN 56212-1000	Electronic Service	No	OFF_SL_18-634_Official Service List
Kevin	Beyer	farmers@farmerstel.net	Farmers Mutual Telephone Company	301 2nd St S  Bellingham, MN 56221	Electronic Service	No	OFF_SL_18-634_Official Service List
Kevin	Beyer	mnpucnotices@fedtel.net	Federated Telephone Cooperative	405 2nd Street East PO Box 156 Chokio, MN 56221	Electronic Service	No	OFF_SL_18-634_Official Service List
Jack	Briggs	jbriggs@jagcom.net	Jaguar Communications, Inc.	213 S Oak Ave  Owatonna, MN 55060-2926	Electronic Service	No	OFF_SL_18-634_Official Service List
Tim	Brinkman	tim.brinkman@gvtel.net	Garden Valley Telephone Company - Coop	201 Ross Avenue PO Box 259 Erskine, MN 56535	Electronic Service	No	OFF_SL_18-634_Official Service List
Chad	Bullock	chadb@wcta.net	West Central Telephone Association	308 Frontage Road PO Box 304 Sebeka, MN 56477	Electronic Service	No	OFF_SL_18-634_Official Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Thomas	Burns	tgburns@otcpas.com	OLSEN THIELEN & CO. LTD	2675 Long Lake Rd  Saint Paul, MN 55113	Electronic Service	No	OFF_SL_18-634_Official Service List
Linda	Chavez	linda.chavez@state.mn.us	Department of Commerce	85 7th Place E Ste 280  Saint Paul, MN 55101-2198	Electronic Service	No	OFF_SL_18-634_Official Service List
Olson	Chris	wcphone@wcta.net	West Central Telephone Assoc.	P.O. Box 304 308 Frontage Road Sebeka, MN 56477	Electronic Service	No	OFF_SL_18-634_Official Service List
Generic Notice	Commerce Attorneys	commerce.attorneys@ag.state.mn.us	Office of the Attorney General-DOC	445 Minnesota Street Suite 1800  St. Paul, MN 55101	Electronic Service	Yes	OFF_SL_18-634_Official Service List
Teresa	Crews	tcrews@paulbunyan.net	Paul Bunyan Rural Telephone Coop.	Suite 100 1831 Anne Street Bemidji, MN 56601	Electronic Service	No	OFF_SL_18-634_Official Service List
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Chris J	DuChamp	chris.duchamp@gvtel.net	Garden Valley Telephone Company - Coop	201 Ross Ave PO Box 259 Erskine, Minnesota 56535	Electronic Service	No	OFF_SL_18-634_Official Service List
Donna	Eul	mnpucnotices@farmerstel.net	Farmers Mutual Telephone Company	301 2nd St S  Bellingham, MN 56212	Electronic Service	No	OFF_SL_18-634_Official Service List
Travis	Floyd	travisf@wcta.net	West Central Telephone Assoc	308 Frontage Rd PO Box 304 Sebeka, MN 56477	Electronic Service	No	OFF_SL_18-634_Official Service List
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Corey	Hauer	coreyhauer@gmail.com	LTD Broadband LLC	69 Teahouse St  Las Vegas, NV 89138	Electronic Service	No	OFF_SL_18-634_Official Service List
Pauleen	Hinkley	phinkley@rrv.net	Halstad Telephone Company	345 2nd Ave W PO Box 55 Halstad, MN 56548	Electronic Service	No	OFF_SL_18-634_Official Service List
Conrad	Johnson	jtconrad@jtc-co.net	Johnson Telephone Company	205 1st Ave NE PO Box 39 Remer, MN 56672-0039	Electronic Service	No	OFF_SL_18-634_Official Service List
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Mark	Klinkhammer	klinkham@gvtel.com	Garden Valley Telephone Company	201 Ross Avenue PO Box 259 Erskine, MN 56535	Electronic Service	No	OFF_SL_18-634_Official Service List
Pat	Knutson	pat.knutson@aciracoop.net	Farmers Mutual Telephone Company	PO Box 156  Chokio, MN 56221	Electronic Service	No	OFF_SL_18-634_Official Service List

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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Paul	Paco Erickson	paco_erickson@mmi.net	Midcontinent Communications	3901 N Louise Ave  Sioux Falls, SD 57107	Electronic Service	No	OFF_SL_18-634_Official Service List
Kristi	Putnam	kristi.putnam@midco.com	Midcontinent Communications	3901 N Louise Ave  Sioux Falls, SD 57107	Electronic Service	No	OFF_SL_18-634_Official Service List
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Mark	Roach	mark.roach@ctctelcom.net	Consolidated Telephone Company	1102 Madison Street PO Box 972 Brainerd, MN 56401	Electronic Service	No	OFF_SL_18-634_Official Service List
Bryan	Roth	Bryan.roth@itctel.com	Interstate Telecommunications Coop.	P.O. Box 920  Clear Lake, SD 57226	Electronic Service	No	OFF_SL_18-634_Official Service List
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First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
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