

**STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**

Katie Sieben	Chair
Dan Lipschultz	Vice Chair
Valerie Means	Commissioner
Matt Schuerger	Commissioner
John Tuma	Commissioner

In the Matter of the Petition of Lake County for Relinquishment of ETC Designation MPUC Docket No.: P6944/RL-19-195

INTRODUCTION

Lake County, Minnesota, d/b/a Lake Connections (“Lake County”), respectfully submits these comments in reply to the comments filed by the Minnesota Department of Commerce (“Department”) and in support of Lake County’s petition for relinquishment of its status as an Eligible Telecommunications Carrier (“ETC”).

Lake County petitioned the Minnesota Public Utilities Commission (“Commission”) to relinquish its ETC status because of the impending sale of its fiber network to Pinpoint Minnesota, LLC (“Pinpoint Minnesota”), a Minnesota operating company that is a subsidiary of Pinpoint Holdings, Inc., a company based in Nebraska that, either directly or through its affiliated companies, currently provides broadband access, television, and voice services to residential and business customers in four states. As noted in Lake County’s petition, at the time the petition was filed on February 28, 2019, the sale was expected to close on June 1, 2019. In fact, the sale – which did not require Commission approval – did close on June 3, 2019.

DISCUSSION

I. Relevant Factual Background

In 2010, the Rural Utilities Service (“RUS”) awarded Lake County a combination loan/grant in excess of \$66 million under the federal Broadband Initiative Program (“BIP”) to

construct a fiber optic broadband network in Lake County and parts of St. Louis County in northern Minnesota.

In 2014, Lake County applied for, and was selected by the Federal Communications Commission (“FCC”) to receive, a \$3.5 million grant made pursuant to the Federal Universal Service Fund Rural Broadband Experiment (“RBE”) program. The grant funds were required to be used to support broadband service in specified underserved and unserved census blocks. One of the conditions of receiving the grant funds was that Lake County had to become an ETC. Accordingly, on January 29, 2015, Lake County petitioned the Minnesota Public Utilities Commission (“Commission”) to be designated as an ETC. The service territory for which Lake County sought ETC status was determined by the census blocks covered by the grant.

Lake County is not, itself, a Local Service Provider certificated by the Commission to provide telecommunications service. To meet the requirements to be designated an ETC, Lake County entered into a contract with a certificated Local Service Provider, initially Lake Communications, Inc., and subsequently Contel Systems, Inc., to operate and manage Lake County’s broadband network in order to provide broadband internet access service and voice services to Lake County’s customers.¹

Lake County was successful in expanding its fiber network and, therefore, in expanding availability of broadband services in rural Minnesota. However, Lake County also experienced a number of unanticipated delays and issues with obtaining necessary financing on favorable terms. As a result of these problems, Lake County concluded that it was not financially feasible to continue to expand and operate the network. Accordingly, Lake County entered into a

¹ See In the Matter of the Petition of Lake County Minnesota, d/b/a Lake Connections for ETC Designation in Minnesota, ORDER GRANTING PETITION SUBJECT TO CONDITIONS, AND REQUIRING COMPLIANCE FILING, Docket No. P-6944/M-15-65 (July 27, 2015) at pp. 5-7.

Memorandum of Understanding with RUS under which Lake County's repayment obligations would be deferred pending a sale of the fiber network and, upon completion of a sale, the proceeds would be used to satisfy Lake County's financial obligations under the BIP.

After entering into a Memorandum of Understanding with RUS, Lake County began soliciting proposals from parties interested in purchasing Lake County's network. Lake County ultimately entering into a purchase agreement with Pinpoint Minnesota. In connection with Lake County's anticipated sale of its network to Pinpoint Minnesota, it filed a petition with the Federal Communications Commission for relinquishment of its status as a Rural Broadband Experiment support recipient.

Lake County notified its customers of the sale of the network to Pinpoint Minnesota and that Pinpoint Minnesota has, upon completion of the sale, begun providing their service. The nature of the service will not change; Pinpoint Minnesota will, using the assets acquired from Lake County, provide broadband service as well as voice service using Voice Over Internet Protocol technology, as has been the case since even before Lake County was designated as an ETC.

II. Neither Federal nor Minnesota Law Prohibits the Commission from Exercising Its Discretion to Approve Lake County's Relinquishment of its ETC Status in the Public Interest

As the Department notes, both federal and Minnesota law direct that the Commission "shall" grant a petition for relinquishment of ETC status in any area served by more than one ETC. The applicable rules, however, while stating what the Commission "shall" do in specific circumstances, do not state any prohibition on Commission action. Thus, those rules do not preclude relinquishment of ETC status where there is no other ETC serving the area. To the contrary, the rules do not expressly address the circumstances presented here, where portions of an ETC's territory are not served by more than one ETC. Contrary to the Department's

suggestion, the rules do not prohibit the Commission from exercising its discretion to permit relinquishment of its ETC status in its designated service territory, including portions of that service territory that are served by only one ETC where, as here, doing so is in the public interest.

First, almost all of Lake County's customers, including all customers who are receiving subsidies under the Lifeline and TAP programs, are located in areas where there is another ETC providing service. Those customers will have the option of selecting either CenturyLink or Frontier as their provider of voice service if they so choose. As Lake County explained in its response to a Department Information Request, at the time of its response, Lake County estimated that fewer than six of its more than 2,600 customers were located in areas served by only one ETC.

Second, Lake County is a governmental entity with obligations to the public that it serves, not obligations to owners. As explained in Lake County's petition to the FCC, Lake County has determined that it is unable to meet its economic commitments relating to building out and maintaining the network while still serving the best overall interests of its community. By virtue of the agreement reached with RUS, Lake County's sale of its network to Pinpoint Minnesota enables it to satisfy its financial obligations under the BIP loan/grant in a way that does not interfere with its ability to also satisfy its obligations to the public as a governmental unit.

Third, as will be discussed in greater detail below, Pinpoint Minnesota has the technical expertise, financial wherewithal, and incentive to provide customers with high quality service at a reasonable price. As explained in the notice to customers, customers who wish to continue

receiving service as they have been need do nothing; those customers will be automatically transferred to Pinpoint Minnesota.

III. Pinpoint is Well-Positioned to Provide High Quality Service at Reasonable Prices

Pinpoint Holdings, Inc., the parent company of Pinpoint Minnesota, LLC, is a diversified communications company located in Cambridge, Nebraska, and has a strong history of providing high quality broadband service to residential and business customers at a reasonable cost.

Pinpoint Holdings' management team has, collectively, over 175 years of experience in the telecommunications industry. Pinpoint Holdings, through its affiliated companies, currently provides broadband access service in Minnesota and three other states: Nebraska, Kansas, and Colorado.

Pinpoint Minnesota has entered into an agreement with Zito West Holding, LLC ("Zito"), to act as manager of the network Pinpoint Minnesota has purchased from Lake County. Zito is headquartered in Coudersport, Pennsylvania, and serves over 59,000 customers with video, internet and phone service in rural markets in 20 different states across the country. Like Pinpoint Minnesota, Zito has a strong customer service focus, and assistance is available 24 hours a day, every day of the year.

The Department notes that, as a VOIP provider, Pinpoint Minnesota's voice service is not subject to the Commission's regulations. However, as discussed above, the vast majority of customers will have access an alternative provider, should they be dissatisfied with the service the Pinpoint Minnesota provides. Further, there is no reason to believe that VOIP service is in any way technologically inferior. Indeed, VOIP has become increasingly popular, because of its low cost and innovative features and either is or will soon be the predominant technology for providing voice service. Finally, Pinpoint Minnesota's customers will be protected by the same

consumer protection laws that govern a wide variety of goods and services and these customers will have the same ability to complain to the Minnesota Attorney General if they feel they have been treated unfairly. Additionally, Pinpoint Minnesota will be subject to the FCC's 911 requirements applicable to interconnected VOIP providers.

The Department has also expressed concern about the transition of customers who are receiving Lifeline and TAP subsidies to a provider that is not an ETC. To address this issue, Zito has informed Lake County that it has identified the four customers receiving Lifeline and TAP subsidies and will provide those customers with written notice that they will need to transfer their service to an ILEC if they wish to continue to receiving the subsidies.

CONCLUSION

Lake County respectfully requests that the Commission grant its petition to relinquish its ETC status, effective retroactively upon closing of Lake County's sale of its fiber network to Pinpoint Minnesota.

Dated: June 7, 2019

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