

February 13, 2018

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East
St. Paul, Minnesota 55101-2147

RE: **Garden Valley Telephone Company Petition for ETC Designation in Minnesota**
Docket No. P409/M-17-837

Dear Mr. Wolf:

Attached are revised comments of the Minnesota Department of Commerce in the above referenced matter. The comments have been revised to make them similar to Commerce's recommendation in a similar matter, (P409/M-17-838).

The petition was filed on December 1, 2017 by:

Thomas G. Burns
Olsen Thielen
2675 Long Lake Road
Saint Paul, MN 55113-1117

On behalf of:
Tim Brinkman
Garden Valley Telephone Company
201 Ross Avenue
Erskine, MN 56535

The Department is available to answer any questions the Commission may have.

Sincerely,

/s/JOY GULLIKSON
Rates Analyst

JG/lt
Attachment

Before the Minnesota Public Utilities Commission

Revised Comments of the Minnesota Department of Commerce

Docket No. P409/M-17-837

I. BACKGROUND

A. PROCEDURAL BACKGROUND

On December 1, 2017, Garden Valley Telephone Company (GVTC) requested that the Minnesota Public Utilities Commission (PUC or Commission) designate GVTC as an Eligible Telecommunications Carrier (ETC) “. . . for the limited purposes of providing local services under the Lifeline program.” GVTC Application, p.1.

The application is for the exchanges of:

- Thief River Falls
- Mahnomon

The incumbent telephone company in these exchanges is CenturyLink QC.

B. HISTORICAL BACKGROUND

GVTC is an incumbent telephone company (ILEC) serving exchanges in Northwestern Minnesota. On April 5, 2017, GVTC received authority to expand and provide competitive local exchange service in the exchanges of Thief River Falls and Mahnomon. The authority was dependent upon the filing of:

- 911 plan—pending through Docket No. P 409/EP-17-896
- Interconnection –met through Docket No. P409, 421/IC-17-788

GVTC provides its competitive local exchange service as a part of GVTC and not as a separate entity.

II. STATEMENT OF ISSUES

1. Whether GVTC has demonstrated the intent and capability of providing and advertising the services required in 47 CFR § 54.101 (a) throughout its proposed expanded ETC area
2. Whether the request for ETC status for Lifeline only in the Thief River Falls and Mahnomen areas is in the public interest.

III. APPLICABLE LAW

A. STATE LAW

Under Minn. Rules pt. 7811.1400, a person wishing to comment on a designation petition shall file initial comments within 20 days of the filing. Initial comments must include a recommendation on whether the filing requires a contested case proceeding, expedited proceeding, or some other procedure, together with reasons for the recommendation. Minn. Rules pt. 7811.1400 also requires the Commission to act within 180 days of the filing of the petition.

Further, subpart 3 of Minn. Rules 7811.1400 states “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 universal service area shall be the study area of the relevant LEC unless the commission and the FCC adopt a different service area pursuant to Code of Federal Regulations, title 47, section 54.203, paragraphs (c) and (d)¹.

B. FEDERAL LAW

47 U.S.C § 214(e)(1) provides that:

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—

- 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.

¹ The current applicable Code of Federal Regulations is title 47, section 54.207, paragraphs (c) and (d).

§54.405 states: “All eligible telecommunications carriers must:

- (a) Make available Lifeline service, as defined in §54.401, to qualifying low income consumers.
- (b) Publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.
- (c) Indicate on all materials describing the service, using easily understood language that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household.

For the purposes of this section, the term “materials describing the service” includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms. (d) Disclose the name of the eligible telecommunications carrier on all materials describing the service.”

47 C.F.R. § 54.207 defines a service area as “. . . a geographic area established by a state commission for the purpose of determining universal service obligations and support mechanisms.” Paragraph (b) of the same section states: “. . . in the case of a service area served by a rural telephone company, *service area* means such company’s study area unless and until the Commission and the states, after taking into account recommendations of a Federal-State Joint Board . . . establish a different definition of service area for such company.”

IV. ANALYSIS

1. GVTC has demonstrated the intent and capability of providing and advertising the services required in 47 CFR § 54.101 (a) throughout its proposed expanded ETC area.

GVTC has been operating as an ETC in its study area since 1998, when all LECs were designated ETC by Minnesota Rule 7811.1400. GVTC’s expansion into Thief River Falls and Mahanomen means that service will be offered in much the same manner as the ILEC service. GVTC states that it offers last mile service via its own fiber.

Advertising for the GVTC Lifeline services in the expanded areas will follow the same format as its current Lifeline service. GVTC recently made its web page more accessible, with a front page link to the Telephone Assistance Plan and a downloadable application form for customers to fill out. GVTC also plans to advertise at least annually, as well as sending brochures and a letter to the local Social Service offices.

GVTC has its 911 plan pending before the PUC.

2. The request for ETC status for Lifeline only in the Thief River Falls and Mahnommen areas appears to be in the public interest.

GVTC was required to apply for ETC status in the expanded areas of Thief River Falls and Mahnommen because its ETC status as an ILEC is for the GVTC “study area” which does not include these two exchanges, and thus requires an affirmative finding by the state commission to certify the expanded ETC area for Lifeline purposes.

There is no evidence to suggest that GVTC would behave in any way contrary to the public interest. Indeed GVTC proposes to bring advanced facilities to the area to provide choice to customers, and the Lifeline component would help to ensure that low income providers are not left behind. To ensure that GVTC will make services available to all in its ETC area, the Department recommends that GVTC be required to report to the Commission and the Department within 45 days of an inquiry for service for which excess construction charges are or would be assessed. The report should contain the date that the service inquiry was made, the amount of excess construction charges quoted and the decision of the potential subscriber to formally request or decline service.

V. COMMISSION ALTERNATIVES

1. Grant ETC status for Lifeline purposes only in the expanded exchanges of Thief River Falls and Mahnommen for so long as GVTC complies with 47 U.S.C § 214(e)(1). GVTC shall file a written report with the Commission and the Department within 45 days of an inquiry for service for which excess construction charges are or would be assessed. The report shall contain the date that the service inquiry was made, the amount of excess construction charges quoted, and the decision of the potential subscriber to formally request or decline service.
2. Deny ETC status in the expanded exchanges of Thief River Falls and Mahnommen.

VI. DEPARTMENT RECOMMENDATION

The Department recommends that the Commission adopt Alternative 1 and grant ETC status for Lifeline purposes only in the expanded exchanges of Thief River Falls and Mahnomen for so long as GVTC complies with 47 U.S.C § 214(e)(1). GVTC shall file a written report with the Commission and the Department within 45 days of an inquiry for service for which excess construction charges are or would be assessed. The report shall contain the date that the service inquiry was made, the amount of excess construction charges quoted, and the decision of the potential subscriber to formally request or decline service.

/lt

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
Revised Comments**

Docket No. P409/M-17-837

Dated this 13th day of February 2018

/s/Sharon Ferguson

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Tim	Brinkman	tim.brinkman@gvtel.com	Garden Valley Telephone Company - Coop	201 Ross Avenue PO Box 259 Erskine, MN 56535	Electronic Service	No	OFF_SL_17-837_M-17-837
Timothy	Brinkman	tim.brinkman@gvtel.net	Garden Valley Telephone Company - Coop	201 Ross Avenue Erskine, Minnesota 56535-0259	Electronic Service	No	OFF_SL_17-837_M-17-837
Thomas	Burns	tgburns@otcpas.com	OLSEN THIELEN & CO. LTD	2675 Long Lake Rd Saint Paul, MN 55113	Electronic Service	No	OFF_SL_17-837_M-17-837
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_17-837_M-17-837
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_17-837_M-17-837
David	Denton	david.denton@state.mn.us	DPS ECN	445 Minnesota Street Suite 137 St. Paul, Minnesota 55101	Electronic Service	No	OFF_SL_17-837_M-17-837
Ian	Dobson	residential.utilities@ag.state.mn.us	Office of the Attorney General-RUD	1400 BRM Tower 445 Minnesota St St. Paul, MN 551012130	Electronic Service	Yes	OFF_SL_17-837_M-17-837
Pete	Eggimann	PEGGIMANN@MN-MESB.ORG	Metropolitan Emergency Services Board	2099 University Ave W Ste 201 St. Paul, MN 551043431	Electronic Service	No	OFF_SL_17-837_M-17-837
Jason	Topp	jason.topp@centurylink.com	CenturyLink	200 S 5th St Ste 2200 Minneapolis, MN 55402	Electronic Service	No	OFF_SL_17-837_M-17-837
Dana	Wahlberg	dana.wahlberg@state.mn.us	Department of Public Safety	Town Square Ste 137 444 Cedar St St. Paul, MN 551015126	Electronic Service	No	OFF_SL_17-837_M-17-837

First Name	Last Name	Email	Company Name	Address	Delivery Method	View Trade Secret	Service List Name
Daniel P	Wolf	dan.wolf@state.mn.us	Public Utilities Commission	121 7th Place East Suite 350 St. Paul, MN 551012147	Electronic Service	Yes	OFF_SL_17-837_M-17-837