

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. C-3583/NUSF-56
Application of Three River)
Communications, LLC, Lynch,) ORDER GRANTING DESIGNATION AS AN
seeking designation as an) ELIGIBLE TELECOMMUNICATIONS
Eligible Telecommunications) CARRIER
Carrier (ETC) in its designated)
service area in the state of)
Nebraska.) Entered: September 26, 2006

APPEARANCES:

For the Applicant:
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For the Commission:
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BY THE COMMISSION:

By application filed April 10, 2006, and amended July 12, 2006, Three River Communications, LLC, (Three River or Applicant) Lynch, seeks designation as an eligible telecommunications carrier (ETC) so that it may receive state and federal universal service support. Notice of this application was published in The Daily Record, Omaha, Nebraska, on May 22, 2006. A public hearing on the application was held on August 29, 2006, in the Commission Hearing Room, Lincoln. Notice of the public hearing was mailed to interested parties. Appearances at the hearing were entered as indicated above.

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

Three River was granted a Certificate of Public Convenience and Necessity to provide resale and competitive facilities-based local exchange telecommunications services in Application No. C-2843, on January 14, 2003. According to its application, Three River seeks federal and state ETC status for the area in which it has been certificated as a local exchange carrier. Accordingly, Three River seeks federal and state ETC designation only in areas served by Qwest Corporation. Three River seeks

Nebraska eligible telecommunication carrier designation so that it can provide Nebraska Telephone Assistance Program (NTAP) assistance to its qualifying customers. Three River is not seeking to be designated as the network to be supported in any of the areas that it serves, nor is it seeking to be designated as an additional network to be supported. Three River does not intend, at this time, to seek high-cost support.

Federal ETC Designation

Three River offers voice-grade access to the public switched network, flat-rated local exchange service free of per minute charges, dual tone multi-frequency signaling or its functional equivalent, single party service, access to emergency service, access to operator service, equal access to interexchange service, access to directory assistance, access to 711 Telecommunications Relay Service, and toll blocking for qualifying low-income subscribers.

Neil Classen, General Manager of Three River, testified on behalf of the Applicant. Mr. Classen testified that Three River brings competitive services to residential customers in the Ainsworth area. Currently, it offers voice services and internet services throughout its service territory. Furthermore, Mr. Classen testified that Three River advertises its services and charges for such services using media of general distribution. Finally, Three River indicated that in its opinion, certification of Three River as an ETC would be consistent with the public interest, convenience and necessity.

Section 214(e) of the Act sets forth the standards and processes for a state commission to grant carriers the designation of a federal eligible telecommunications carrier. The three general requirements listed in Section 214(e) are that: (1) the carrier must be a common carrier; (2) the carrier must offer the "services" that are supported by the federal fund; and (3) the carrier must advertise the availability of those services. In addition, the carrier must fulfill these criteria throughout the service area for which the designation is received.

The "services" supported by the federal fund as provided by 47 C.F.R. § 54.101(a) are as follows:

- a. Voice-grade access to the public switched telephone network;
- b. Local usage;
- c. Dual tone multi-frequency signaling or its functional equivalent;

- d. Single-party service or its functional equivalent;
- e. Access to emergency services;
- f. Access to operator services;
- g. Access to interexchange service;
- h. Access to directory assistance;
- i. Toll limitation for qualifying low-income consumers.

Three River provided documentation that it fulfills the requirements of 47 C.F.R. § 54.101(a) and confirms that it will provide all of the above-referenced services.

Three River also provided adequate evidence that it will advertise the availability of the supported services. Three River agrees with the Commission that, in the event ETC status is granted, it will advertise its universal service offerings and the charges therefore using media of general distribution pursuant to federal and Commission requirements.

Applicant has demonstrated that it meets the standards set forth in 47 U.S.C. § 214(e) and applicable federal law for the designation of eligible telecommunications carriers in the proposed geographic area.

On April 10, 2006, the Commission's new rules and regulations regarding carriers seeking ETC designation in Nebraska went into effect. See, 291 Neb. Admin. Code, Ch. 5, Rule 009. The ETC rules and regulations mirror the guidelines established by the FCC in its March 17, 2005, *FCC ETC Order*, concerning ETC applications (the "FCC Guidelines"). The ETC rules and regulations include a provision that a common carrier seeking to be designated an ETC in Nebraska must submit a five-year plan describing with specificity proposed improvements or upgrades to the Applicant's network on a wire center-by-wire center basis throughout its proposed designated service area.

Three River filed a five-year plan and requested confidential treatment of its five-year plan. At the hearing on the Application, Mr. Classen testified that of the investments indicated on the five-year plan approximately 80% would be made out-of-town. Mr. Classen also testified that he was aware of the Commission's policy decisions in Docket No. NUSF-26. Mr. Classen further indicated his understanding that if Three River were to seek high cost support in the future that any dollars it received from either the Federal or State funds were to be

targeted toward out-of-town, high cost areas. The Commission believes that Three River's five-year plan is sufficient.

Mr. Classen confirmed Three River does and will continue to abide by all Commission rules, regulations and orders and will file the required certified statements with the Commission on an annual basis.

Three River also provided evidence that it has the ability to remain functional during emergency situations, that it will abide by the applicable consumer protection and service quality standards and that it will provide a comparable local usage service offering similar to that offered by the incumbent local exchange carrier.

Finally, the Commission has jurisdiction and authority to ensure that Three River continues to meet the ETC criteria set forth in Section 214(e) of the Act. Nothing prevents the Commission from, on its own motion, modifying, suspending or revoking Three River's ETC designation if it does not continue to meet those obligations. We find Three River's application for federal ETC designation should be granted.

Nebraska ETC Designation

The Applicant also sought designation as a Nebraska Eligible Telecommunications Carrier (NETC) in order to be eligible for NUSF support. In support of Three River's application for NETC designation, Mr. Classen testified that any high-cost support Three River may seek in the future would be limited to support for UNE loops pursuant to the Commission's decision in NUSF-26. In addition to the federal ETC designation requirements, Mr. Classen testified the Applicant meets the state requirements for designation as an NETC. Three River intends to offer Lifeline-Linkup or NTAP services, and it is committed to doing so in compliance with the Commission's orders. Three River provides equal access to interexchange services. Three River also provides customer access to a white page directory listing.

In summary, upon review of the application and evidence presented at the hearing, we find Three River's application for state NETC designation should be approved.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application of Three River Communications, LLC, to be designated an Eligible Telecommunications Carrier shall be, and it is hereby, granted.

IT IS FURTHER ORDERED that Three River Communications, LLC, is hereby declared to be an Eligible Telecommunications Carrier for federal support in the areas served by Qwest Corporation.

IT IS FURTHER ORDERED that Three River Communications, LLC, is hereby declared to be a Nebraska Eligible Telecommunications Carrier for state universal service support.

MADE AND ENTERED at Lincoln, Nebraska this 26th day of September, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chairman

ATTEST:

Executive Director