

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the ) Application No. C-5199/  
Application of AMG Technology ) NUSF-124  
Investment Group, LLC, d/b/a )  
NextLink Internet, Hudson ) ORDER GRANTING EXPANSION OF  
Oaks, Texas, seeking expansion ) ELIGIBLE TELECOMMUNICATIONS  
of its Eligible ) CARRIER STATUS  
Telecommunications Carrier )  
designation in the State of )  
Nebraska. ) Entered: May 25, 2021

BY THE COMMISSION:

On January 5, 2021, AMG Technology Investment Group, LLC, d/b/a NextLink Internet, Hudson Oaks, Texas ("NextLink") filed an application seeking an expansion of its Eligible Telecommunications Carrier ("ETC") status. Notice of the application was published in The Daily Record, Omaha, Nebraska, on January 8, 2021. On February 8, 2021, a Petition for Formal Intervention was filed by the Nebraska Rural Broadband Alliance ("NRBA"), which was granted by Hearing Officer order on February 19, 2021. A Protective Order was entered in this matter on March 30, 2021.

A hearing in this matter was held on April 28, 2021. Katherine McNamara and Joshua Guyan appeared on behalf of the Applicant. Andy Pollock appeared on behalf of the NRBA. Sallie Dietrich appeared on behalf of the Communications and NUSF Departments. Exhibits 1-9 were entered into the record during the hearing. Following the hearing, the Applicant submitted a late-filed Exhibit 10.

The Applicant presented, through Ms. McNamara, a description of the application. Ms. McNamara stated that the Applicant seeks an expansion of its current ETC status in Nebraska in order to be able to receive Federal Universal Service funding awarded in the Rural Digital Opportunity Fund ("RDOF") auction.<sup>1</sup> The Applicant proposes to use both fiberoptic and fixed wireless technology to provide high-speed voice and broadband services in underserved and unserved high-cost rural areas designated in the RDOF auction.<sup>2</sup>

The Applicant then presented the testimony of Eric Pyland, Chief Financial Officer for NextLink. Mr. Pyland stated that NextLink is only seeking to expand its ETC designation into the

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<sup>1</sup> Transcript at 17-18.

<sup>2</sup> *Id.* at 18-20.

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census blocks for which it was awarded RDOF funds.<sup>3</sup> Mr. Pyland testified that in the RDOF auction, NextLink committed to providing broadband service at speed of at least 1,000 megabits per second ("mbps") download and 500 mbps upload.<sup>4</sup> Mr. Pyland testified that these speeds will be available to customers in Nebraska, if requested by the customer.<sup>5</sup>

Mr. Pyland further testified that NextLink was previously awarded funds by the FCC through its CAF II auction.<sup>6</sup> Mr. Pyland testified that although there have not yet been build-out milestones to meet pursuant to the CAF II auction, NextLink was on track to meet upcoming milestones, and anticipated twenty percent completion by the end of May 2021.<sup>7</sup> Mr. Pyland stated that NextLink would be constructing additional fiber infrastructure and fixed wireless towers to serve the additional RDOF census blocks.<sup>8</sup> Mr. Pyland stated that as a voice over internet protocol ("VoIP") provider, NextLink provides battery backups to consumers upon request.<sup>9</sup>

Following Mr. Pyland's testimony, no further witnesses were called, and the hearing was closed. Late-filed Exhibit 10 was filed on May 7, 2021 and added to the transcript of the hearing.

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

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. Additionally, 291 Neb. Admin. Code § 5-009 of the Commission Rules contains the requirements for Commission designation of ETCs and NETCs.

This application is for an expansion of the Applicant's territory, rather than a novel application for ETC status. The Commission has previously reviewed the Applicant's ability to meet the federal requirements for eligible telecommunications carriers,

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<sup>3</sup> *Id.* at 23.

<sup>4</sup> *Id.* at 25-26.

<sup>5</sup> *Id.* at 27.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 28.

<sup>8</sup> *Id.* at 29; see also Ex. 10, Item 4, stating that "NextLink Internet tentatively plans to serve approximately 50% of RDOF census blocks with fiber and 50% with fixed wireless technologies to the premises."

<sup>9</sup> Transcript at 30; see also Ex. 10, Item 5, stating that battery backups are provided free to customers with a \$6.99 monthly router rental.

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and found that Applicant met those requirements.<sup>10</sup> The Commission has further reviewed the Applicant's submitted information and finds that it meets the requirements set forth in Commission Rules. The Commission therefore finds that the Applicant should be permitted to expand its service territory statewide.

The granting of this application, and the extension of Applicant's service territory for the purpose of receiving RDOF support, are conditional upon the Applicant receiving final FCC approval for RDOF support following the Applicant's submission of all required documentation to the FCC. The Applicant is hereby directed to communicate to the Commission that it has submitted said documentation to the FCC, and when and whether it receives final FCC approval.

In its provision of service as an ETC within the State of Nebraska, Applicant must continue to comply with all applicable state and federal statutes, rules, and regulations. Generally speaking, as set forth in Section 214(e), Applicant must: 1) be a common carrier;<sup>11</sup> 2) offer the services supported by the federal fund;<sup>12</sup> and 3) advertise the availability of those services.<sup>13</sup> Federal and state regulations contain additional eligibility requirements that must be met by all ETCs.<sup>14</sup> The Commission Rules also require ETCs to participate in the Nebraska Telephone Assistance Program ("NTAP") and comply with applicable NTAP rules.<sup>15</sup>

The Commission notes a standing concern regarding reliability during emergencies with regard to interconnected VoIP service. However, this concern is not unique to Applicant's provision of service, and the technology has been deemed sufficient by the FCC for participation in the RDOF auction. The Commission therefore finds that the Applicant must provide information to its consumers about the limitations of VoIP-based emergency service capability, particularly with regard to battery backup in case of a power outage. The Commission further requires that the Applicant will

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<sup>10</sup> See Commission Docket No. C-5009/NUSF-114, *In the Matter of the Application of AMG Technology Investment Group, LLC, d/b/a NextLink Internet, Hudson Oaks, Texas, seeking designation as an Eligible Telecommunications Carrier (ETC) for the purpose of providing services supported by the FCC's Connect American Fund Phase II* (application granted on Feb. 20, 2019).

<sup>11</sup> See 47 C.F.R. § 153(10).

<sup>12</sup> 47 C.F.R. §§ 54.101(a), 54.202(a); 291 Neb. Admin. Code § 5-009.02A2.

<sup>13</sup> See 47 U.S.C. § 214(e)(1)(B); 291 Neb. Admin. Code § 5-009.02A3.

<sup>14</sup> See 47 C.F.R. § 54.202(a); 291 Neb. Admin. Code § 5-009.02.

<sup>15</sup> 291 Neb. Admin. Code § 10-004.04.

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include this information in all VoIP customer billing statements or their functional equivalents for the month of July 2021, and on a regular basis thereafter.

Upon review of the Application and Applicant's current status as an ETC, we find Applicant has demonstrated that it meets the standards set forth in 47 U.S.C. § 214(e), as well as other applicable state and federal laws and regulations, for expansion of its ETC status to include census blocks statewide. The Application therefore should be approved.

### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. C-5199/NUSF-124 should be, and is hereby, granted, and AMG Technology Investment Group, LLC, d/b/a NextLink Internet 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 AMG Technology Investment Group, LLC, d/b/a NextLink Internet is hereby declared to be a Nebraska Eligible Telecommunications Carrier in all census blocks for which it has been awarded funding in the Rural Digital Opportunity Fund auction.

IT IS FURTHER ORDERED that upon submission of all necessary documentation to the FCC for purposes of receiving Rural Digital Opportunity Fund support, AMG Technology Investment Group, LLC, d/b/a NextLink Internet must communicate to the Commission that it has submitted said documentation. AMG Technology Investment Group, LLC must then promptly communicate to the Commission any decision by the FCC as to whether it receives final approval to receive said support.

IT IS FURTHER ORDERED that AMG Technology Investment Group, LLC, d/b/a NextLink Internet shall file information with the Commission evidencing it is advertising through media of general distribution on or before July 1<sup>st</sup> each year hereafter.

IT IS FURTHER ORDERED that AMG Technology Investment Group, LLC, d/b/a NextLink Internet 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

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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.

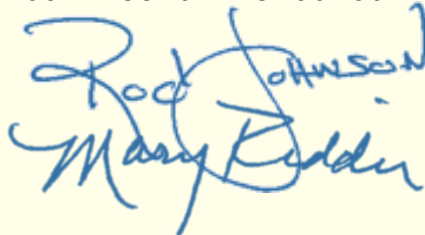
IT IS FURTHER ORDERED that AMG Technology Investment Group, LLC, d/b/a NextLink Internet shall file a copy of this Order with the Universal Service Administrative Company ("USAC") and the FCC to commence its eligibility for receipt of federal universal service support effective as of the date of this Order.

IT IS FINALLY ORDERED that, should AMG Technology Investment Group, LLC, d/b/a NextLink Internet receive an award in any further 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 25th day of May, 2021.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

  
Chair

ATTEST:

  
Executive Director

COMMISSIONERS DISSENTING:

