

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. C-5182/
of Hamilton Long Distance) NUSF-121
Company, Aurora, Nebraska, for)
Designation as an Eligible)
Telecommunications Carrier (ETC)) GRANTED
in the State of Nebraska.)
)
) Entered: December 8, 2020

BY THE COMMISSION:

On October 21, 2020, Hamilton Long Distance Company ("Hamilton" or "Applicant") of Aurora, Nebraska, filed an application seeking designation as an Eligible Telecommunications Carrier ("ETC") for purposes of the Federal Universal Service Fund ("FUSF") and Nebraska Universal Service Fund ("NUSF"). Notice of the application was published in The Daily Record, Omaha, Nebraska, on October 28, 2020. No formal interventions were filed; therefore, this application is processed pursuant to the Commission's Rule of Modified Procedure.

O P I N I O N A N D F I N D I N G S

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. Title 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.

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 In its USF/ICC

¹ See 47 C.F.R. § 153(10).

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5182/NUSF-121

Page 2

Transformation Order, the Federal Communications Commission (FCC) adopted a technologically neutral approach, allowing companies to provide voice service over any platform, including IP networks.²

Applicant is a corporation organized and existing under the laws of the State of Nebraska. Applicant has been operating in Nebraska as a provider of interexchange telecommunications services since 1994. In 2017, Applicant was granted certification by the Commission as a competitive local exchange carrier (CLEC) in Docket No. C-4928. Applicant's certification authorizes it to provide telecommunications services in the service areas of carriers operating as price cap carriers in the State of Nebraska. Applicant is also a nationwide interconnected VoIP provider and has registered with the FCC and in all states and territories requiring similar interconnected VoIP registration.

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.³ 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.⁴

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

A. Voice Grade Access to the Public Switched Network

Hamilton offers voice grade access to the public switched network to customers it serves throughout its service area in Nebraska using either its own facilities or through resale of

² See *Connect America Fund et al.*, WC Docket No. 10-90 et al. Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17692 (2011) (USF/ICC Transformation Order).

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

⁴ See *Lifeline Reform Order* at 207-208.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5182/NUSF-121

Page 3

another carrier's services. We find that Applicant provides voice grade access to the public switched network 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.⁵ Applicant offers flat-rated local exchange service free of per minute charges, dual tone multi-frequency signaling, and has committed to complying with any minimum local usage requirements adopted by the FCC or the Commission.

C. Access to Emergency Services

Hamilton states that it provides its customers with access to emergency services by dialing 911 in accordance with federal and state requirements.⁶ Applicant also provides access to operator services, equal access to interexchange services, access to directory assistance, and access to 711 Telecommunications Relay Service.

D. Toll Limitation for Qualified Low-Income Customers

Hamilton has certified that it provides toll limitation services to qualifying low-income consumers 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 the Applicant has provided sufficient commitments to advertise the availability of such services and charges using media of general

⁵ 47 C.F.R. § 54.101(a)(2).

⁶ *Id.*

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

distribution and in a manner that is designed to reach those likely to qualify for such services.

4. Designated Service Area

Hamilton states in its Application that it is seeking ETC designation in its Nebraska service area, including but not limited to the Nebraska census blocks for which it receives FUSF or NUSF support. Hamilton has announced their intent to seek federal funding through the FCC's Rural Digital Opportunity Fund ("RDOF"), in which bids in a reverse auction that began on October 29, 2020.⁸

As it is not possible to identify the census blocks for which Applicant may receive funding, it is therefore not possible at this time for Applicant to properly identify the service areas in which it is requesting ETC designation. We therefore find that Hamilton shall file, within thirty (30) days following the date Hamilton receives any award in the RDOF auction, a detailed description and map depicting the service area which Hamilton intends to serve pursuant to the award.

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.⁹ Commission Rules substantially mirror the FCC requirements.¹⁰ 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.

⁸ See *In the Matter of Rural Digital Opportunity Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, FCC 20-5 (Feb. 7, 2020) at para. 69. ("RDOF Order").

⁹ See 47 C.F.R. § 54.202(a).

¹⁰ See 291 Neb. Admin. Code § 5-009.02.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5182/NUSF-121

Page 5

A. Applicable Service Requirements

Hamilton certifies that it will comply with the service requirements applicable to the support it receives.¹¹

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 improvements or upgrades.¹² The Applicant in this docket has indicated that it will file a five-year plan for network deployment, improvements, and upgrades to the Commission consistent with state and federal requirements.¹³

C. Ability to Remain Functional in Emergency Situations

ETC applicants must demonstrate an ability to remain functional during emergency situations.¹⁴ Hamilton has indicated it will demonstrate its ability to remain functional in emergency situations.¹⁵ The Commission finds that Hamilton 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.¹⁶ 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.¹⁷ We find that Applicant has satisfied the requirement

¹¹ Application at 3.

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

¹³ Application at 4.

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

¹⁵ Application at 4.

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

¹⁷ Application at 4.

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.¹⁸ 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 making quality voice and broadband services available in rural, high-cost areas, especially areas now unserved or underserved. Applicant states these services will provide important connectivity to consumers, businesses and community anchor institutions, including rural schools, libraries and medical facilities.

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.¹⁹ We find, upon our review of the Application and Applicant's 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

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

¹⁹ 291 Neb. Admin. Code § 5-009.02A4.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5182/NUSF-121

Page 7

all customers who make reasonable request for service.²⁰ 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.

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

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.²¹ Applicant states that it will issue a tariff revision to implement its participation in the NTAP program.²²

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 for the purpose of participation in the FCC's Rural Development Opportunity Fund, 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-5182/NUSF-121 should be, and is hereby, granted, and Hamilton Long Distance Company is designated as an eligible telecommunications carrier in the State of Nebraska consistent with the findings and conclusions made herein.

IT IS FURTHER ORDERED that Hamilton Long Distance Company is hereby declared to be a Nebraska Eligible Telecommunications Carrier for the purpose of receiving state universal service support and to participate in the Nebraska Telephone Assistance Program.

²⁰ 291 Neb. Admin. Code § 5-009.02A5.

²¹ 291 Neb. Admin. Code § 10-004.04.

²² Application at 3.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. C-5182/NUSF-121

Page 8

IT IS FURTHER ORDERED that Hamilton Long Distance Company 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 Hamilton Long Distance Company 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.

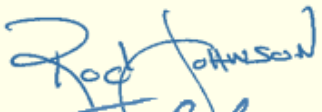
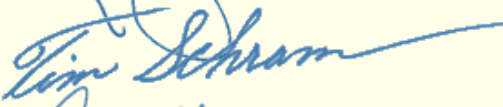

IT IS FURTHER ORDERED that Hamilton Long Distance Company shall file a copy of this Order with the Universal Service Administrative Company ("USAC") and the FCC to commence its eligibility for receipt of federal universal service support effective as of the date of this Order.

IT IS FURTHER ORDERED that, should Hamilton Long Distance Company receive an award in the FCC's Rural Development Opportunity Fund, 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 8th day of December, 2020.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chair

ATTEST:


Executive Director