

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Midcontinent Communications
Designated Eligible Carrier
Application**

Case No. PU-16-48

**FIRST AMENDED ORDER ON
ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION**

December 3, 2019

Preliminary Statement

On January 25, 2016, Midcontinent Communications (Midcontinent), a competitive local exchange company, filed an application to be designated as an eligible telecommunications carrier (ETC) for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E. This designation is also known as Lifeline-only ETC designation. Midcontinent proposes to provide this service in any exchange where it is currently authorized or may become authorized at a later date to provide service in North Dakota.

On February 10, 2016, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until March 25, 2016, for comments and requests for hearing. No comments or requests for hearing were received. The Notice identified the issues to be considered in this matter:

1. Is the applicant qualified under the Telecommunications Act of 1996, section 214(e) for designation as an ETC eligible to receive federal universal service funding?
2. What ETC universal service support area should be designated?
3. Is designation of the applicant as an ETC in the public interest?

The Notice stated that the Commission can determine the matter without a formal hearing.

On April 4, 2016, the Commission requested additional information and submitted a certification to Midcontinent for its signature. On April 20, 2016 the Company provided its responses as well as a signed certification relating to order provisions.

On May 5, 2016 the Commission issued an Order on Eligible Telecommunications Carrier Designation (Order), designating Midcontinent as an ETC for the exchanges in the table below.

Exchanges				
Bisbee	Bottineau	Bowman	Carrington	Courtenay
Devils Lake	Dodge	Drake	Dunseith	Fairmount
Halliday	Hankinson	Harvey	Hettinger	Killdeer
Langdon	Lidgerwood	New Rockford	Reeder	Rhame
Richardton	Rolla	Rollette	Rugby	Scranton
South Heart	Walhalla	Williston	Willow City	

On September 6, 2019, Midcontinent filed a motion to amend the order, requesting that the Commission eliminate the requirements contained within the Order, order paragraph 2 and paragraph 13 of the Certification to Relating to Order Provisions.

On October 2, 2019, the Commission issued a Notice of Intent to Amend Order and Notice of Opportunity for Hearing (October 2, 2019 Notice) providing until November 18, 2019, for comments and requests for hearing. No comments or requests for hearing were received. The noticed identified the issue to be considered in this matter is whether the Order should be amended to remove the requirement to file annually a complete listing of lifeline customers including the type of proof reviewed, eligibility dates, and North Dakota Department of Human Services Form SFN 1059.

The October 2, 2019 Notice stated that the Commission can determine the matter without a formal hearing.

ETC Designation

A telecommunications carrier is eligible to receive federal universal service support if the company meets the requirements established under 47 USC § 214e(1). These requirements are: (1) company must provide each of the nine supported telecommunication services listed by the Federal Communications Commission (FCC); and (2) company must offer and advertise the availability of, and charges for, such services throughout its service area.

Both federal law and state law give the Commission the authority to designate a common carrier as an ETC. A competitive ETC may be designated in any area served by a non-rural telephone company so long as the applicant meets the requirements of 47 USC § 214e(1). In areas served by a rural telephone company, the Commission must find that ETC designation is in the public interest.

Midcontinent is a South Dakota partnership with offices in North Dakota. Midcontinent is authorized to do business in the State of North Dakota, as evidenced by corporate papers filed with the Commission.

Midcontinent is a common carrier and will offer the services and functionalities detailed in 47 CFR section 54.101 using its own facilities. Midcontinent proposes to provide the nine supported telecommunication services established by the FCC in the

expanded area comparable to the services being provided by the incumbent local exchange carrier. Subscribers would be able to access additional advanced services.

Based on the evidence in this proceeding, Midcontinent is qualified for designation as an ETC eligible to receive federal universal service support under 47 CFR Part 54 Subpart E.

The Certification Relating to Order Provisions as signed by Nancy A. Vogel, Director of Regulatory Finance for Midcontinent and filed on April 20, 2016 is incorporated by reference and attached to this order. It should be amended to remove paragraph 13.

Universal Service Support Area

The Commission must establish a geographic area (service area) for the purpose of determining universal service obligations and support mechanisms for the designated ETC. 47 USC section 214(e)(5).

The Act defines service area:

SERVICE AREA DEFINED-- The term "service area" means a geographic area established by a State commission for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, "service area" means such company's "study area" unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

It is in the public interest that Midcontinent be designated as an ETC in the service area requested. Under North Dakota Administrative Code Section 69-09-05-12, the Commission shall determine that the designation of Midcontinent as an ETC is in the public interest. In doing so, the Commission shall consider the benefit of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering. The provision of adequate essential and nonessential telecommunications service in these exchanges will be facilitated and supported by the full current technical and financial capabilities of Midcontinent.

The exchanges for which Midcontinent is seeking ETC status are shown in the table below. This expands the Company's current service area. Prior to this designation, Midcontinent received designation to serve exchanges where Qwest is the provider in Case No. PU-05-272.

Exchanges				
Bisbee	Bottineau	Bowman	Carrington	Courtenay
Devils Lake	Dodge	Drake	Dunseith	Fairmount
Halliday	Hankinson	Harvey	Hettinger	Killdeer

Langdon	Lidgerwood	New Rockford	Reeder	Rhame
Richardton	Rolla	Rollette	Rugby	Scranton
South Heart	Walhalla	Williston	Willow City	

Having allowed all interested persons an opportunity to be heard and having reviewed and considered all evidence presented, the Commission makes the following:

Order

The Commission orders:

1. Midcontinent Communications is designated as an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E in the North Dakota telephone exchanges shown in the table below.

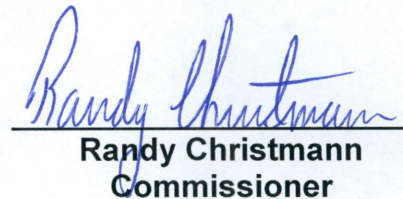
Exchanges				
Bisbee	Bottineau	Bowman	Carrington	Courtenay
Devils Lake	Dodge	Drake	Dunseith	Fairmount
Halliday	Hankinson	Harvey	Hettinger	Killdeer
Langdon	Lidgerwood	New Rockford	Reeder	Rhame
Richardton	Rolla	Rollette	Rugby	Scranton
South Heart	Walhalla	Williston	Willow City	

2. The Certification Relating to Order Provisions as signed by Nancy A. Vogel, Director of Regulatory Finance for Midcontinent and filed on April 20, 2016 is incorporated by reference and attached to this order with the exception of paragraph 13, which is eliminated.

PUBLIC SERVICE COMMISSION


Julie Fedorchak
 Commissioner


Brian Kroshus
 Chairman


Randy Christmann
 Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Midcontinent Communications
Designated Eligible Carrier
Application

Case No. PU-16-48

**MIDCONTINENT COMMUNICATIONS'
CERTIFICATION RELATING TO ORDER PROVISIONS**

I am Nancy A. Vogel, a representative of Midcontinent Communications (Midcontinent) with authority to bind Midcontinent and I certify that:

1. Midcontinent is seeking designation as a Lifeline-Only Eligible Telecommunications Carrier (Lifeline-Only ETC) in the following North Dakota telephone exchanges: Bisbee, Bottineau, Bowman, Carrington, Courtenay, Devils Lake, Dodge, Drake, Dunseith, Fairmount, Halliday, Hankinson, Harvey, Hettinger, Killdeer, Langdon, Lidgerwood, New Rockford, Reeder, Rhame, Richardton, Rolla, Rollette, Rugby, Scranton, South Heart, Walhalla, Williston, and Willow City.
2. For the telephone exchanges enumerated, Midcontinent understands and agrees to the conditions and criteria set forth in Chapter 49-21 of the North Dakota Century Code and Chapter 69-09-05 of the North Dakota Administrative Code that pertain to Lifeline-Only Eligible Telecommunications Carriers (Lifeline Only ETC) , and Midcontinent will be responsible for compliance with this Certification, the Public Service Commission's order in this proceeding, and conditions and criteria set forth in the applicable federal and state laws and rules pertaining to Lifeline-Only ETCs.

The provision in Chapter 69-09-05 of the North Dakota Administrative Code requiring the ETC to describe services in the "carrier's official telephone directory" is not applicable because Midcontinent has no such directory.

3. Midcontinent agrees to comply with all statements, processes and procedures set forth in its Application for designation as a Lifeline-Only ETC in the enumerated telephone exchanges. Midcontinent agrees that all statements made and matters set forth in its Application are true and correct to the best of Midcontinent's knowledge, information, and belief.
4. Midcontinent will use the federal low-income universal service support it receives only for the provision of services for which the support is intended.
5. Midcontinent meets all of the prerequisites to be designated as a Lifeline-Only ETC throughout the proposed ETC Designated Area in this proceeding.

Certification Relating to Order Provisions
Case No. PU-16-48
Page 1

13 **PU-16-48** Filed: 4/20/2016 Pages: 3
Certification Relating to Order Provisions

Midcontinent Communications
Zachary Pelham, Pearce Durick, PLLC

6. Midcontinent provides each of the services supported by federal universal service support mechanisms, specified in Federal Communications Commission's (FCC's) rules, 47 C.F.R. § 54.101, and will offer these supported services in North Dakota upon designation as a Lifeline-Only ETC, including voice grade access, minutes of use for local service at no additional charge, access to emergency services and toll limitation services.
7. Midcontinent will provide service within a reasonable period of time, if the potential customer is within Midcontinent's proposed designated service area but outside its existing network coverage, if service can be provided at reasonable cost by:
 - (a) Modifying or replacing the requesting customer's equipment;
 - (d) Adjusting network or customer facilities; or
 - (e) Reselling services from another carrier's facilities to provide service.
8. Midcontinent will not seek Universal Service Fund high-cost support for the enumerated telephone exchanges.
9. Midcontinent will use all available means to ensure customers are eligible for the Lifeline program at the time of sign-up and recertification in accordance with the federal eligibility criteria in 47 C.F.R. § 54.409 and the relevant proof documentation specified in 47 C. F. R. § 54.410. Midcontinent will check all available databases including the National Lifeline Accountability Database to prevent duplication and determine eligibility.
10. Midcontinent will advertise the availability of the supported services detailed in its Application, and the corresponding rates and charges, in a manner designed to inform the general public within North Dakota. This advertising will occur through a combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet.
11. Midcontinent will offer the services described in its Application.
12. Midcontinent will comply with all applicable annual reporting requirements associated with being an ETC in North Dakota including filing with the Public Service Commission a copy of each report filed with the FCC, within 30 days of filing with the FCC.
13. Midcontinent will file at least annually or more often if requested by the Public Service Commission, a complete list of its customers and waivers, including confirmation that each customer has agreed to allow Midcontinent to release any records required for the administration of its Lifeline program, and to access any state records and/or databases needed to confirm eligibility, for each customer on the list.

14. Midcontinent understands and agrees that its ability to offer service is subject to suspension or revocation for failure to comply with the Public Service Commission's orders, or applicable statutes, rules, regulations, standards, and other authorizations.
15. Midcontinent agrees to maintain the records to demonstrate that Midcontinent has complied with the requirements of the Public Service Commission's order(s) and that Midcontinent will preserve records demonstrating compliance for Public Service Commission inspection at any reasonable time upon reasonable notice.
16. Midcontinent understands and agrees that, to the extent there are any conflicts or inconsistencies between Midcontinent's Application and the provisions in this Certification, the Certification provisions control.

Dated this 19th day of April, 2016.

MIDCONTINENT COMMUNICATIONS

By: Nancy A. Vogel
Nancy A. Vogel
Its Director of Regulatory Finance