

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Midstate Communications / North Dakota Tel. Co.
Local Exchange
Public Convenience & Necessity**

Case No. PU-15-615

**Midstate Communications / North Dakota Tel. Co.
Designated Eligible Carrier
Application**

Case No. PU-15-616

ORDER

September 28, 2015

On July 31, 2015, North Dakota Telephone Company (NDTC) and Midstate Communications Inc. (Midstate) filed a joint application requesting authorization for Midstate to relinquish its Certificate of Public Convenience and Necessity to provide local exchange telecommunications services in the area currently known as the York telephone exchange in North Dakota, and requesting approval for NDTC to provide local exchange telecommunications services those customers as part of the current NDTC Leeds telephone exchange in North Dakota, Case No. PU-15-615.

Also on July 31, 2015, NDTC and Midstate filed a joint application for Midstate to relinquish the York telephone exchange from its designated essential telecommunications carrier (ETC) study area for the purpose receiving universal service support, and for NDTC to expand its designated ETC study area to incorporate the York telephone exchange.

In support of the joint applications, NDTC provided an affidavit of Dave Dircks, CEO/General Manager, and Midstate provided an affidavit of Ryan Wilhelmi, Manager.

On August 12, 2015, the Commission issued a Notice of Opportunity for Consolidated Hearing (Notice) that provided until September 25, 2015 for comments and requests for hearing. No comments or requests for hearing were received. The Notice stated that, if deemed appropriate, the Commission can determine the matters without a hearing.

The Notice identified the issues to be considered in Case No. PU-15-615 are:

1. Fitness and ability of NDTC to provide local exchange telecommunications services.
2. Adequacy of NDTC's proposed telecommunications services.

3. Technical, financial and managerial ability of NDTC to provide telecommunications services.
4. Whether, upon granting a certificate of public convenience and necessity to NDTC to provide local exchange telecommunications services in the area currently known as the York telephone exchange, Midstate's certificate of public convenience and necessity should be relinquished.

The Notice identified the issues to be considered in Case No. PU-15-616 are:

1. Qualification of the applicant under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding.
2. The ETC universal service support area to be designated.
3. Whether it is in the public interest to designate NDTC as an ETC in the York local exchange area for purposes of receiving universal service support.
4. Whether, upon designation of NDTC as an ETC for the York exchange, Midstate's designation as an ETC for the York exchange should be relinquished.

Public Convenience and Necessity

NDTC holds certificates of public convenience and necessity to provide local exchange telecommunications services inside twenty five telephone exchanges serving approximately 11,800 North Dakota access lines. NDTC is designated as an ETC for the purpose of receiving federal universal service support in a study area that encompasses those North Dakota telephone exchanges. NDTC holds Certificates of Public Convenience and Necessity Number 5521 to provide local exchange telecommunications services inside the Leeds, North Dakota telephone exchange.

Midstate holds Certificate of Public Convenience and Necessity Number 5740 to provide local exchange telecommunications services inside the York local exchange area, serving twenty North Dakota access lines. Midstate is designated as an ETC for the purpose of receiving federal universal service support in a study area that encompasses the Beach and the York local telephone exchanges in North Dakota.

Midstate will continue to provide local exchange service until all customers in the York exchange have been connected to NDTC's Fiber to the Premise project. The anticipated start date of the project will be October 1, 2015 with completion by December 31, 2015.

The Commission finds that NDTC is fit and able to provide telecommunications services, from its Leeds telephone exchange, to the customers served in the York telephone exchange geographic area.

The Commission finds that the telecommunications services NDTC proposes to provide to the geographic area currently known as the York telephone exchange are adequate.

The Commission finds that NDTC has the technical, financial and managerial ability to provide telecommunications service to the geographic area currently known as the York telephone exchange.

NDTC will provide telecommunications service to the geographic area currently known as the York telephone exchange as an incumbent local exchange carrier.

Midstate's certificate of public convenience and necessity authorizing it to provide local exchange telecommunications services in the York exchange should be relinquished.

Designation as an Eligible Telecommunications Carrier

The federal Telecommunications Act of 1996 (Act) provides for financial support to a common carrier that (1) offers the services established by the FCC to be supported by Federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services; (2) advertises the availability of such services and the charges for such services using media of general distribution; and (3) is designated as an ETC. An ETC must use that financial support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

To be designated as an ETC, the carrier must (1) under Code of Federal Regulations (CFR) Part 47 Subpart B, offer to telecommunications customers each of the services and functionalities designated for federal universal service support; and (2) under CFR Part 47 § 54.405, make available Lifeline service to qualifying low-income consumers.

For telecommunications customers, the services designated by the FCC for support by universal service support mechanisms include voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers.

In the affidavit of Dave Dircks, NDTC, affirms that it will continue to meet the obligations of an ETC in the expanded Leeds telephone exchange. NDTC also affirms that no waiver of ETC criteria is requested.

The Commission finds NDTC's application for designation as an eligible telecommunications carrier under North Dakota Administrative Code section 69-09-05-12 is complete including the required affirmations and certifications.

The Commission finds NDTC is qualified under Section 214(e) of the federal Communications Act of 1934 as amended by the Telecommunications Act of 1996, for designation as an eligible telecommunications carrier for receiving federal universal service funding for the proposed designated service area.

For purposes of federal universal service funding, the designated expanded service area for NDTC is a rural study area.

Based on the evidence in this proceeding, NDTC is qualified under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC to receive federal universal service funding and it is in the public interest that NDTC be designated as an ETC in the requested designated expanded service area.

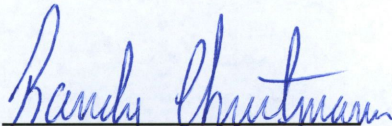
Order

The Commission Orders:

1. North Dakota Telephone Company's application for a certificate of public convenience and necessity to provide incumbent local exchange telecommunications services in the area currently known as the York telephone exchange to become part of the current NDTC Leeds telephone exchange in North Dakota is approved.
2. North Dakota Telephone Company is issued First Amended Certificate of Public Convenience and Necessity Number 5521 to provide local exchange telecommunications services inside the expanded Leeds, North Dakota telephone exchange.
3. North Dakota Telephone Company's request for designation as an eligible telecommunications carrier in the expanded Leeds telephone exchange is granted and North Dakota Telephone Company is designated as an eligible telecommunications carrier in the expanded Leeds telephone exchange area in North Dakota.
4. Midstate Communications Inc.'s Certificate of Public Convenience and Necessity Number 5740 to provide local exchange telecommunications services inside the York, North Dakota telephone exchange area is relinquished and cancelled.

5. Midstate Communications Inc.'s designation as an essential telecommunications carrier in the York exchange area is relinquished and cancelled.

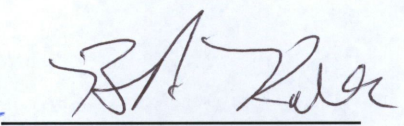
PUBLIC SERVICE COMMISSION



Randy Christmann
Commissioner



Julie Fedorchak
Chairman



Brian P. Kalk
Commissioner

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Public Convenience and Necessity

**First Amended
Certificate Number 5521**

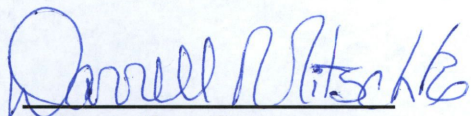
This is to certify that public convenience and necessity require, and permission is granted for North Dakota Telephone Company, a telecommunications public utility, to provide local exchange telecommunications services inside the amended Leeds, North Dakota local exchange area.

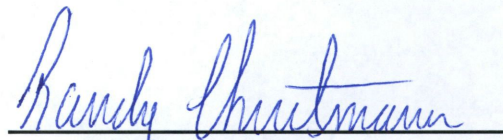
This certificate is issued in Case No. PU-15-615 and is conditioned upon North Dakota Telephone Company securing the franchise or other authority of the proper municipal or other public authority for the exercise of these rights and privileges.

Bismarck, North Dakota, September 28, 2015.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner