

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Joint)	Application No. C-5167/
Application of Sodtown Telephone)	NUSF-120
Company, Ravenna, Nebraska, and)	
Sodtown Communications, Inc.,)	
Lincoln, Nebraska, seeking)	ORDER GRANTING APPLICATION
approval of a transfer of)	FOR ELIGIBLE TELECOMMUNI-
control, and seeking Eligible)	CATIONS CARRIER STATUS
Telecommunications Carrier)	
Status for Sodtown)	
Communications, Inc.)	Entered: October 20, 2020

BY THE COMMISSION:

On August 28, 2020, Sodtown Telephone Company ("STC") of Ravenna, Nebraska, and Sodtown Communications, Inc. ("Sodtown" or "Applicant") of Lincoln, Nebraska, jointly filed an application seeking approval of a transfer of control of STC's assets to Sodtown. The application also sought Eligible Telecommunications Carrier ("ETC") Status for Sodtown Communications, Inc.

Notice of the application was published in The Daily Record, Omaha, Nebraska, on September 4, 2020. No formal interventions were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure. On October 6, 2020, the Commission entered an order approving the requested transfer of control. The docket remained open for the purpose of reviewing the ETC portion of the application.

FINDINGS AND OPINION

The federal Communications Act of 1934, 47 U.S.C. § 214(e), sets forth the standards and processes for a state commission to grant carriers the designation of a federal eligible telecommunications carrier. 291 Neb. Admin. Code § 5-009 of the Commission Rules contains the requirements for Commission designation of ETCs and NETCs.

The three general requirements listed in Section 214(e) are: 1) the carrier must be a common carrier; 2) the carrier must offer the services supported by the federal fund; and 3) the carrier must advertise the availability of those services. The carrier must also demonstrate the ability to fulfill the requirements throughout the service area for which the carrier is seeking ETC designation.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5167/NUSF-120

Page 2

1. Common Carrier

The Act defines a common carrier as a person engaged as a common carrier on a for-hire basis in interstate communications utilizing either a wire or radio technology.¹ Sodtown is a local exchange carrier engaged in the provision of telecommunications in the State of Nebraska. The Applicant therefore meets this requirement.

2. Supported Services

Federal regulations and Commission rules both require an ETC to demonstrate that it will offer the services that are supported by federal universal service.² The FCC's requirements under 47 C.F.R. § 54.101(a)(1) are as follows:

- a. voice-grade access to the public switched network or its functional equivalent;
- b. minutes of use for local service without additional charge to the end user;
- c. access to emergency services; and
- d. toll limitation for qualifying low-income consumers.³

The Commission finds that the Applicant meets each of these requirements, as described below.

A. Voice Grade Access to the Public Switched Network

Applicant provides voice grade access to the public switched telephone network through landline access, as required under § 54.101(a).

B. Local Usage

The FCC has defined "local usage" to mean an amount of minutes of use of exchange services provided free of charge to end users.⁴ Applicant proposes to include unlimited local calling in its basic local service offering.

¹ See 47 C.F.R. § 153(10).

² 47 C.F.R. §§ 54.101(a), 54.202(a); 291 Neb. Admin. Code § 5-009.02A2.

³ See *Lifeline Reform Order* at 207-208.

⁴ 47 C.F.R. § 54.101(a)(2).

C. Access to Emergency Services

The Applicant states that it provides its customers with access to emergency services by dialing 911 in accordance with federal and state requirements.⁵ Sodtoun states that it will use network design standards and operational practices to ensure the network will remain operative in emergency situations.⁶ Sodtoun further states that it will ensure that there is battery backup and redundant facilities.

D. Toll Limitation for Qualified Low-Income Customers

Applicant will offer toll limitation services to qualifying low-income consumers at no additional charge in compliance with 47 C.F.R. § 54.101.

3. Advertisement of Services

Federal and state regulations require an ETC to advertise the availability of supported services and related charges using media of general distribution.⁷ ETCs must also publicize the availability of Lifeline or NTAP services in a manner reasonable calculated to reach those that qualify for the service.

Based on the Application and evidence submitted, we find Applicant has provided sufficient commitments to advertise the availability of such services and charges using media of general distribution and in a manner that is designed to reach those likely to qualify for such services. Sodtoun states in its Application that it will advertise the availability of its services and charges using media of general distribution.⁸

4. Designated Service Area

Sodtoun states in its Application that it is seeking ETC designation in the Nebraska service area previously held by

⁵ Application at 9.

⁶ *Id.* at 10.

⁷ See 47 U.S.C. § 214(e) (1) (B); 291 Neb. Admin. Code § 5-009.02A3.

⁸ Application at 10.

Sodtown Telephone Company, and acquired by Sodtown as previously approved in this docket.⁹ Sodtown provided a map of the proposed service area in its application.¹⁰

5. Additional Eligibility Criteria

Federal regulations, found at 47 CFR § 54.202, contain additional eligibility requirements that must be met by any carrier seeking ETC designation.¹¹ Commission Rules substantially mirror the FCC requirements.¹² To meet the additional requirements a company must:

- a. Certify it will comply with the service requirements applicable to the support it receives;
- b. Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network;
- c. Demonstrate its ability to remain functional in emergency situations; and
- d. Demonstrate that it will satisfy applicable consumer protection and service quality standards.

A. Applicable Service Requirements

Sodtown states in its application that it will install fiber facilities in 2021, and begin offering broadband services at that time.¹³ The Commission notes that should Sodtown receive universal service support, it will need to meet or exceed standards set by the FCC.¹⁴

B. Five Year Service Improvement Plan

An applicant for ETC status is required to submit to the Commission a five-year plan describing its proposed service

⁹ See Order Granting Application In Part, entered Oct. 6, 2020.

¹⁰ Application, Exhibit F.

¹¹ See 47 C.F.R. § 54.202(a).

¹² See 291 Neb. Admin. Code § 5-009.02.

¹³ Application at 8.

¹⁴ These standards are generally set at a minimum performance standard of 25 Mbps download and 3 Mbps upload speed as the threshold qualifying speeds for supported broadband services; however, these standards may vary between sources of support.

improvements or upgrades.¹⁵ The Applicant in this docket states that it will comply with all applicable Nebraska and FCC requirements with respect to such reports.¹⁶

C. Ability to Remain Functional in Emergency Situations

ETC applicants must demonstrate an ability to remain functional during emergency situations.¹⁷ Applicant has indicated it will demonstrate its ability to remain functional in emergency situations.¹⁸ The Commission finds that Applicant meets this requirement.

D. Consumer Protection and Service Quality Standards

We next examine Applicant's commitment to service quality. An ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.¹⁹ In its Application, Applicant committed to satisfying all consumer protection and service quality standards provided by the FCC and any state specific consumer protection and service quality standards.²⁰ We find that Applicant has satisfied the requirement to demonstrate it will comply with applicable consumer protection and service quality standards.

6. Public Interest

Applicants for ETC status must demonstrate that such designation is consistent with the public interest, convenience, and necessity.²¹ The public interest consideration may include the benefits of increased consumer choice and the unique advantages and disadvantages of the Applicant's service offerings.

Applicant states that its designation as an ETC will advance the public interest by facilitating the goal of deploying voice and broadband networks in unserved and underserved rural, high-cost areas. Applicant further states that its designation as an ETC will directly benefit the residents of its proposed service area by

¹⁵ 47 C.F.R. § 54.202(a)(1)(ii); 291 Neb. Admin. Code § 5-009.02A6.

¹⁶ Application at 11.

¹⁷ 47 C.F.R. § 54.202(a)(2); 291 Neb. Admin. Code § 5-009.02A7.

¹⁸ Application at 4.

¹⁹ 47 C.F.R. § 54.202(a)(3), 291 Neb. Admin. Code § 5-009.02A8.

²⁰ Application at 10.

²¹ 47 C.F.R. § 54.202(b); 291 Neb. Admin. Code § 5-009.02A1.

ensuring that they receive the benefits of any Universal Service funding received.²² Applicant also notes that these advanced communications services will provide important connectivity to consumers, businesses, and community institutions.²³

Based on the evidence before us, we conclude that Applicant's service offerings will provide a public interest benefit and its business plan provides a unique advantage to consumers. We find Applicant has demonstrated that its designation as an ETC would be consistent with the public interest, convenience, and necessity.

7. Provision of Continuous Service

Commission Rule requires that an ETC not only demonstrate the ability and commitment to provide the supported services listed above, but must also demonstrate the ability to continuously provide such services in its designated Service Area.²⁴ We find, upon our review of the Application and responses to Commission Data Requests, that Applicant has committed to provide the supported services listed above continuously throughout the census blocks of its Service Area.

8. Provision of Service to Requesting Customers

The Commission's Rules require an ETC to demonstrate its commitment to provide service throughout the designated area to all customers who make reasonable request for service.²⁵ Applicant states that it will provide services continuously throughout its service areas, to all customers making reasonable requests for service, and that it will do so in a timely manner. Applicant also states that it will provide service within a reasonable period of time, if the requesting customer is within Applicant's service area but beyond network coverage, if service can be provided at reasonable cost under 291 Neb. Admin. Code § 5-009.02(A)(5)(b).²⁶

We find Applicant has demonstrated an ability and commitment to satisfy its obligation to provide service upon reasonable request throughout the Company's requested service areas.

²² Application at 11-12.

²³ *Id.* at 12.

²⁴ 291 Neb. Admin. Code § 5-009.02A4.

²⁵ 291 Neb. Admin. Code § 5-009.02A5.

²⁶ Application at 8.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5167/NUSF-120

Page 7

9. Nebraska Telephone Assistance Program

The Commission Rules require carriers designated as ETC for purposes of receiving USF support to participate in the Nebraska Telephone Assistance Program ("NTAP") and comply with applicable NTAP rules.²⁷ Applicant states that it will provide services pursuant to the NTAP program.

10. Conclusion

In summary, upon review of the Application and evidence presented at the hearing, we find Applicant has demonstrated that it meets the standards set forth in 47 U.S.C. § 214(e) and applicable state and federal law for the designation of eligible telecommunications carriers in the proposed census block areas, and the Application should be approved.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-5167/NUSF-120 should be, and is hereby, granted, and Sodtoun Communications, Inc. is designated as an eligible telecommunications carrier in the State of Nebraska, as requested in the Application consistent with the findings and conclusions made herein.

IT IS FURTHER ORDERED that Sodtoun Communications, Inc. is hereby declared to be a Nebraska Eligible Telecommunications Carrier for the limited purpose of receiving state universal service support to participate in the Nebraska Telephone Assistance Program.

IT IS FURTHER ORDERED that Sodtoun Communications, Inc. shall file information with the Commission evidencing it is advertising through media of general distribution on or before July 1st each year hereafter.

IT IS FURTHER ORDERED that Sodtoun Communications, Inc. shall file with the Commission copies of its annual reports filed with the FCC pursuant to 47 C.F.R. § 54.313, within thirty (30) days of the date such reports are filed with the FCC. If Applicant desires a protective order for any confidential information submitted in these reports, Applicant must request one at least sixty (60) days prior to the due date of the first filing.

²⁷ 291 Neb. Admin. Code § 10-004.04.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5167/NUSF-120

Page 8





IT IS FURTHER ORDERED that Sodtown Communications, Inc. shall file a copy of this Order with the Universal Service Administrative Company ("USAC") and the FCC to commence its eligibility for receipt of federal universal service support effective as of the date of this Order.

IT IS FINALLY ORDERED that, should Sodtown Communications, Inc., LLC, receive an award in any FCC funding auctions or other opportunities, it shall file with the Commission no later than thirty (30) days following the award a detailed description and map showing its service area pursuant to the award.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 20th day of October, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chair

ATTEST:


Executive Director