

200 East Broadway
P.O. Box 230
Steele, ND 58482



701-475-2361
888-475-2361
Fax: 701-475-2100

Via Hand Delivery

December 18, 2020

Mr. Steve Kahl, Executive Secretary
North Dakota Public Service Commission

State Capitol
600 East Boulevard Avenue,
Twelfth Floor Bismarck, ND 58505-0480

Dear Mr. Kahl: BEK Communications Cooperative, files the enclosed Application for Designation as an Eligible Telecommunications Carrier, for the service territory awarded during the FCC RDOF Auction last month.

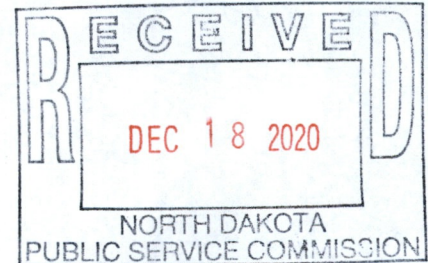
Any questions regarding the filing may be directed to the undersigned at the address and telephone number listed above, or by email at derrick@bektel.com.


Sincerely,
Derrick F. Bulawa
CEO, BEK Communications Cooperative
701-475-1220

Enclosure

cc: Patrick Fahn, North Dakota Public Service Commission (via email)

1 PU-20-458 Filed 12/18/2020 Pages: 32
Application for Designation as Eligible Telecommunications Carrier
BEK Communications Cooperative
Derrick Bulawa



9:52pm

BEK Communications

www.bektel.com • bekcomm@bektel.com

**BEFORE THE STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

In the Matter of)
)
Application of BEK Communications Cooperative)
Cooperative for Designation as an Eligible)
Telecommunications Carrier to Receive Rural) Docket No. _____
Digital Opportunity Fund Phase I Auction)
(Auction 904) Support for Voice And Broadband)
Services)

**APPLICATION OF BEK COMMUNICATIONS COOPERATIVE FOR LIMITED
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO
RECEIVE RURAL DIGITAL OPPORTUNITY FUND PHASE I AUCTION (AUCTION
904) SUPPORT FOR VOICE AND BROADBAND SERVICES AND
REQUEST FOR EXPEDITED CONSIDERATION**

BEK Communications Cooperative (“BEK” or the “Cooperative”) respectfully submits this Application for designation as an Eligible Telecommunications Carrier (“ETC”) to the North Dakota Public Service Commission (“Commission”) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”),¹ Sections 54.201 and 54.202 of the rules and regulations of the Federal Communications Commission (“FCC”),² and in accordance with the Commission’s requirements as set forth in N.D.C.C. § 49-21-01.7(12) and N.D.A.C. §§ 69-09-05-12 and 69-09.05-12.1. BEK was selected as a winning bidder in North Dakota³ under the FCC’s Rural Digital Opportunity Fund (“RDOF”) Phase I Auction (Auction 904) (the “RDOF Auction”).⁴ However, BEK’s receipt of RDOF funding is conditioned upon BEK obtaining

¹ 47 U.S.C. § 214(e)(2).

² 47 C.F.R §§ 54.201 and 54.202.

³ See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidder Announced; FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 20-1422, (rel. Dec. 7, 2020) (“*Auction 904 Results Notice*”).

⁴ See *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, Public Notice, FCC 20-77, 35 FCC Rcd 686 (2020) (“*Auction 904 Procedures Public Notice*”).

designation as an ETC in the eligible census blocks by June 7, 2021.⁵ Accordingly, BEK seeks designation only in the census blocks for which it was awarded funding from the RDOF Auction, as identified in **Exhibit A** and reflected in **Exhibit B** (“Proposed Service Area”).

Section 214(e)(2) of the Act authorizes the Commission to designate a company that meets the requirements of Section 214(e)(1) of the Act, such as BEK, as an ETC. As demonstrated in this Application, BEK meets all state and federal requirements for ETC designation and, as shown by the description herein of BEK’s planned voice and broadband deployment projects, designating BEK as an ETC in the proposed areas would advance the goals of universal service and is in the public interest.

In support of this Application, BEK states as follows:

I. BACKGROUND

BEK is a North Dakota cooperative headquartered at 200 East Broadway, PO Box 230 Steele, North Dakota 58482.

Founded in 1952, BEK is a member-owned rural local exchange carrier (“LEC”) that currently provides voice, broadband, IP-video and cloud services to more than 11,700 customers throughout 10 counties in central North Dakota. BEK serves as a traditional LEC. BEK has always prioritized and been committed to connecting the rural communities it serves with reliable telecommunications services at a reasonable price. BEK began constructing its fiber-optic network in 2004 and spent the next ten years building to every BEK cooperative community. Since then, BEK has expanded its services to serve residents in rural Bismarck and Mandan, as well as Valley City and the surrounding area. BEK was one of the first Internet providers in North Dakota to offer 1 Gbps service and the first to offer 2.5 Gbps service to its customers. BEK has always worked to be at the forefront of

⁵ *Auction 904 Results Public Notice*, para. 17 on p. 7.

service and provide better service to customers, as is evidenced by its successful participation in past grant programs and FCC auctions and the subsequent expansion of its network.

BEK received an American Recovery and Reinvestment Act Broadband Initiative Program grant in 2010, five Community Connect Grants and funding from two FCC reverse auctions, Connect America Fund Phase II (“CAF Phase II”) and RDOF Phase I, to expand its service as a competitive provider and bring voice, broadband, IP-video and cloud services to Morton and Barnes Counties and adjacent unserved areas. In 2018, BEK was announced as a winner in the FCC’s CAF Phase II auction and awarded funding to continue expanding its service area and deploying 1 Gbps broadband to those living and working in extremely rural areas within Morton and Burleigh Counties. Subsequently, BEK has already been designated by the Commission as an ETC in three incumbent local exchange carrier (“ILEC”) service areas to receive universal service support under Sections 214 and 254 of the Act and currently receives such support in the North Dakota exchanges identified in **Exhibit C**. The Commission also designated BEK’s competitive local exchange carrier operations, which operate outside of its ILEC service area (“CLEC Operations”), as an ETC in the census block groups (“CBGs”) it was awarded through its successful participation in the FCC’s CAF Phase II auction, identified in **Exhibit D**.

II. COMMUNICATIONS AND CORRESPONDENCE

Pleadings, orders, notices, or other correspondence and communications regarding this

Application should be provided to:

Name	Derrick F. Bulawa
Title	Chief Executive Officer
Company	BEK Communications Cooperative
Address	Po Box 230, 200 East Broadway, Steele ND, 58501
Telephone #	701-475-1220
Email	derrick@bektel.coop

With a copy to:

Name Brandon Vaughan
Title Chief Financial Officer
Company BEK Communications Cooperative
Address Po Box 230, 200 East Broadway, Steele, ND 58482
Telephone # 701-475-1246
Email brandonv@bektel.coop

III. BEK’S PROPOSED PARTICIPATION IN THE FCC’S RDOF AUCTION

A. Background on the RDOF Auction

On January 30, 2020, the FCC adopted the *Rural Digital Opportunity Fund Report and Order*,⁶ establishing the framework for the RDOF including the use of reverse auctions in two phases. The RDOF was implemented to provide \$20.4 billion to connect millions of rural homes and businesses to high-speed broadband networks as part of the FCC’s biggest step to close the digital divide.⁷ On July 11, 2020, the FCC adopted final procedures for Phase I of the RDOF Auction, which utilized competitive bidding to allocate up to \$16 billion over ten years to service providers that commit to offer voice and broadband services to fixed locations in eligible unserved high-cost census blocks.⁸

B. BEK’s Selection as a Winning Bidder

The RDOF Auction began on October 29, 2020 and completed on November 25, 2020. On December 7, 2020, the FCC issued a Public Notice, officially announcing the results of the competitive bidding.⁹ BEK was announced as a winning bidder for a total of 337 locations in 20 designated CBGs throughout central North Dakota with a total support amount of \$ 215,771.90.¹⁰ As a winner in the RDOF Auction and a recipient of RDOF support, BEK is required to offer at

⁶ See generally *Rural Digital Opportunity Fund; Connect America Fund*, Order, 35 FCC Rcd 686 (2020) (*Rural Digital Opportunity Fund Order*).

⁷ Id.

⁸ *Auction 904 Procedures Public Notice*, para. 1.

⁹ *Auction 904 Results Public Notice*, Attachment A at p. 3.

¹⁰ Id.

least one standalone voice plan and one service plan providing broadband at speeds of at least 1 Gbps with a latency at or below 100 ms. BEK is required to buildout to 40% of the requisite number of locations in North Dakota within three years of authorization.¹¹ This performance benchmark increases by 20% by the end of the fourth and fifth years of support.¹² By the end of year six, revised location totals will be announced.¹³ If there are fewer locations than originally estimated by the cost model, BEK must serve the revised number of locations by the end of the sixth year of support.¹⁴ If there are more locations than originally estimated by the cost model, BEK must serve the original number of locations estimated by the cost-model by the end of the sixth year of support and must serve the rest of the locations by the end of the eighth year of support.¹⁵

C. Need for Expedited ETC Designation

The FCC's rules for the RDOF Auction did not require that participants be an ETC as of the initial short-form application filing deadline.¹⁶ Instead, a winning bidder that is awarded support is expected to obtain an ETC designation (encompassing receipt of high-cost support) for the areas covered by its successful bids within 180 days after being announced as a winning bidder.¹⁷ Winning bidders must submit appropriate documentation of such ETC status to the FCC.¹⁸ As noted, BEK has been selected as a winning bidder in the RDOF Auction for 20 CBGs in North Dakota. Because the timeframe for BEK to obtain ETC designation is short and the consequences of failure to do so are severe, BEK respectfully requests that the Commission review this Application promptly and grant BEK ETC designation in the Proposed Service Area on an expedited basis.

¹¹ *Auction 904 Procedures Public Notice*, para. 17.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Auction 904 Procedures Public Notice*, para. 136.

¹⁷ *Id.*

¹⁸ *Id.*

IV. BEK AND ITS TECHNICAL QUALIFICATIONS

A. BEK's Expertise and Experience

BEK is qualified to meet applicable RDOF obligations given the Cooperative's proven track record of technical and commercial success operating as a provider of voice and broadband services and associated equipment for almost seventy years. Moreover, BEK is more than capable of meeting the demands accompanying RDOF funding given that it has already completed projects and builds similar in size and with similar requirements. Therefore, the Cooperative already has the resources, expertise, community connections and capabilities necessary to meet its obligations under the RDOF. BEK's technical qualifications have been reviewed by the Commission on numerous occasions, and the favorable results of such reviews are reflected in the previous ETC designations the Commission has granted BEK. BEK is proud to have at its disposal its extensive staff of experienced engineers with expertise in the fields of communications technology, hardware design, software development, data analytics, and networking. Such expertise made it possible for BEK to confidently participate in past grant programs and the FCC's CAF Phase II auction, as well as the FCC's RDOF Auction, with the certainty that the Cooperative would be able to fulfill its obligations.

Today, BEK serves almost 11,700 customers throughout central North Dakota, including nearly 9,000 residential customers and 2,700 business customers. BEK has extensive experience managing the technical and customer service-related issues associated with the provision of consumer broadband services. Notably, BEK monitors network performance on a 24/7 basis and has implemented procedures to leverage its extensive engineering resources quickly and effectively.

B. BEK's Services and Network Architecture

BEK has always been at the forefront of the latest developments in telecommunications services and, as a result, its customers have access to high-quality voice services and a future proof, reliable, advanced broadband network. BEK's buried, fiber-optic network is the backbone of the high-speed, reliable services on which BEK's customers rely. BEK provides customers with competitively superior communications, entertainment and cloud and data products and services including fiber-optic Internet, phone and TV services. BEK currently provides Internet service among the fastest in North Dakota. and maintaining that is important to the Cooperative. Maintaining such service and future-proofing its network is one of the Cooperative's top priorities. BEK anticipated the need for a gigabit-capable Internet service long ago and has been constructing its fiber-optic network since 2004. Today, BEK's fiber-optic network extends to every BEK cooperative community in its 5,300 square mile cooperative area, as well as rural Bismarck, Mandan and Valley City and the surrounding area. As previously stated, BEK was one of the first Internet providers in North Dakota to offer 1Gbps service and the first to offer 2.5 Gbps service. BEK already offers IP-Voice Services, IP-Television Services, 1 Gbps Broadband service and a variety of Cloud services to its customers in its ILEC and CILEC Operations service areas. BEK plans to offer these same services to its new subscribers. Accordingly, grant of this application is vital for consumers in rural North Dakota to be able to receive high speed broadband.

V. COMMISSION HAS AUTHORITY TO DESIGNATE BEK AS AN ETC

The Commission has the authority to designate BEK as an ETC, pursuant to Section 214(e)(2) of the Act, for the Proposed Service Area. Pursuant to Section 214(e)(2) of the Act, a State commission shall, upon its own motion or upon request, designate a common carrier, who meets the requirements of Section 214(e)(1), as an ETC for purposes of receiving universal service support in

a service area designated by the State commission.¹⁹ Sections 54.201(c) and (d) of the FCC’s rules reflect the provisions of Section 214(e) of the Act and provide that, “upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements” of Section 54.201(d) of the FCC’s rules.²⁰

Further, the Commission has authority under N.D.C.C. § 49-21-01.7(12), to designate telecommunications companies as ETCs to receive universal service support under Sections 214 and 254 of the Act, and N.D.C.C. § 49-21-01.7(13), to designate geographic service areas for ETCs to receive the support.

Therefore, the Commission has jurisdiction over BEK’s designation request and has the authority to designate BEK as an ETC for purposes of receiving both universal service support in the Proposed Service Area.

VI. BEK MEETS THE STATE AND FEDERAL STATUTORY AND REGULATORY REQUIREMENTS FOR ETC DESIGNATION

BEK meets all applicable federal and state requirements for designation as an ETC in North Dakota. As shown below, BEK meets the requirements outlined in Section 214(e)(1) of the Act²¹ and Section 54.201(d)²² of the FCC’s rules, as well as the additional requirements for ETC designation under Section 54.202 of the FCC’s rules.²³ Additionally, BEK meets the requirements outlined in N.D.A.C. §§ 69-09-05.12 and 69-09-05.12.1. Therefore, it is appropriate that the

¹⁹ 47 U.S.C. §§ 214(e)(1)-(2).

²⁰ 47 C.F.R. §§ 54.201(c)-(d).

²¹ 47 U.S.C. §§ 214(e)(1).

²² 47 C.F.R. §§ 54.201(d).

²³ 47 C.F.R. §§ 54.201(c).

Commission designate BEK as an ETC for the Proposed Service Area, as reflected in **Exhibits A and B**.

A. BEK Meets All Federal Requirements For ETC Designation

BEK meets all criteria for designation as an ETC under federal law. Specifically:

1) For purposes of this designation, BEK will provide voice service on a common carrier basis. BEK currently provides broadband Internet access service and access to voice services by virtue of its IP delivery of voice services to customers. Pursuant to N.D.C.C. § 49-21-02, all persons providing telecommunications service within North Dakota shall be common carriers, and shall be affected with a public interest and subject to the regulation and supervision of the Commission. As to customers and locations where BEK is awarded RDOF support, BEK will provide its voice services on a common carrier basis. As such, BEK is a common carrier (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));

2) BEK will provide voice and broadband services using its own facilities-based network. Specifically, BEK will leverage its buried, fiber-optic network that it began constructing in 2004 and has since been expanding, as well as its Calix last mile platform to deliver voice and broadband services between BEK's Central Office in Steele, North Dakota and the customer premise. As such, BEK will offer the supported services using its own facilities or a combination of its own facilities and resale of another carrier's services (47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1));

3) As required by Section 54.101 of the FCC's rules,²⁴ BEK will offer the voice telephony and broadband services supported by federal universal service support mechanisms, including the following capabilities:

²⁴ 47 C.F.R. § 54.101

Voice Grade Access To The Public Switched Telephone Network – BEK meets this

requirement by virtue of its IP delivery of voice service that includes minutes of use for local service provided at no charge to end users (*i.e.*, plans are generally unlimited usage within the U.S.) and access to emergency services via 911 or E-911, wherever available from local government or public safety organizations. BEK will offer both SIP and VoIP voice services to customers, along with TDM services as needed. Equipment termination for voice services will be made via BEK's traditional IP voice switch at its Central Office in Steele, North Dakota or its hosted VoIP platform as needed. Both are readily scalable far beyond current usage levels to easily accommodate increasing customer demand. BEK will leverage its current network operations and administration to provide voice switching, Gigabit broadband backhaul and customer care. Finally, BEK already has data connection to the Internet and voice interconnection to the LATA tandem for the exchange of traffic.

Local usage “means a number of minutes of use of exchange services, prescribed by the FCC, provided free of charge to end users.”²⁵ The FCC has not specified a minimum amount of local usage that an ETC must offer. BEK will meet the local usage requirement by including local usage in its rate plans which will consist of free local calling to the Mandan and Bismarck rate centers, as well as a bundled unlimited long distance service included with the line for a fixed price. The Cooperative will comply with any minimum local usage requirements adopted by the FCC or this Commission. As provided in BEK's current existing operations, BEK will continue to provide access to emergency services through 911 access to the Central Dakota Communications center, which serves as the PSAP for the Mandan and Bismarck rate centers,

²⁵ 47 C.F.R. § 54.101(a)(2).

and Barnes County 911 Dispatch Center, which serves as the PSAP for Barnes County. With respect to toll limitation service, there is no requirement to provide toll limitation services if the Lifeline offering provides a set number of minutes that do not distinguish between toll and non-toll calls.²⁶ The IP-voice service offerings that BEK will provide in the Proposed Funded Service Area will not distinguish between toll and non-toll calls. Accordingly, BEK is not required to provide toll limitation services and currently has no plans to offer such service. (47 C.F.R. § 54.101(a)(1)).

Broadband Internet Access Services – BEK’s broadband Internet access service provides the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service. BEK certifies that its provision of high-speed broadband Internet over its fiber-based facilities satisfies the FCC’s definition of broadband Internet access services and it will therefore provide all services designated for support by the FCC. (47 C.F.R. § 54.101(a)(2)).

BEK commits to provide these voice and broadband services consistent with applicable high-cost universal service support rules (47 C.F.R. § 54.101(c)). BEK will also offer Lifeline service as required by the FCC’s rules at all locations where it has been awarded support (47 C.F.R. § 54.101(d));

- 4) BEK will offer voice telephony as a standalone service and at rates that are reasonably comparable to urban rates;²⁷
- 5) BEK will advertise the availability of its universal service offerings and charges

²⁶ 47 C.F.R. § 54.401(a)(2).

²⁷ *USF/ICC Transformation Order*, 26 FCC Rcd at 17693, paras. 80-81; *see also* 47 C.F.R. § 54.101(b).

for such offerings using media of general distribution (47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2)), namely through a combination of digital and traditional media, such as the Internet, outbound Email, advertising via radio, TV ads, social media, local newspapers in each county, magazines or other print advertisements such as the BEK Beacon, outdoor advertising, or direct marketing, and will also publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service (47 C.F.R. § 54.405(b));

6) BEK will provide the supported services throughout the Proposed Service Area, identified in **Exhibits A and B**. (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));

7) BEK certifies that, in accordance with 47 U.S.C. § 254(e), it will use federal universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

8) BEK further certifies that it meets all of the applicable requirements for designation as an ETC²⁸ under 47 C.F.R. § 54.202 as follows:

Compliance With Applicable Service and Performance Quality Requirements. BEK certifies that it will comply with the service requirements applicable to the support that it receives,²⁹ including the requirements of the RDOF Auction. BEK's capabilities for providing the services in accordance with these requirements will be detailed in its FCC Form 683 long form application³⁰ and are incorporated by reference. Additionally, BEK certifies that it will comply with the ETC-specific commitments required by the FCC in its *2005 ETC Order*.³¹ The FCC has waived the

²⁸ *Auction 904 Procedures Public Notice*, para. 136; *WCB Reminds Connect America Fund Phase II Applicants of the Process for Obtaining Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, 33 FCC Rcd 6696 (WCB 2018) (*Federal ETC Public Notice*) (waiving the FCC requirement for a winning bidder to file a five-year plan (47 C.F.R. § 54.202(a)(1)(ii)) and to demonstrate that it will satisfy applicable consumer protection and service quality standings (47 C.F.R. § 54.202(a)(3))).

²⁹ 47 C.F.R. § 54.202(a)(1)(i).

³⁰ See BEK's Form 683 Long Form Application.

³¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46 (rel. Mar. 17, 2005) ("2005 ETC Order").

requirement for a winning bidder to file a five-year plan as part of the ETC designation process and to demonstrate that it will satisfy applicable consumer protection and service quality standings.³² BEK is currently subject to and complies with all state and federal consumer protection requirements and service quality standards applicable to its operations. These obligations include, but are not limited to, the following: (1) adherence to state requirements that the Company complies with consumer protection and service quality standards pursuant to North Dakota Administrative Code Article 69, including customer requests for lowest price service alternatives (N.D.A.C. § 69-09-05-01), discontinuance of telecommunications services (N.D.A.C. § 69-09-05-02), deposits and guarantees (N.D.A.C. § 69-09-05-03); (2) truth-in-billing requirements, and (3) CPNI, Red Flag Rules and other applicable federal and state requirements governing the protection of customers' privacy.

BEK has not been the subject of any serious consumer complaints or investigations. BEK certifies that it will continue to prioritize complying with all applicable consumer protection and service quality standards to satisfy this requirement.

Ability to Remain Functional in Emergency Situations. BEK hereby certifies that it is able to function in emergency situations as set forth in Section 54.202(a)(2) of the FCC's rules and N.D.A.C. § 69-09-05-12.³³ BEK has been providing high speed internet service to customers on 24 hours x 365 days a year mode for almost seventy years. As part of providing this commercial

³² *Auction 904 Procedures Public Notice*, para. 136; *WCB Reminds Connect America Fund Phase II Applicants of the Process for Obtaining Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, 33 FCC Rcd 6696 (WCB 2018) (*Federal ETC Public Notice*)(waiving the FCC requirement for a winning bidder to file a five-year plan (47 C.F.R. § 54.202(a)(1)(ii)) and to demonstrate that it will satisfy applicable consumer protection and service quality standings (47 C.F.R. § 54.202(a)(3))).

³³ Section 54.202(a)(2) requires ETCs that are designated by the Commission to "demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of maintaining traffic spikes resulting from emergency situations."

service, it is necessary to have in place contingency plans for credible emergency situations for each of the major network facilities that are geographically distributed across the United States. These plans contain activation, required staffing, escalation, and communication procedures to deal with such emergencies. BEK's voice and broadband network is designed to remain functional in emergency situations without an external power source, reroute traffic around damaged facilities and manage traffic spikes resulting from emergency situations as required by Section 54.202(a)(2) of the FCC's rules.³⁴

All of BEK's ground-based facilities are equipped with independent power generators and sufficient fuel to operate for several days so as to mitigate power outages. More specifically, each Central Office building is supplied with standby generators and battery back-up to enable the Central Office to keep running until power is restored so long as fuel is available or until system changes are made to reroute traffic. BEK's Central Office can maintain approximately 48 hours of battery reserve rated for peak traffic load requirements and a permanent auxiliary power unit is installed or a mobile power source is available which can be delivered and connected within four hours. BEK has battery backup at all office locations and in its electronic equipment sites capable of running for a minimum of approximately 36 hours. Length of run time is determined by the equipment serving the area and the number of customers working out of the equipment. Generators are installed at the Central Office locations and will continue to run as long as BEK has access to fuel. The Cooperative tests the batteries at least annually. BEK's standby generators and battery back-up support both voice and broadband network equipment should an emergency situation occur.

³⁴ 47 C.F.R. § 54.202(a)(2).

BEK's network is capable of managing traffic spikes resulting from emergency situations since the Cooperative can change call routing translations as needed to reroute traffic around damaged facilities. The design of these facilities contains multiple levels of redundancy and autonomy that also mitigate the need for dedicated human interaction. Company plans to apply this successful model to its RDOF Auction services and customers.

B. BEK Meets All State Requirements For ETC Designation

As explained below, BEK also meets all the requirements outlined in N.D.A.C. § 69-09-05-12 for designation as an ETC as follows:

1) An application for designation as an ETC must specifically identify (a) the proposed designated service area; (b) how the applicant meets the requirements for designation as an ETC; (c) whether the applicant requires a waiver of any ETC requirement; and (d) if a waiver is required, the specific reasons for the waiver and the length of time for which the waiver is required. (N.D.A.C. § 69-09-05-12(2)). As stated, BEK's Proposed Service Area is comprised of the CBGs identified in **Exhibit A** and shown on the map in **Exhibit B**. These CBGs are located in Study Area Code: 385144 served by CenturyLink, the incumbent local exchange carrier. BEK meets all federal and state requirements for ETC designation as described herein. BEK also certifies that it does not require a waiver of any ETC requirement;

2) An application for designation as an ETC must commit to provide service throughout its proposed service area to all customers making a reasonable request for service and each applicant shall certify that it will: (1) Provide service on a timely basis to requesting customers within the applicant's proposed designated service area where the applicant's network already passes the potential customer's premises; and (2) Provide service within a reasonable period of time, if the potential customer is within the applicant'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; (b) Deploying a roof-mounted antenna or other equipment; (c) Adjusting the nearest cell tower; (d) Adjusting network or customer facilities; (e) Reselling services from another carrier's facilities to provide service; or (f) Employing, leasing, or constructing an additional cell site, cell extender, repeater, or other similar equipment.” (N.D.A.C. §§ 69-09-05-12(3)(a)(1)&(2)).

BEK commits to providing service throughout its proposed designated service area to all customers making a reasonable request for service. BEK also hereby makes the required certifications listed above;

3) BEK certifies and acknowledges that the Commission may require it to provide equal access to long-distance carriers in the event that no other ETC is providing equal access within the proposed service area pursuant to N.D.A.C. § 69-09-05-12(3)(f); and

4) Finally, BEK certifies and acknowledges that it satisfies the advertising requirements set forth in N.D.A.C. § 69-09-05-12(6). BEK will advertise the availability of universal service as follows: a full description of available services in BEK’s official telephone directory, including the process by which customers may qualify for Lifeline and Link-up service; and in media of general circulation in each eligible telecommunications carrier’s designated service area, including newspapers, company newsletters, company or civic internet sites, bill stuffers, direct mailings and any other means intended to convey availability throughout the service area deemed appropriate by BEK.

VII. DESIGNATION OF COMPANY AS AN ETC IS IN THE PUBLIC INTEREST

Section 54.202(b) of the FCC’s rules requires a finding that ETC designation is in the public

interest prior to making an ETC designation.³⁵ In the FCC's *RDOF Auction Order* concerning the RDOF program, the FCC stated that the "Rural Digital Opportunity Fund represents the FCC's single biggest step to close the digital divide" and it "will ensure that networks stand the test of time by prioritizing higher network speeds and lower latency, so that those benefitting from these networks will be able to use tomorrow's Internet applications as well as today's."³⁶ The RDOF Auction is the FCC's next step in reaching "its goal of connecting all Americans, no matter where they live and work."³⁷ This is especially crucial for residents in rural communities since who "cannot connect to the digital economy and the opportunities for better education, employment, healthcare, and civic and social engagement" without broadband.³⁸

As a winning bidder in the RDOF Auction, BEK is eligible to receive funding support over the next ten years to bring high-quality, innovative voice and broadband services to consumers in locations in central North Dakota for which it was identified as a winning bidder. The voice and broadband services BEK proposes to deploy with the funds would advance the goal of the RDOF Auction and thereby advance the goals of universal service.³⁹

BEK's service area has an average population density of 2.5 people per square mile and a member density of 0.9 members per square mile. However, the rural density in BEK's rural LEC study area is only 0.3 members per square mile. Granting BEK's Application will serve the public interest through the deployment of broadband and voice services to unserved and underserved high-cost areas in North Dakota, support investment in facilities and equipment, and expand the

³⁵ 47 C.F.R. § 54.202(b).

³⁶ See *Rural Digital Opportunity Fund Order* at para. 3.

³⁷ *Id.* at para. 1.

³⁸ *Id.*

³⁹ 47 U.S.C. § 254.

number of competitive providers serving rural areas in North Dakota. Designating BEK as an ETC will permit the company to receive RDOF funds designated for North Dakota, directly advancing the goals of the FCC's Rural Digital Opportunity Fund and the Auction. BEK's resulting deployments will bring expanded voice and broadband connectivity to rural areas in North Dakota, helping to close the digital divide for residents of North Dakota, and expanding economic opportunity for communities that will benefit from increased connectivity. Designating BEK as an ETC will also help promote economic and job growth in North Dakota through the employment of BEK's network of independent installers and dealers. Because granting BEK's Application will allow it to use the RDOF funds as intended to expand voice and broadband service in North Dakota, designating BEK as an ETC is in the public interest.

Furthermore, the funds provisionally awarded to BEK through the RDOF Auction will come directly from the funds annually set aside by the FCC for RDOF support. Therefore, BEK's use of the Universal Service Fund for the provision of the services described herein will have no *per se* impact on the funds. The RDOF funding was awarded pursuant to a competitive bidding process that was designed to allocate this set-aside finding to the service providers that could demonstrate that they could efficiently and cost-effectively provide the desired level of services to the underserved areas. Additionally, any Lifeline support that BEK receives will have *de minimis* impact on the fund, which the FCC has determined would be outweighed by the benefit of increasing participation in the Lifeline program. Finally, all providers are required to contribute a portion of their interstate revenues to the Universal Service Fund. In accordance with federal regulations, BEK will contribute to the Universal Service Fund based upon the portion of its revenues determined to be interstate. Thus, approving Company as an ETC will create contributions to the Universal Service Fund that were previously nonexistent.

VIII. CONCLUSION

For the reasons stated herein, BEK respectfully requests (i) an expeditious Order designating the Company as an ETC in North Dakota for the purpose of being eligible to receive federal funding pursuant to the RDOF Auction - Phase I, in the area identified in **Exhibits A and B**, without a hearing if no interested party has requested a hearing on this Application after receiving at least twenty (20) days notice of opportunity to request such a hearing; and (ii) such other relief as this Commission deems to be just and equitable.

Date: December 18, 2020

Respectfully submitted,

BEK Communications Cooperative

By: 

Derrick Bulawa
CEO, General Manager
BEK Communications
Cooperative
200 East Broadway, PO
Box 230 Steele, North
Dakota 58482
Phone: 701-475-1220
derrick@bektel.coop

LIST OF EXHIBITS

Exhibit A - List of BEK Awarded RDOF Census Block Groups & Census Blocks

Exhibit B - Map of BEK Awarded RDOF Census Block Groups

Exhibit C – Map of BEK Communications Cooperative ILEC Service Territory

Exhibit D – Map of BEK Awarded CAF II, designated as ETC

Exhibit E – Amended Articles of Incorporation

Exhibit F – Certificate of Good Standing

Exhibit A

RDOF Phase I - BEK Awarded Funded Census Block Groups

Census Block Group	State	County	Locations
380039679001	ND	Barnes	46
380039680002	ND	Barnes	15
380039680003	ND	Barnes	1
380150102004	ND	Burleigh	3
380150104003	ND	Burleigh	20
380150109002	ND	Burleigh	2
380150110011	ND	Burleigh	4
380150110013	ND	Burleigh	2
380150110021	ND	Burleigh	5
380150110022	ND	Burleigh	1
380150111051	ND	Burleigh	2
380150113002	ND	Burleigh	1
380150113003	ND	Burleigh	15
380590202005	ND	Morton	3
380590203003	ND	Morton	30
380590203004	ND	Morton	19
380590204001	ND	Morton	15
380590204002	ND	Morton	70
380590204003	ND	Morton	78
380590203001	ND	Morton	5
Total CBGs	20	Total Locations	337

EXHIBIT A1

RDOF Phase I - BEK Funded Census Blocks

Census Block ID (CB)	Item	State	County	Census Block Group ID (CBG)
380039679001113	ND-003-9679001	ND	Barnes	380039679001
380039679001114	ND-003-9679001	ND	Barnes	380039679001
380039679001115	ND-003-9679001	ND	Barnes	380039679001
380039679001128	ND-003-9679001	ND	Barnes	380039679001
380039679001129	ND-003-9679001	ND	Barnes	380039679001
380039679001145	ND-003-9679001	ND	Barnes	380039679001
380039679001146	ND-003-9679001	ND	Barnes	380039679001
380039679001147	ND-003-9679001	ND	Barnes	380039679001
380039679001171	ND-003-9679001	ND	Barnes	380039679001
380039679001174	ND-003-9679001	ND	Barnes	380039679001
380039679001178	ND-003-9679001	ND	Barnes	380039679001
380039679001182	ND-003-9679001	ND	Barnes	380039679001
380039679001183	ND-003-9679001	ND	Barnes	380039679001
380039679001223	ND-003-9679001	ND	Barnes	380039679001
380039679001257	ND-003-9679001	ND	Barnes	380039679001
380039679001258	ND-003-9679001	ND	Barnes	380039679001
380039679001286	ND-003-9679001	ND	Barnes	380039679001
380039679001550	ND-003-9679001	ND	Barnes	380039679001
380039680002131	ND-003-9680002	ND	Barnes	380039680002
380039680002135	ND-003-9680002	ND	Barnes	380039680002
380039680002141	ND-003-9680002	ND	Barnes	380039680002
380039680002143	ND-003-9680002	ND	Barnes	380039680002
380039680002144	ND-003-9680002	ND	Barnes	380039680002
380039680002145	ND-003-9680002	ND	Barnes	380039680002
380039680002148	ND-003-9680002	ND	Barnes	380039680002
380039680003101	ND-003-9680003	ND	Barnes	380039680003
380150102004021	ND-015-0102004	ND	Burleigh	380150102004
380150104003030	ND-015-0104003	ND	Burleigh	380150104003
380150104003031	ND-015-0104003	ND	Burleigh	380150104003
380150109002028	ND-015-0109002	ND	Burleigh	380150109002
380150110011032	ND-015-0110011	ND	Burleigh	380150110011
380150110013039	ND-015-0110013	ND	Burleigh	380150110013
380150110021040	ND-015-0110021	ND	Burleigh	380150110021
380150110021053	ND-015-0110021	ND	Burleigh	380150110021

380150110022048	ND-015-0110022	ND	Burleigh	380150110022
380150111051026	ND-015-0111051	ND	Burleigh	380150111051
380150113002007	ND-015-0113002	ND	Burleigh	380150113002
380150113003067	ND-015-0113003	ND	Burleigh	380150113003
380150113003068	ND-015-0113003	ND	Burleigh	380150113003
380150113003072	ND-015-0113003	ND	Burleigh	380150113003
380150113003086	ND-015-0113003	ND	Burleigh	380150113003
380150113003093	ND-015-0113003	ND	Burleigh	380150113003
380150113003158	ND-015-0113003	ND	Burleigh	380150113003
380150113003250	ND-015-0113003	ND	Burleigh	380150113003
380590202005025	ND-059-0202005	ND	Morton	380590202005
380590202005032	ND-059-0202005	ND	Morton	380590202005
380590202005060	ND-059-0202005	ND	Morton	380590202005
380590203001019	ND-059-0203001	ND	Morton	380590203001
380590203001026	ND-059-0203001	ND	Morton	380590203001
380590203003020	ND-059-0203003	ND	Morton	380590203003
380590203003045	ND-059-0203003	ND	Morton	380590203003
380590203003051	ND-059-0203003	ND	Morton	380590203003
380590203003092	ND-059-0203003	ND	Morton	380590203003
380590203003106	ND-059-0203003	ND	Morton	380590203003
380590203003109	ND-059-0203003	ND	Morton	380590203003
380590203003114	ND-059-0203003	ND	Morton	380590203003
380590203003193	ND-059-0203003	ND	Morton	380590203003
380590203003195	ND-059-0203003	ND	Morton	380590203003
380590203003200	ND-059-0203003	ND	Morton	380590203003
380590203003201	ND-059-0203003	ND	Morton	380590203003
380590203004021	ND-059-0203004	ND	Morton	380590203004
380590203004042	ND-059-0203004	ND	Morton	380590203004
380590203004043	ND-059-0203004	ND	Morton	380590203004
380590203004102	ND-059-0203004	ND	Morton	380590203004
380590203004107	ND-059-0203004	ND	Morton	380590203004
380590204001325	ND-059-0204001	ND	Morton	380590204001
380590204001333	ND-059-0204001	ND	Morton	380590204001
380590204001337	ND-059-0204001	ND	Morton	380590204001
380590204001340	ND-059-0204001	ND	Morton	380590204001
380590204001341	ND-059-0204001	ND	Morton	380590204001
380590204001342	ND-059-0204001	ND	Morton	380590204001
380590204002002	ND-059-0204002	ND	Morton	380590204002
380590204002022	ND-059-0204002	ND	Morton	380590204002
380590204002028	ND-059-0204002	ND	Morton	380590204002

380590204003047	ND-059-0204003	ND	Morton	380590204003
380590204003050	ND-059-0204003	ND	Morton	380590204003
380590204003054	ND-059-0204003	ND	Morton	380590204003
380590204003057	ND-059-0204003	ND	Morton	380590204003
380590204003065	ND-059-0204003	ND	Morton	380590204003
380590204003067	ND-059-0204003	ND	Morton	380590204003
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380590204003075	ND-059-0204003	ND	Morton	380590204003
380590204003076	ND-059-0204003	ND	Morton	380590204003
380590204003077	ND-059-0204003	ND	Morton	380590204003
380590204003080	ND-059-0204003	ND	Morton	380590204003
380590204003093	ND-059-0204003	ND	Morton	380590204003
380590204003098	ND-059-0204003	ND	Morton	380590204003
380590204003104	ND-059-0204003	ND	Morton	380590204003
380590204003108	ND-059-0204003	ND	Morton	380590204003
380590204003137	ND-059-0204003	ND	Morton	380590204003
380590204003139	ND-059-0204003	ND	Morton	380590204003
380590204003144	ND-059-0204003	ND	Morton	380590204003
380590204003148	ND-059-0204003	ND	Morton	380590204003
380590204003153	ND-059-0204003	ND	Morton	380590204003
380590204003155	ND-059-0204003	ND	Morton	380590204003
380590204003156	ND-059-0204003	ND	Morton	380590204003
380590204003161	ND-059-0204003	ND	Morton	380590204003
380590204003163	ND-059-0204003	ND	Morton	380590204003
380590204003302	ND-059-0204003	ND	Morton	380590204003
380590204003303	ND-059-0204003	ND	Morton	380590204003
380590204003513	ND-059-0204003	ND	Morton	380590204003
380590204003539	ND-059-0204003	ND	Morton	380590204003

Total CBs	143			
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Exhibit B.1

RDOF Awarded Service Area Morton and Burleigh Counties

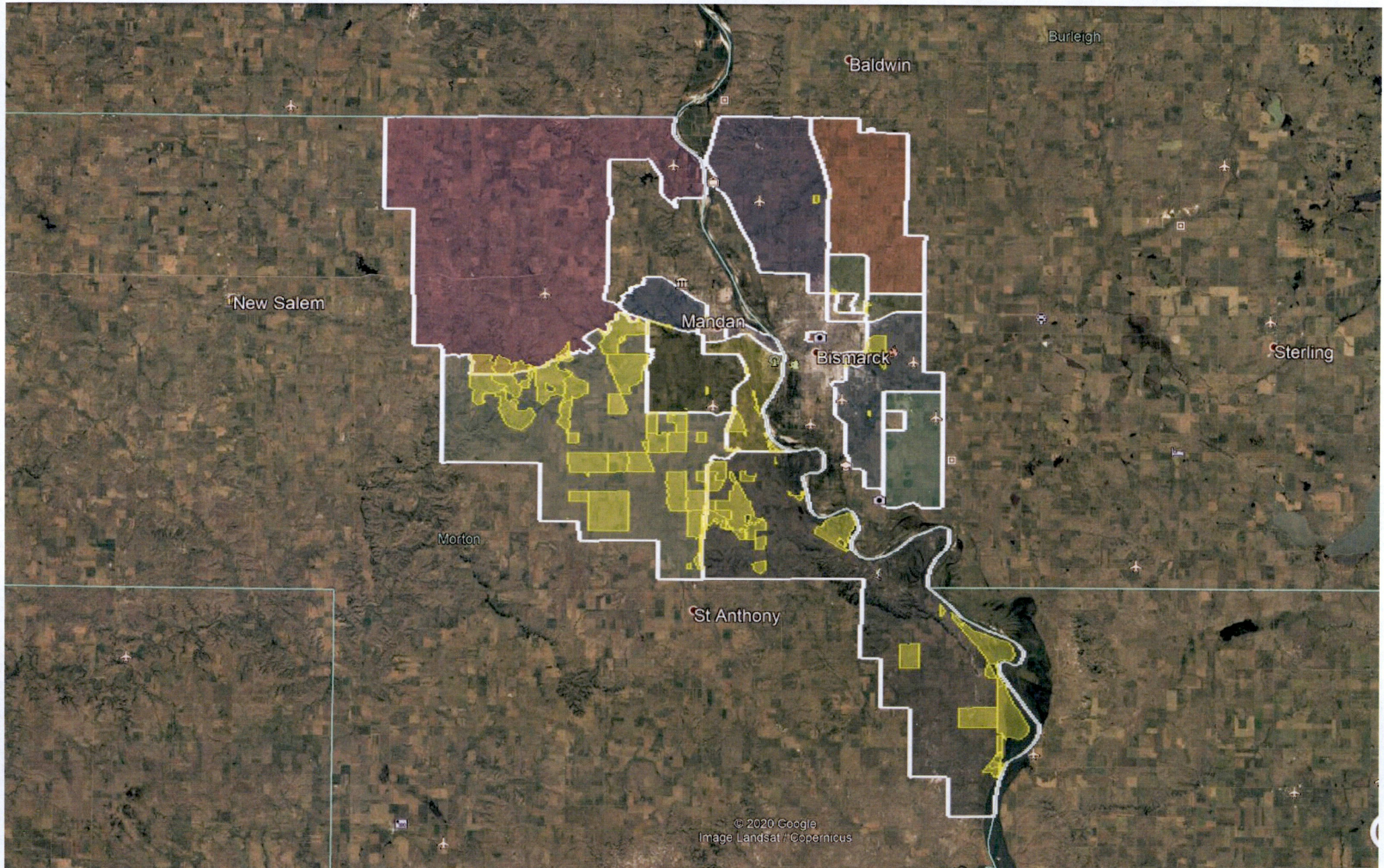


Exhibit B.2

RDOF Awarded Service Area Barnes County

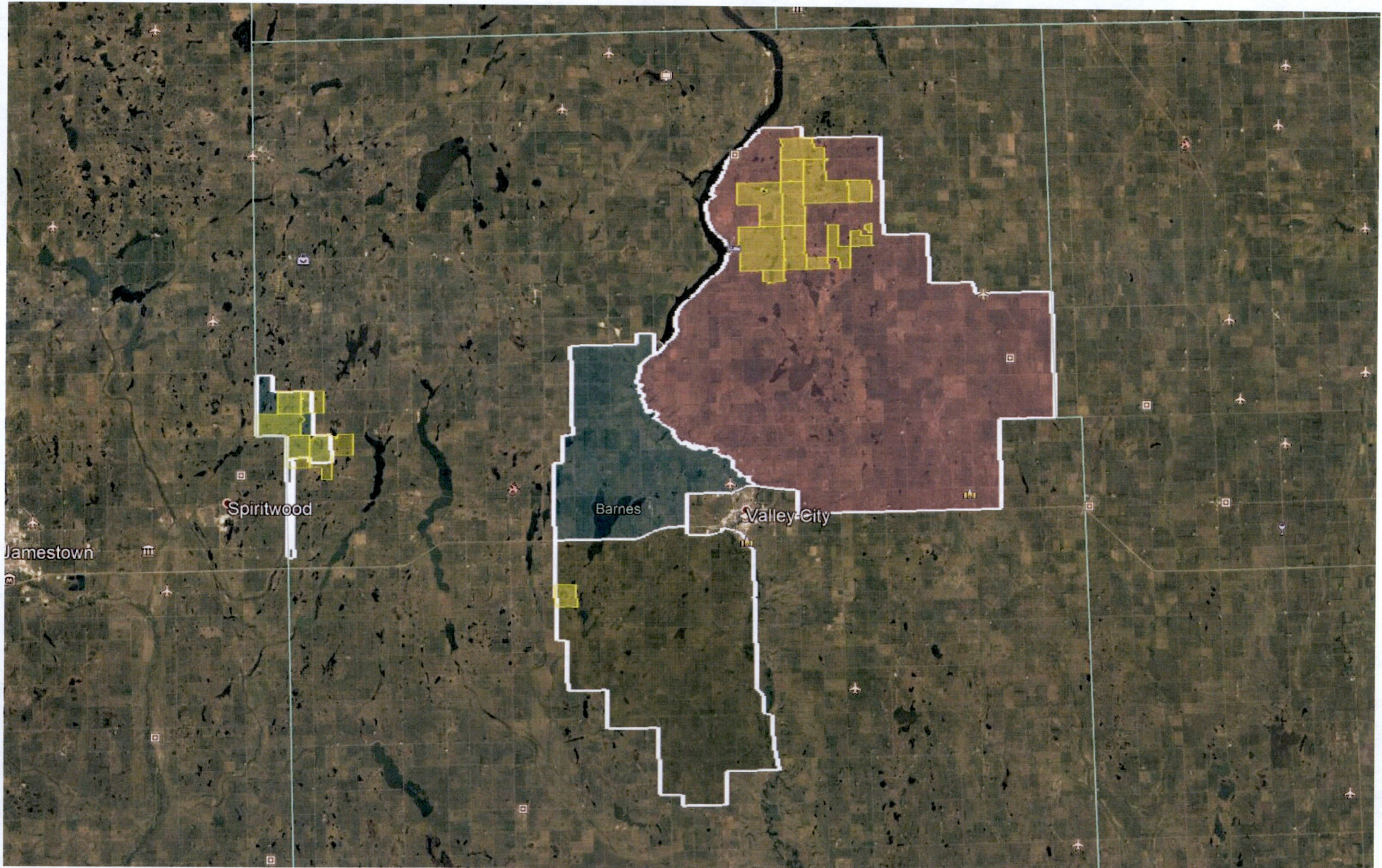


Exhibit C

BEK Communications Cooperative ILEC Service Territory

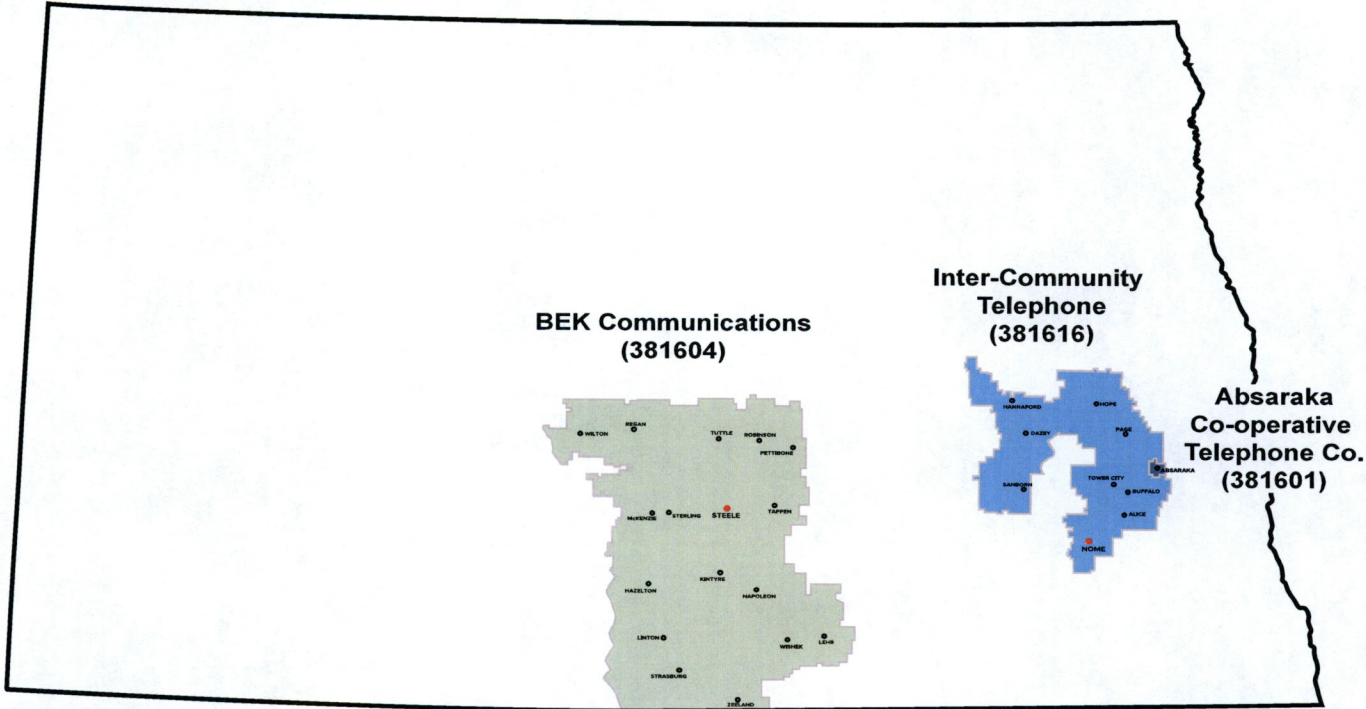


Exhibit D

Awarded CAF II

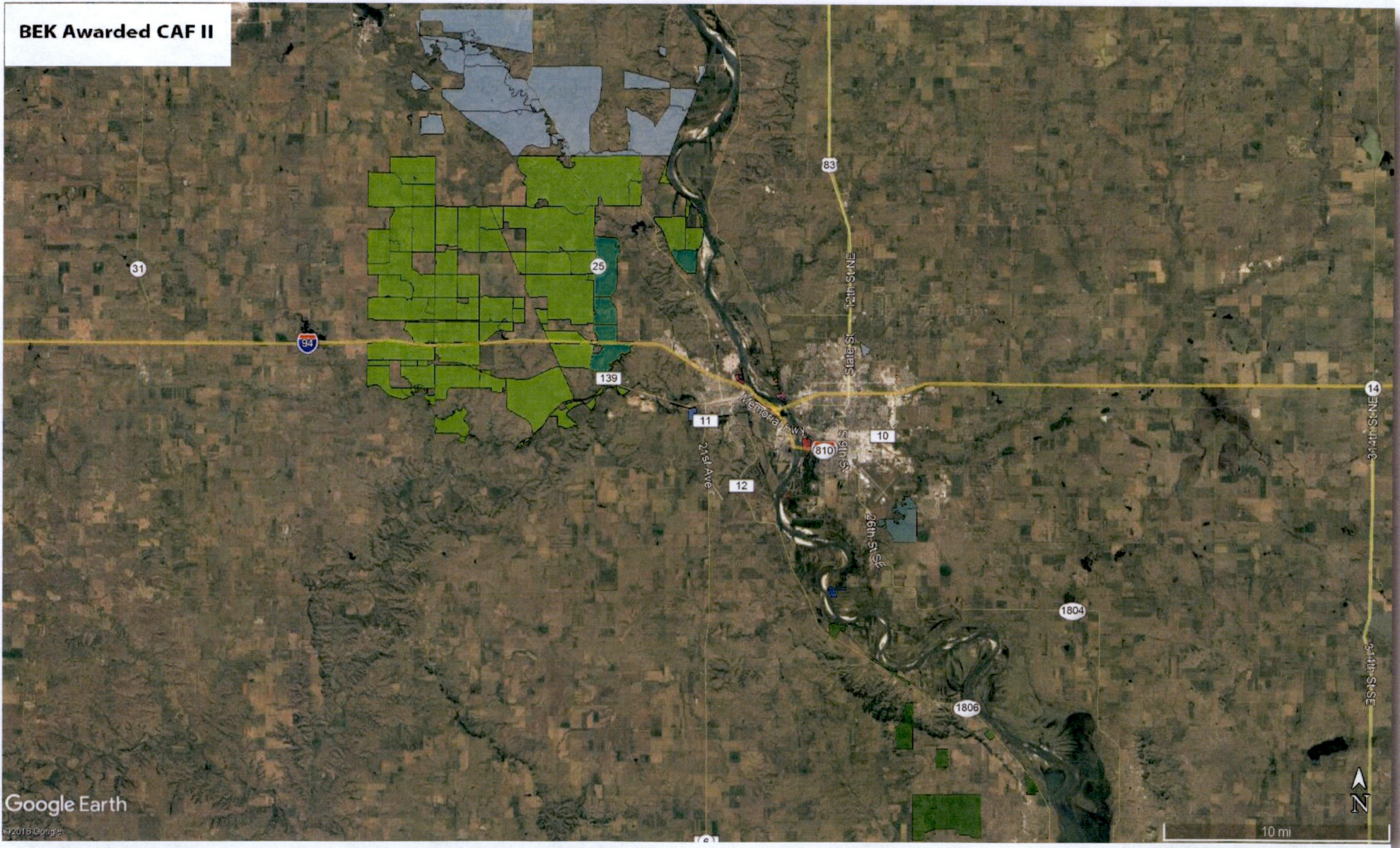


EXHIBIT E

AMENDED ARTICLES OF INCORPORATION Of BEK COMMUNICATIONS COOPERATIVE

KNOW ALL MEN OF THESE PRESENTS: That we, the undersigned, have this day voluntarily associated ourselves together for the purpose of forming a corporation under the provisions of Chapter 10-12, Revised Code of 1943, and amendments thereto; and we hereby certify that:

1. The name of said corporation is BEK Communications Cooperative.⁵
2. The purpose of this corporation is to furnish, improve and expand communications services to the residents of the territory in which it operates.⁴
3. The principal place of business of said corporation shall be in the city of Steele, in Kidder County, North Dakota.
4. The telephone line is intended to be run from Hague, North Dakota, to Picardville, North Dakota, and the branches contemplated are from Menoken, North Dakota, to Crystal Springs, North Dakota, from Wilton, North Dakota to Pettibone, North Dakota, and intermediate points. The counties through which it is intended to be run are Burleigh, Emmons, Kidder, Logan, McLean, McIntosh, and Sheridan, all in North Dakota. The estimated length of telephone lines is 3800 miles, and the estimated cost is \$4,500,000.00.^{1,7}
5. This cooperative is organized without capital stock and the property rights and interest of the members shall be unequal. The general rules applicable to all members by which the property rights and interests respectively of each member shall be determined and fixed are as follows: Upon dissolution, after (a) all debts and liabilities of the cooperative shall have been paid, and (b) all capital furnished through patronage shall have been retired as provided in the bylaws, the remaining property and assets of the cooperative shall be distributed among the members and former members in the proportion which the aggregate patronage of each bears to the total patronage of all such members.
6. [deleted] ^{2,3,6,7}
7. The number of its directors shall be limited to no more than nine.^{7,8,9,10}
8. The time for which this corporation is to exist is not limited, but it shall exist perpetually, unless dissolved according to the law.

IN WITNESS WHEREOF, We have hereunto set our hands and seals this 3rd day of October, A. D. 1952.

Amended: 1) October 14, 1954; 2) June 12, 1970; 3) June 10, 1977; 4) June 7, 1979; 5) June 14, 1990; 6) June 12, 1997; 7) June 8, 2000; 8) June 12; 2003; 9) June 9, 2011, 10) June 9, 2016.

Exhibit F

Certificate of Good Standing

State of North Dakota SECRETARY OF STATE



Certificate of Good Standing of BEK COMMUNICATIONS COOPERATIVE

SOS Control ID#: 0000013967

Certificate #: 019355528

The undersigned, as Secretary of State of the state of North Dakota, hereby certifies that, according to the records of this office,

BEK COMMUNICATIONS COOPERATIVE

a Cooperative - Mutual Aid was formed under the laws of NORTH DAKOTA and filed with this office effective October 16, 1952. This entity has, as of the date set forth below, complied with all applicable North Dakota laws.

ACCORDINGLY, the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Good Standing.

DATE: December 16, 2020

A handwritten signature in cursive script, reading "Alvin A. Jaeger".

Alvin A. Jaeger
Secretary of State