

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 a Petition of  
Lake County Minnesota for Designation as an  
Eligible Telecommunications Carrier

Docket M-15-65

**REPLY COMMENTS OF  
CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC**

On January 29, 2015, Lake County Minnesota d/b/a Lake Connections (“Lake County”) filed a petition asking the Minnesota Public Utilities Commission (“Commission”) to issue an order designating Lake County as an eligible telecommunications carrier (“ETC”). The Commission’s rule covering the process for ETC designation in this case is 7812.1400. On March 16, 2015 comments regarding the petition were filed by the Minnesota Telecommunications Alliance (“MTA”), the Department of Commerce (“DoC”), and Citizens Telecommunications Company of Minnesota, LLC (“CTC-MN”). In response to the MTA and DoC comments, CTC-MN submits the following reply comments.

**MTA comments**

In its comments, MTA notes the unusual nature of Lake County’s petition and the questions surrounding its proposed service arrangement with Lake Communications. MTA recommends that a contested case process would be appropriate to fully examine the Lake County petition.

**DoC comments**

The DoC comments review the criteria that govern ETC designations, as contained in both statute and Commission rules. The DoC notes a number of concerns or disagreements regarding whether Lake County’s petition satisfied those requirements.

First, the DoC questions Lake County’s status as a common carrier. The DoC points out that the federal statute requires that an entity must be a common carrier to be eligible for ETC status. Noting that Lake County’s petition does not indicate that it is a common carrier, the DoC recommends that the Commission require Lake County to make further filings to clearly demonstrate that it is a common carrier.<sup>1</sup>

Second, the DoC has questions about the relationship between Lake County and Lake Communications, recognizing that the Lake County petition provides no information regarding the arrangement. A clear understanding of the proposed cooperative effort between Lake County and Lake Connections is fundamental to the evaluation of the ability of Lake County to fulfill the responsibilities of an ETC. The DoC recommends that the Commission require Lake County to provide further information regarding the relationship between Lake County and Lake Communications.<sup>2</sup>

Third, the true nature of the services Lake County proposes to provide is a matter of concern to the DoC. As the DoC describes it, the federal statute requires that a carrier must be providing telecommunications services in order to be eligible to be designated as an ETC. The Lake County petition categorizes the Voice Over IP (“VoIP”) service that it intends to provide as an information service, not a telecommunications service. The DoC concludes that if what Lake County will be providing is truly an information service rather than a telecommunications service, then Lake County does not qualify to be designated as an ETC.<sup>3</sup>

Fourth, the DoC notes that Lake County’s price for standalone basic service must be reasonably comparable to that of current providers of those services in urban areas<sup>4</sup>, and raises questions about the proposed pricing of Lake County’s standalone basic service. While the petition states that the cost for standalone basic service will be comparable to that of the ILECs currently serving the area, the DoC notes that Lake County’s website identifies a different (and higher) price for standalone basic service from the prices identified in the petition. The DoC questions whether that higher price is reasonably comparable to that of current providers of those services in urban areas. The DoC recommends that the Commission require Lake County to

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<sup>1</sup> DoC Comments, page 9.

<sup>2</sup> DoC Comments, page 9.

<sup>3</sup> DoC Comments, page 11.

<sup>4</sup> DoC Comments, page 27.

clarify what prices it plans to charge for its standalone basic service.<sup>5</sup>

Fifth, the DoC notes that a potential ETC must provide service using its own facilities or a combination of its own facilities and resale of another carrier's services. In its petition, Lake County states that it will provide VoIP voice telephony over its own newly installed fiber-optic facilities, but has not provided a detailed description of the facilities. The DoC recommends that the Commission require Lake County to provide more information regarding the facilities it intends to use to deliver service.<sup>6</sup>

Despite raising all these serious reservations regarding Lake County's qualification for ETC designation, the DoC nevertheless recommends that the Commission "conditionally" grant Lake County ETC status, conditioned on Lake County providing additional information to put to rest all the concerns the DoC noted. The DoC suggests that further additional and separate proceedings or settlement efforts may be required to appropriately flesh out all these issues.<sup>7</sup> This "conditionally grant" approach does not seem wise.

These five areas of concern are not matters of incidental interest, but directly affect whether Lake County is or is not qualified to be designated as an ETC. They are not simple compliance-type matters, or simply "dotting i's and crossing t's". Rather, they strike at the very heart of the matter, addressing the fundamental requirements of ETC designation. As it evaluates this petition, the Commission should have a clear understanding of how Lake County plans to provide service, and whether that proposed service fully meets the obligations of statute and rule. If any one of these concerns is not fully met, then Lake County has failed to satisfy the requirements of ETC designation. For example, if Lake County is not a common carrier, then it cannot be an ETC. All these fundamental questions should be clearly answered in this docket, before the Commission makes any decision on Lake County's ETC status.

The DoC's suggestion of granting "conditional ETC" status in this docket, and then kicking the can down the road on all the substantive issues to some other proceeding or process is a recipe for confusion and delay. As Lake County noted, the FCC requires awardees of provisional funding under the Rural Broadband Experiment to be designated as an ETC as a

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<sup>5</sup> DoC Comments, page 28.

<sup>6</sup> DoC Comments, page 29.

<sup>7</sup> DoC Comments, page 25.

condition of receiving these funds.<sup>8</sup> It is not clear whether a designation of “conditional ETC” means anything from the FCC’s perspective. If the Commission “conditionally” grants Lake County ETC status, and then later (after the anticipated further investigation) finds that Lake County does not meet the ETC criteria (for example, it is not a common carrier), what does that mean? Was Lake County an ETC during the pendency of that further investigation, or was it never truly an ETC at all? The “conditional ETC” approach suggested by the DoC is fraught with difficulties.

### **Conclusion**

Lake County’s petition for ETC designation raises many questions and concerns that are not adequately addressed in the petition. Both the MTA and the DoC raise many of the same concerns that Frontier identified in its comments. Both parties argue that more information and answers are required from Lake County before the Commission can conclude that Lake County merits ETC designation. Further development of these matters is needed, and the most appropriate venue for the development would be a contested case proceeding.

Dated March 26, 2015

Respectfully submitted,

CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC.

*/s/ Scott Bohler*

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<sup>8</sup> Lake County Petition, Attachment 2, page 1.