

STATE OF MINNESOTA
BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger	Chair
Nancy Lange	Commissioner
Dan Lipschultz	Commissioner
John Tuma	Commissioner
Betsy Wergin	Commissioner

In the Matter of the Petition of Lake
County Minnesota for Designation as
an Eligible Telecommunications Carrier

MPUC Docket No. M-15-65

COMMENTS OF MINNESOTA TELECOM ALLIANCE

The Minnesota Telecom Alliance (“MTA”) submits these comments to the Minnesota Public Utilities Commission (“Commission”) in response to the Petition by Lake County Minnesota (“Lake County”) for Designation as an Eligible Telecommunications Carrier (“Petition”). Citizens Telecommunications Company of Minnesota, LLC (“Citizens”) filed comments concerning the Petition on February 6, 2015.¹ The MTA agrees with the concerns raised by Citizens. If the Commission does not follow Citizens’ suggested course of rejecting the Petition, the MTA urges the Commission to conduct a contested case proceeding to review the Petition, due to issues which MTA believes are unique and of first impression, in connection with the designation of an eligible telecommunications carrier (“ETC”) in Minnesota.

Lake County responded to Citizens² and correctly noted that ETC designation is not limited to ILECs or CLECs. However, 47 U.S.C. § 214(e)(1) limits ETC designation to common carriers:

(1) A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with section [254](#) of this title and shall, throughout the service area for which the designation is received—

¹ *Challenge to the Form or Completeness of Petition*, dated February 6, 2015.

² *Response to Challenge*, dated February 11, 2015.

(A) offer the services that are supported by Federal universal service support mechanisms under section [254 \(c\)](#) of this title, 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

(B) advertise the availability of such services and the charges therefor using media of general distribution.

Unlike all prior entities that the Commission has designated as ETCs, it is far from clear that Lake County is a “common carrier” and thus far from clear that Lake County is eligible for designation as an ETC. Rather, Lake County appears to be relying for eligibility on a separate provider to meet the eligibility requirements. The Commission has not previously been faced with a situation in which an entity requested ETC designation based on services to be provided by a separate entity. This unusual situation raises both legal and factual issues that merit careful consideration.

The Petition discloses that Lake County intends to provide its voice telephony service offering to meet the requirements of 47 CFR § 54.101(a), through Lake Communications. However, Lake Communications is not petitioning for designation as an ETC and much of the support for the Petition explicitly relies on Lake Communications' qualifications and capabilities:

Lake County asserts the services provided by Lake Communications have been approved by the Commission, and Company with Commission rules for purposes of this petition.³

The services Lake Communications offers meet the Basic Local Service requirements under Minn. Rule 7812.0600.⁴

Lake Communications network will remain functional in emergency situations.⁵

³ *Petition* ¶ 1.

⁴ *Petition* ¶ 3.

⁵ *Petition* ¶ 6

As a certified CLEC, Lake Communications complies with, the Commission's Rules in Chapter 7810 establishing minimum standards on various operational matters, such as 7810.3900 (Emergency Operations),; 7810.4900 (Adequacy of Service); and 7810.5300 (Dial Service Requirements).⁶

Lake County's selected vendor, Lake Communications, is subject to, and complies with, the Commission's Rules pertaining to service quality and consumer protection. Lake Communications' tariff has specific provisions outlining the following terms addressing consumer protection issues:

- Deposit and guarantee requirements
- Customer Billing
- Appropriate handling of customer complaints and billing disputes
- Disconnection and notice requirements

The specific provisions in Lake Communications' tariff, as well as the Commission's service quality rules by which Lake Communications is bound, will apply throughout the Service Area and assure a high quality and consumer protection.⁷

Lake County's vendor, Lake Communications, will provide equal access to long distance carriers with the Service Area.⁸

Lake County believes its vendor's service offerings are superior to that received by the ILECs' customers in the Service Area.⁹

Lake Communications' basic service offering rates are identified in its Local Exchange Services tariff.¹⁰

In its Response to Citizens, Lake County stated that it has entered into "an arrangement" with Lake Communications to provide the basic services necessary to qualify as an ETC.¹¹ That arrangement, which is essential to Lake County's ability to provide, and continue to provide,

⁶ *Id.*

⁷ *Petition* ¶ 7.

⁸ *Petition* ¶ 8.

⁹ *Petition* ¶ 10.

¹⁰ *Petition* ¶ 11.

¹¹ *Response to Challenge* p. 2.

voice telephony services meeting the requirements of 47 CFR § 54.101(a), is an unknown and merits careful factual review and analysis to determine both the factual and legal implications

CONCLUSION

Unlike any prior case before the Commission, Lake County's Petition for designation as an ETC is completely dependent on the qualifications and capabilities of Lake Communications, and on an unknown arrangement between the Petitioner and Lake Communications. Both the factual basis and legal sufficiency of the Lake County proposal are unknown, and merit careful consideration, along with the policy implications of this arrangement. Accordingly, the MTA recommends that, consistent with Minn. Rule 7829.1000, the Commission refer the Petition to the Office of Administrative Hearings for a contested case proceeding.

Date: March 16, 2015

Respectfully submitted

MINNESOTA TELECOM ALLIANCE

/s/ Brent J. Christensen

By Brent J. Christensen,
President/Chief Executive Officer

CERTIFICATE OF SERVICE

In the Matter of the Petition of Lake County
Minnesota for Designation as an Eligible
Telecommunications Carrier

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Maureen A. Montpetit certifies that on the 16th day of March, 2015, she filed a true and correct copy of the **Comments of Minnesota Telecom Alliance**, by positing it on www.edockets.state.mn.us. Said document was served via U.S. Mail and/or e-mail as designated on the Official Service List on file with the Minnesota Public Utilities Commission and attached hereto.

/s/ Maureen A. Montpetit
Maureen A. Montpetit

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