

January 20, 2021

**VIA U.S. MAIL**

Mr. Darrell Nitschke  
Mr. Steve Kahl  
North Dakota Public Service Commission  
600 East Boulevard Avenue  
Dept. 408  
Bismarck, ND 58505-0480

Re: Daktel Communications, LLC  
Eligible Telecommunications Carrier Application

Dear Mr. Nitschke:

Enclosed for filing is one unbound original and seven copies of Daktel Communications, LLC's Application for Designation as an Eligible Telecommunications Carrier.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael S. Raum".

Michael S. Raum  
**Direct Dial:** 701.237.8212  
**Email:** mraum@fredlaw.com

MSRdl  
Enclosure

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1 PU-21-41 Filed 01/21/2021 Pages: 32  
Application for Designation as Eligible Telecommunications Carrier  
Daktel Communications LLC  
Michael Raum, Fredrikson&Byron, P.A.

**BEFORE THE NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

In the Matter of )  
 )  
Application of Daktel Communications, LLC )  
for Designation as an Eligible Telecommunications )  
Carrier to Receive Rural Digital Opportunity ) Docket No. \_\_\_\_\_  
Fund Phase I Auction (Auction 904) Support and )  
Lifeline Support for Voice and Broadband Services )

**APPLICATION OF DAKTEL COMMUNICATIONS, LLC FOR DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER  
REQUEST FOR EXPEDITED CONSIDERATION**

Daktel Communications, LLC (“Daktel” or “Applicant”), pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”),<sup>1</sup> Sections 54.201 and 54.202<sup>2</sup> of the rules and regulations of the Federal Communications Commission (“FCC”) and in accordance with the North Dakota Public Service Commission’s (“Commission”) 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, respectfully requests designation as a High-Cost and Low Income Eligible Telecommunications Carrier (“ETC”) in the State of North Dakota in all areas where Applicant was selected as a winning bidder in the FCC’s Rural Digital Opportunity Fund (“RDOF”) Phase I Auction (Auction 904) (the “RDOF Auction”),<sup>3</sup> as well as Lifeline-only ETC designation status in certain additional areas throughout its North Dakota service territory.

Applicant will deploy broadband and voice services throughout the RDOF Phase I-eligible census blocks identified in **Exhibit A** and seeks ETC designation from the Commission to participate in both High-Cost and Low-Income programs of the federal Universal Service

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<sup>1</sup> 47 U.S.C. § 214(e)(2).

<sup>2</sup> 47 C.F.R §§ 54.201 and 54.202.

<sup>3</sup> 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”).

Fund in order to serve these census blocks. In addition, Applicant seeks Lifeline-only ETC designation status in the additional service areas identified in **Exhibit B**.

Applicant's receipt of RDOF funding is conditioned upon it obtaining designation as an ETC in the eligible census blocks by June 7, 2021.<sup>4</sup> As a result, Applicant requests expeditious action by the Commission so that it may meet this requirement. 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 Applicant, as an ETC. As demonstrated in this Application, Applicant meets all state and federal requirements for ETC designation, and, as shown by the description herein of Applicant's planned voice and broadband deployment projects, designating Applicant 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, Applicant states as follows:

**I. INFORMATION AND BACKGROUND REGARDING DAKTEL**

Pursuant to Commission Rule N.D.A.C §69-02-02-04(1), Daktel states its name, address, telephone number and designated contact person as follows:

Daktel Communications, LLC  
630 5<sup>th</sup> St N  
PO Box 299  
Carrington, ND 58421  
Contact: Keith A. Larson  
Phone: 701-652-6105

Daktel Communications, LLC was incorporated under the laws of the State of North Dakota on April 11, 2000 and is headquartered at 630 5<sup>th</sup> St N, Carrington, North Dakota. A copy of Daktel's certified Articles of Incorporation and subsequent amendments are attached hereto as **Exhibit C**. A copy of Daktel's Certificate of Good Standing is attached hereto as **Exhibit D**. The

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<sup>4</sup> *Auction 904 Results Public Notice*, para. 17 on p. 7.

ownership and organizational structure of Daktel is depicted on **Exhibit E**.

Applicant has been providing voice and broadband services in Stutsman County since 2003. Applicant is dedicated to supporting its customers and economic development in the communities it serves. As such, Applicant participated in the RDOF Auction for the purpose of providing high-speed, reliable and affordable Internet service within rural Stutsman County to customers who currently lack access to such services.

## **II. COMMUNICATIONS AND CORRESPONDENCE**

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

Application should be provided to:

Michael S. Raum #05676  
Fredrickson & Byron, P.A.  
51 Broadway North, Suite 400  
Fargo, ND 58102  
Phone (701) 237-8200  
Email: mraum@fredlaw.com

David B. Tibbals #08140  
Fredrickson & Byron, P.A.  
51 Broadway North, Suite 400  
Fargo, ND 58102  
Phone (701) 237-8200  
Email: dtibbals@fredlaw.com

With a copy to:

Keith A. Larson  
Daktel Communications, LLC  
630 5<sup>th</sup> St N  
Carrington, ND 58421  
Phone (701) 652-6105  
Email: keithl@dakotacentral.com

## **III. DAKTEL'S 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*,<sup>5</sup> 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

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<sup>5</sup> See generally *Rural Digital Opportunity Fund; Connect America Fund*, Order, 35 FCC Rcd 686 (2020) (*Rural Digital Opportunity Fund Order*).

and businesses to high-speed broadband networks as part of the FCC's biggest step to close the digital divide.<sup>6</sup> 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.<sup>7</sup>

### **B. Daktel'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.<sup>8</sup> The FCC provisionally selected Applicant as a winning bidder for a number of locations throughout North Dakota.<sup>9</sup> As a recipient of RDOF support, Applicant is required to offer at 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. Applicant is required to buildout to 40% of the requisite number of locations in North Dakota within three years of authorization.<sup>10</sup> This performance benchmark increases by 20% by the end of the fourth and fifth years of support.<sup>11</sup> By the end of year six, revised location totals will be announced.<sup>12</sup> If there are fewer locations than originally estimated by the cost model, Applicant must serve the revised number of locations by the end of the sixth year of support.<sup>13</sup> If there are more locations than originally estimated by the cost model, Applicant 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

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<sup>6</sup> Id.

<sup>7</sup> *Auction 904 Procedures Public Notice*, para. 1.

<sup>8</sup> *Auction 904 Results Public Notice*, Attachment A. at p. 10.

<sup>9</sup> Id.

<sup>10</sup> *Auction 904 Procedures Public Notice*, para. 17.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id.

year of support.<sup>14</sup>

### **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.<sup>15</sup> Instead, a company 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.<sup>16</sup> Winning bidders must submit appropriate documentation of such ETC status to the FCC.<sup>17</sup> As noted, Applicant has been awarded RDOF support for a number of locations in North Dakota. Because the timeframe for Applicant to obtain ETC designation is short and the consequences of failure to do so are severe, Applicant respectfully requests that the Commission review this Application promptly and grant Applicant ETC designation in the proposed ETC designation area on an expedited basis.

## **IV. APPLICANT AND ITS TECHNICAL QUALIFICATIONS**

### **A. Daktel's Expertise and Experience**

Applicant is qualified to meet applicable RDOF obligations given its proven track record of technical and commercial success operating as a provider of voice and broadband for over 15 years. Applicant will leverage its resources and experience as a provider of voice and broadband in the proposed ETC designation area. Applicant is proud to have at its disposal its staff of experienced engineers that are familiar with the residents and businesses in the proposed ETC designation area and have established relationships with contractors and officials in the proposed ETC designation area. Applicant's engineers are also knowledgeable in the fields of

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<sup>14</sup> Id.

<sup>15</sup> *Auction 904 Procedures Public Notice*, para. 136.

<sup>16</sup> Id.

<sup>17</sup> Id.

communications technology, hardware design, software development, data analytics, and networking. This expertise made it possible for Applicant to participate in the RDOF Auction with the confidence that Applicant will be able to fulfill its obligations. Applicant has experience managing the technical and customer service-related issues associated with the provision of voice and broadband services. Applicant will apply this same level of customer service and network monitoring to its broadband and voice customers.

### **B. Daktel's Services and Network Architecture**

Applicant will jump-start high-speed Internet service in an area that has been mostly unserved or underserved. Applicant will construct a new, state-of-the art, low-latency, fiber-to-the-home ("FTTH") network, consisting of underground fiber to deliver high-speed broadband and traditional voice services to homes and businesses in the proposed ETC designation area, which largely lacks access to such high-speed, broadband services. Through the expansion of its FTTH network, Applicant will offer broadband and voice services to customers in its proposed ETC designation area. These customers are expected to total approximately 66, with 40 voice customers and 66 broadband customers.

Applicant's FTTH network will be the backbone of the high-speed services on which customers will rely. Applicant will provide customers with competitively superior broadband and voice services now and into the future. Applicant plans to initially offer residential and business voice and Internet service at the following bi-directional speeds and monthly prices:

#### Residential

- |                    |          |
|--------------------|----------|
| • 60 x 6 Mbps      | \$49.95  |
| • 100 x 10 Mbps    | \$59.95  |
| • 500 x 500 Mbps   | \$79.95  |
| • 1000 x 1000 Mbps | \$184.00 |
| • Voice Service    | \$23.50  |

Business

• 60 x 6 Mbps	\$59.95	
• 100 x 10 Mbps	\$74.95	
• 500 x 50 Mbps	\$119.95	
• 60 x 60 Mbps	\$99.95	
• 100 x 100 Mbps	\$139.95	
• 500 x 500 Mbps	\$184.95	
• 1000 x 1000 Mbps	\$299.99	2 Terabyte Usage Cap
• 1000 X 1000 Mbps	\$499.00	Unlimited Usage
• Voice Service	\$34.50	

Daktel will provide voice services through its Genband C15 voice switch over its fiber-based facilities. Daktel's voice service will include the following features and capabilities: long distance, caller-ID, call waiting, E911, call return, robo call blocking, personalized user portal, call detail records via portal, call forwarding (with failover), caller ID blocking, simultaneous ring, three-way calling, voicemail, missed call alert via email and hunting/rollover calls. Daktel's voice service will satisfy the FCC's definition of voice telephony service, as well as requirements under RDOF.

**V. COMMISSION HAS AUTHORITY TO DESIGNATE APPLICANT AS AN ETC**

The Commission has the authority to designate Applicant 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.<sup>18</sup> 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,

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<sup>18</sup> 47 U.S.C. §§ 214(e)(1)-(2).

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.<sup>19</sup>

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.

## **VI. DAKTEL MEETS THE STATE AND FEDERAL STATUTORY AND REGULATORY REQUIREMENTS FOR ETC DESIGNATION**

Daktel meets all applicable federal and state requirements for designation as an ETC in North Dakota. As shown below, Daktel meets the requirements outlined in Section 214(e)(1) of the Act<sup>20</sup> and Section 54.201(d)<sup>21</sup> of the FCC’s rules, as well as the additional requirements for ETC designation under Section 54.202 of the FCC’s rules.<sup>22</sup> Additionally, Daktel 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 Commission designate Daktel as an ETC in the census blocks reflected in **Exhibit A** to participate in both the High-Cost and Low-Income programs of the federal Universal Service Fund and as a Lifeline-only ETC throughout the service area reflected in **Exhibit B**.

### **A. Daktel Meets All Federal Requirements For ETC Designation**

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

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<sup>19</sup> 47 C.F.R. §§ 54.201(c)-(d).

<sup>20</sup> 47 U.S.C. §§ 214(e)(1).

<sup>21</sup> 47 C.F.R. §§ 54.201(d).

<sup>22</sup> 47 C.F.R. §§ 54.201(c).

1) For purposes of this designation, Applicant will provide service on a common carrier basis. Daktel currently provides broadband Internet access service and access to voice services by virtue of its 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 Daktel is awarded support, Daktel will provide its voice services on a common carrier basis. As such, Daktel is a common carrier. (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));

2) Daktel will provide voice and broadband services using its own facilities. Specifically, Daktel will be a facilities-based broadband Internet access and voice service provider. Daktel will construct a fiber-optic network to deliver voice and broadband services between Daktel's central office building and the customer premise. Therefore, Daktel will offer the supported services using its own facilities. (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,<sup>23</sup> Daktel will offer the voice telephony and broadband services supported by federal universal service support mechanisms, including the following capabilities:

(i) Voice Grade Access To The Public Switched Telephone Network – Daktel will meet this requirement through its provision of voice service that will include unlimited local minutes, measured long distance minutes and access to emergency services via 911 or E-911, wherever available from local government or public safety organizations.

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<sup>23</sup> 47 C.F.R. § 54.101

Local usage “means an amount of minutes of use of exchange services, prescribed by the FCC, provided free of charge to end users.”<sup>24</sup> The FCC has not specified a minimum amount of local usage that an ETC must offer. Daktel will meet the local usage requirement by including unlimited local usage in its rate plans. Daktel will comply with any minimum local usage requirements adopted by the FCC or this Commission. Daktel’s voice service offering will provide customers with access to 911 and enhanced 911 to the extent local governments have implemented such services. Finally, with respect to toll limitation service, Daktel will offer toll blocking service at no charge and free calling of 800 numbers to its subscribers as part of its Lifeline service offering. Daktel offers monthly traditional phone service. North Dakota Long Distance is Daktel’s carrier for Long Distance service and fees, in addition to the per month or per billing cycle price of service, do apply for toll calls. Therefore, Daktel commits to provide toll limitation services and will offer toll blocking service at no charge to qualifying low-income subscribers as part of its Lifeline service offering, as provided in §§ 54.400-54.423 of the FCC’s rules.

(ii) Broadband Internet Access Services – Daktel’s broadband Internet access service will provide 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. Daktel certifies that its provision of high-speed broadband Internet over its fiber-based facilities will satisfy the FCC’s definition of broadband Internet access and it will therefore provide all services designated for support by the FCC (47 C.F.R. § 54.101(a)(2)).

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<sup>24</sup> 47 C.F.R. § 54.101(a)(2).

Daktel commits to provide these services consistent with applicable high-cost universal service support rules (47 C.F.R. § 54.101(c)). Daktel will 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) Daktel will offer voice telephony as a standalone service and both voice telephony and broadband at rates that are reasonably comparable to urban rates;<sup>25</sup>

5) Daktel will advertise the availability of its universal service offerings and charges 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, newspapers, magazines or other print advertisements, 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. Specifically, Daktel's advertising strategy will build on its extensive advertising and public outreach experience in operating as a telecommunications provider in the area since 2003. (47 C.F.R. § 54.405(b));

6) Daktel will provide the supported services throughout the proposed ETC designation area, identified in **Exhibits A and B**. (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));

7) Daktel 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) Daktel possesses the financial and technical capability to provide the supported services. Daktel will offer high-speed broadband Internet and voice services to both Lifeline and non-Lifeline customers in the proposed ETC designation area and has full financial capabilities

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<sup>25</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17693, paras. 80-81; *see also* 47 C.F.R. § 54.101(b).

to underwrite its share of construction and start-up expenses (e.g., construction, hardware, operations, etc.) to get its fiber optic network built and begin offering voice and broadband services. As stated, Daktel has been operating as a telecommunications service provider in North Dakota since 2003. Daktel does not, and will not, rely on universal service fund disbursements to operate. Daktel has the requisite amount of capital and Daktel will be able to obtain additional financing, if necessary, in addition to the RDOF Phase I support being made available to Daktel. Finally, Daktel has not been subject to any enforcement proceedings or ETC revocation proceedings. Daktel will be able to leverage its substantial experience in maintaining and upgrading utility infrastructure. Accordingly, Daktel is capable of managing, maintaining and repairing infrastructure for support of the proposed services. (47 C.F.R. § 54.202(a)(4));

9) Daktel further certifies that it meets all of the applicable requirements for designation as an ETC<sup>26</sup> under 47 C.F.R. § 54.202 as follows:

Compliance With Applicable Service and Performance Quality Requirements. Daktel certifies that it will comply with the service requirements applicable to the support that it receives,<sup>27</sup> including the requirements of the RDOF Auction. Daktel's capabilities for providing the services in accordance with these requirements will be detailed in its FCC Form 683 long form application<sup>28</sup> and are incorporated by reference. Additionally, Daktel certifies that it will comply with the ETC-specific commitments required by the FCC in its *2005 ETC Order*.<sup>29</sup> The FCC has waived the requirement for a winning bidder to file a five-year plan as part of the ETC

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<sup>26</sup> *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))).

<sup>27</sup> 47 C.F.R. § 54.202(a)(1)(i).

<sup>28</sup> See Applicant's Form 683 Long Form Application.

<sup>29</sup> *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").

designation process and to demonstrate that it will satisfy applicable consumer protection and service quality standings.<sup>30</sup> Further, given that Daktel seeks ETC designation for Lifeline support only in additional service areas, a five-year network improvement plan is not provided. Daktel 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.

Daktel has not been the subject of any serious consumer complaints or investigations. Daktel 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. Daktel 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.<sup>31</sup> Daktel will establish reasonable provisions to meet emergencies resulting from failures of power service, sudden and prolonged increases in traffic, illness of

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<sup>30</sup> *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))).

<sup>31</sup> 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."

operators or other credible emergency situations. These plans will include provisions to supply a reasonable amount of emergency power and contain activation, required staffing, escalation, and communication procedures to deal with such emergencies. Daktel'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.<sup>32</sup>

Daktel's facilities will be equipped with power generators and sufficient fuel to operate for several days so as to mitigate power outages. More specifically, Daktel's central office building and electric equipment will be supplied with standby generators and battery back-up to enable the central office building to keep running until power is restored so long as fuel is available or until system changes are made to reroute traffic. Daktel's generators and back-up batteries will support both voice and broadband network equipment should an emergency situation occur.

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

### **B. Daktel Meets All State Requirements For ETC Designation**

As explained below, Applicant 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

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<sup>32</sup> 47 C.F.R. § 54.202(a)(2).

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, Applicant's proposed ETC designation area is comprised of the proposed ETC designation area identified in **Exhibits A and B**. The proposed ETC designation area is located in CenturyLink's designated local exchange area. Applicant meets all federal and state requirements for ETC designation as described herein. Applicant 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)).

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

3) Applicant 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, Applicant certifies and acknowledges that it satisfies the advertising requirements set forth in N.D.A.C. § 69-09-05-12(6). Applicant will advertise the availability of universal service as follows: a full description of available services in Applicant's official telephone directory, including the process by which customers may qualify for Lifeline 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 Applicant.

**VII. DAKTEL MEETS THE FEDERAL STATUTORY AND REGULATORY PREREQUISITES TO BE DESIGNATED AS A LIFELINE-ONLY ETC IN THE ADDITIONAL CENSUS BLOCKS.**

As demonstrated herein, Applicant satisfies each of the federal statutory and regulatory requirements to be designated as a Lifeline-only ETC in the service area as reflected in **Exhibit B**.

**A. Service Plans**

Applicant will offer voice and broadband Lifeline service consistent with the rules of the FCC, including the minimum service standards for Lifeline service set forth in Sections 54.408(b)(1) and (c) of the FCC's rules. Applicant plans to offer the applicable monthly Lifeline discount on any of the voice and/or broadband plans that it offers to its non-Lifeline subscribers.

**B. Verification Requirements**

Applicant will provide Lifeline service only to customers whose eligibility is confirmed via the National Verifier. Customers who wish to apply for federal Lifeline benefits will be instructed to apply to the National Verifier either by submitting an application online or U.S. Mail.

### **C. Lifeline Obligations**

1. Applicant will publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.<sup>33</sup>

2. Applicant will indicate on all materials describing the Lifeline service, using easily understood language, that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible customers may enroll in the program, and the program is limited to one discount per household.<sup>34</sup>

3. Applicant will disclose its Applicant on all materials describing the service.<sup>35</sup>

4. Applicant will de-enroll Lifeline subscribers when it has a reasonable basis to believe that the Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer in compliance with Section 54.409 of the FCC's Rules.<sup>36</sup>

### **D. Minimum Service Standards**

Applicant will meet the minimum service standards for Lifeline service, as set forth in Sections 54.408(b)(1) and (c) of the FCC's rules.

### **E. Annual Certifications**

Applicant will comply with the annual certification requirements set forth in Section 54.416 of the FCC's rules, including the requirement to provide, on an annual basis, the results of its re-certification efforts to the FCC.

### **F. Recordkeeping Requirements**

Applicant will comply with applicable recordkeeping requirements, as set forth in Section 54.417 of the FCC's Rules.

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<sup>33</sup> 47 C.F.R. § 54.405(b).

<sup>34</sup> 47 C.F.R. § 54.405(c).

<sup>35</sup> 47 C.F.R. § 54.405(d).

<sup>36</sup> 47 C.F.R. § 54.405(e).

### **G. Annual Reporting Requirements**

Applicant will comply with applicable annual reporting requirements, as set forth in Section 54.422 of the FCC's Rules, including the requirement to file such reports with the FCC.

### **VIII. DESIGNATION OF APPLICANT AS AN ETC IS IN THE PUBLIC INTEREST**

Designation of Applicant as an ETC serves the public interest by allowing Applicant to bring high-speed broadband Internet and voice services to underserved locations in the designated census blocks, including to low-income households that qualify for Lifeline discounts. The grant of this Application will clearly serve the public interest by enabling Applicant to provide low-latency, gigabit-speed broadband and voice services to residents and businesses in its proposed ETC designation area, as well as to provide subsidized voice and broadband services to those households that seek and qualify for federal Lifeline benefits. Applicant's participation will "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . .,"<sup>37</sup> and will aid the Commission's objective of ensuring that federal universal service support, including RDOF Phase I support, is used efficiently and effectively.

As a recipient of RDOF support, Applicant 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 North Dakota for which it was identified as a winning bidder. As is evidenced herein and will be confirmed by Applicant's Form 683 long form application, the voice and broadband services Applicant proposes to deploy with the funds would advance the goal of the RDOF Auction and thereby advance the goals of universal service.<sup>38</sup>

Granting Applicant'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,

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<sup>37</sup> 47 U.S.C. § 1302(a).

<sup>38</sup> 47 U.S.C. § 254.

support investment in facilities and equipment, and expand the number of competitive providers serving rural areas in North Dakota. Applicant's deployments will help to close the digital divide for residents of North Dakota and expand economic opportunity for communities that will benefit from increased connectivity. Designating Applicant as an ETC will also help promote economic and job growth in North Dakota through the employment of Applicant's network of independent installers and dealers. Because granting Applicant's Application will allow it to use the RDOF support as intended to expand voice and broadband service in North Dakota, designating Applicant as an ETC is in the public interest.

Furthermore, the funds provisionally awarded to Applicant through the RDOF Auction will come directly from the funds annually set aside by the FCC for RDOF support. Therefore, Applicant'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 Applicant 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, Applicant will contribute to the Universal Service Fund based upon the portion of its revenues determined to be interstate. Thus, approving Applicant as an ETC will create contributions to the Universal Service Fund that were previously nonexistent.

## IX. ANTI-DRUG ABUSE CERTIFICATION

Applicant certifies that neither it nor any party to the petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.<sup>39</sup>

## X. CONCLUSION

For the reasons stated herein, Applicant respectfully requests (i) an expeditious Order designating it as a High-Cost and Low income ETC in North Dakota so that Applicant will be eligible to receive the RDOF Phase I support it has been awarded in the FCC's Auction 904, as well as provide Lifeline subsidies to those within its proposed ETC designation area who are qualified to receive Lifeline benefits; and (ii) such other relief as this Commission deems to be just and equitable.

Date 1/20/21

Respectfully submitted,

DAKTEL COMMUNICATIONS, LLC

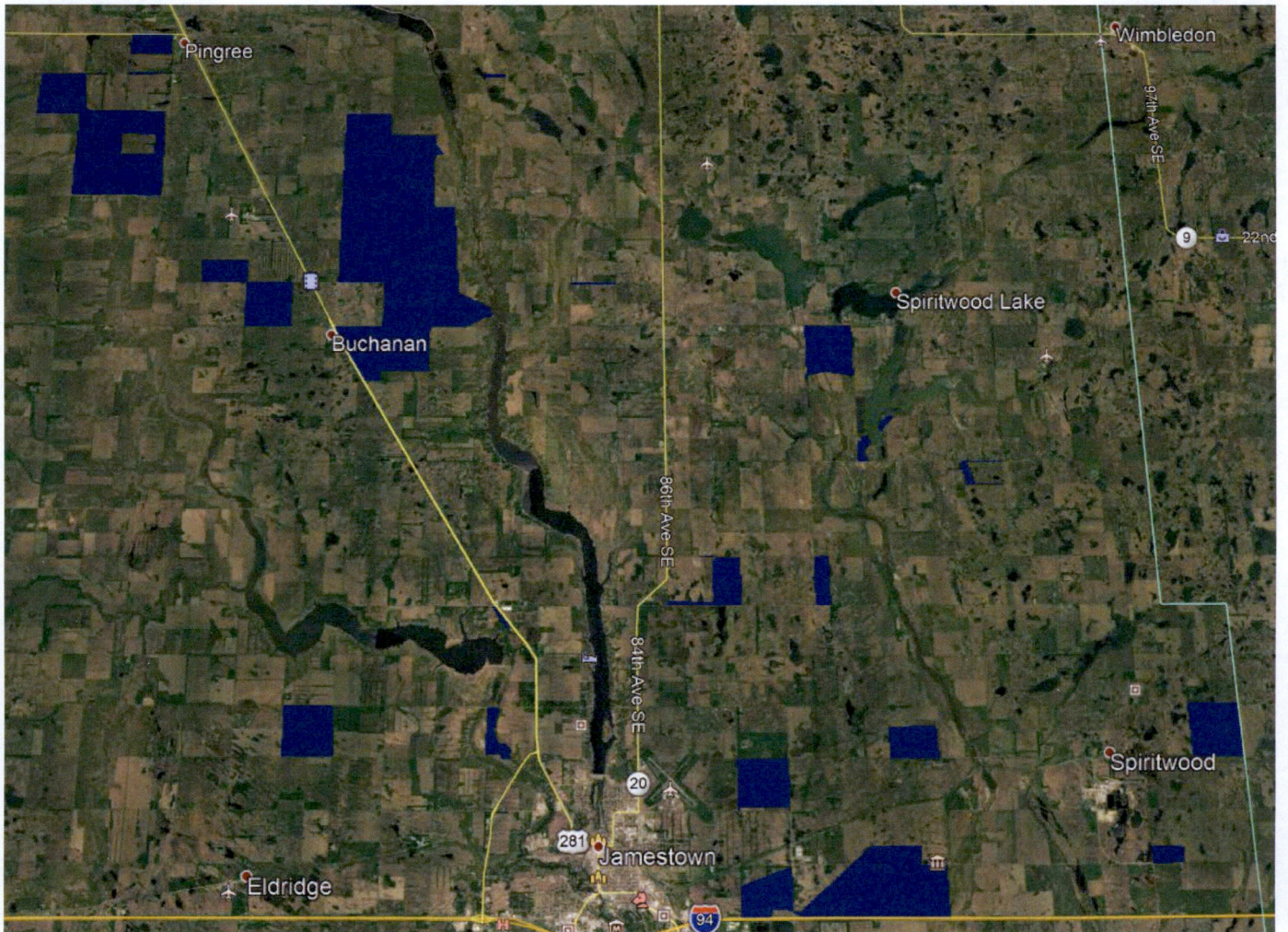
By:   
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Fargo, ND 58102  
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Email: mraum@fredlaw.com  
Email: dtibbals@fredlaw.com

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<sup>39</sup> [21 U.S.C. § 862], as implemented in Section 1.2002 of the Commission's rules [47 C.F.R. § 1.2002].

## Exhibit A – Census Block Groups and Map Depicting Where Daktel Was Conditionally Awarded RDOF Phase I Funding



Census Block Groups		
	380939670001814	380939670002749
	380939670001822	380939670002756
380939670001341	380939670001841	380939670002805
380939670001484	380939670002398	380939670002894
380939670001574	380939670002461	380939670002907
380939670001594	380939670002479	380939672004064
380939670001642	380939670002483	380939672004067
380939670001644	380939670002500	380939673001081
380939670001646	380939670002724	380939673001082
380939670001662	380939670002726	380939675003005
380939670001688	380939670002730	380939675003006
380939670001710	380939670002731	
380939670001795	380939670002732	
380939670001808		



**CERTIFICATE**

I, Rodney Suko, do hereby certify that I am Secretary of Daktel Communications, LLC of Carrington, North Dakota (this "LLC"), and I hereby further certify as follows:

Attached hereto are, respectively, true, complete and correct copies of the Articles of Organization and Member Control Agreement of this LLC and all amendments thereto, and such Articles and Member Control Agreement have been duly adopted by the LLC, are presently in full force and effect, and such articles have been duly filed with the Office of the Secretary of State in and for the State of North Dakota.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of the Cooperative this 25 day of April, 2019.



Rodney Suko, SECRETARY

772515

ID# 15,782,400

ARTICLES OF ORGANIZATION  
OF  
DAKTEL COMMUNICATIONS, LLC

RECEIVED  
APR 04 2000  
SEC. OF STATE

The undersigned organizer, who is a natural person and who is eighteen (18) years of age or older, in order to form a limited liability company under the North Dakota Limited Liability Company Act (N.D.C.C. Chapter 10-32), does hereby adopt the following Articles of Organization:

Article 1. The name of the Company shall be Daktel Communications, LLC.

Article 2. Unless dissolved earlier according to law, this Company shall exist for a period of fifty (50) years from and after the date these Articles of Organization are filed with the North Dakota Secretary of State.

Article 3. With respect to membership units:

- a. The membership interests of the Company shall be represented by (and shall be known as) membership units which shall be issued by the Board upon the receipt of the agreed upon contribution.
- b. All ordinary membership units shall have both financial rights and governance rights and, within the class, shall have equal rights and preferences in all matters not otherwise provided by the Board.
- c. Upon the acceptance of a new contribution:
  - (1) The method for the restatement of value of previous contributions as set forth in N.D.C.C. Section 10-32-57 shall not be used.
  - (2) Instead, the Board shall, by resolution, establish the value to be accorded to the new contribution and the number of membership units to be issued upon receipt of the contribution.
  - (3) The members shall then, as of the effective date of the acceptance of the contribution, execute and place in the member control agreement and statement of contributions accepted and in the other required records of the Company, a statement of contributions as provided in N.D.C.C. Section 10-32-51.

Article 4. This Company shall not be dissolved and is not required to be wound up by reason of any event that terminates the continued membership of a member if the existence and business of this Company is continued by the consent of the holders of the remaining membership units entitled to vote no later than ninety (90) days after the termination of the continued membership.

The members shall not be authorized to give dissolution avoidance consent prior to the occurrence of any event which terminates the continued membership of a member. However, the members shall be authorized to give dissolution avoidance consent after the occurrence of an event which terminates the continued membership of a member.

Article 5. The members of the Company shall not have the power to enter into a business continuation agreement prior to the occurrence of an event of dissolution. However, after the Company has incurred an event of dissolution, the members may enter into a business continuation agreement.

Article 6. With regard to the preemptive right to acquire unissued membership units of the Company, each member of the Company shall have the preemptive rights set forth in N.D.C.C. Section 10-32-37.

Article 7. Cumulative voting shall be allowed as provided in N.D.C.C. Section 10-32-76.

Article 8. Provisions for the internal regulation of the Company are as follows:

- a. Each manager and governor, past or present of the Company, and each person who serves or may have served at the request of the Company as director, officer, governor, manager, employee or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, and their respective heirs and legal representatives, shall be indemnified by the Company in accordance with, and to the fullest extent permissible under, the provisions of N.D.C.C. Chapter 10-32, as it may be from time to time amended. Whenever the applicable provisions of N.D.C.C. Chapter 10-32 make indemnification permissible upon the finding that certain standards are met, such indemnification shall be mandatory by the Company.
  - b. Any action required or permitted to be taken at a meeting of the Board of Governors of this Company, not needing approval by the members, may be taken by written action signed by the number of governors that would be required to take such action at a meeting of the Board of Governors at which all governors are present.
  - c. Any action required or permitted to be taken at a meeting of the members of this Company may be taken by a written action signed by the members who own voting power equal to the voting power that would be required to take the same action at a meeting of the members at which all members were present.
  - d. Any assignment of governance rights to a person who is not already a member of the Company at the time of the assignment shall require the written consent of the owners of a majority of the other ordinary membership units.
-

# *State of North Dakota*

## SECRETARY OF STATE



### CERTIFICATE OF ORGANIZATION OF

DAKTEL COMMUNICATIONS, LLC

The undersigned, as Secretary of State of the State of North Dakota, hereby certifies that Articles of Organization for

DAKTEL COMMUNICATIONS, LLC

duly signed and executed pursuant to the provisions governing a North Dakota Limited Liability Company, have been received in this office and are found to conform to law.

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

DAKTEL COMMUNICATIONS, LLC

Effective date of organization: April 11, 2000

Issued: April 11, 2000

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

Alvin A. Jaeger  
Secretary of State

128824

15,782,400  
LLC

**AMENDED AND RESTATED  
ARTICLES OF ORGANIZATION  
OF  
DAKTEL COMMUNICATIONS, LLC**

**RECEIVED  
APR 28 2004  
SEC. OF STATE**

The following Amended and Restated Articles of Organization have been adopted by the Company's Members and Board of Governors pursuant to N.D.C.C. Ch. 10-32:

**ARTICLE I  
NAME**

The name of this Company is Daktel Communications, LLC.

**ARTICLE II  
DURATION**

The period of existence for this Company shall be perpetual.

**ARTICLE III  
REGISTERED OFFICE AND AGENT**

The registered office of this Company is located at 630 5<sup>th</sup> Street North, Carrington, North Dakota 58420.

The name of the Registered Agent of this Company is Keith Larson.

**ARTICLE IV  
PURPOSES**


This Company is organized for the purposes of offering communications services and products, offering video services and products, and to conduct general business purposes consistent with the North Dakota Limited Liability Company Act.

**ARTICLE V  
INTERNAL REGULATION PROVISIONS**

The provisions for the internal regulation of the Company are as follows:

- A. Each manager and governor, past or present of the Company, and each person who serves or may have served at the request of the Company as director, officer, governor, manager, employee or agent of another corporation, limited liability company, partnership, joint venture, trust or other enterprise, and their respective heirs and legal representatives, shall be indemnified by the Company in accordance with, and to the fullest extent permissible under, the provisions of North Dakota Statutes Chapter 10-32, as it may be from time to time amended. Whenever the applicable provisions of North Dakota Statutes Chapter 10-32 make indemnification permissible upon the

NORTH DAKOTA  
 Filed 4-30 2004  
 Secretary of State MPA



finding that certain standards are met, such indemnification shall be mandatory by the Company.

- B. No governor of the Company shall be personally liable to the Company nor to its members for any monetary damages or breach of fiduciary duty as a governor. However, this provision shall not eliminate or limit the liability of a governor:
- (1) For any breach of the governor's duty of loyalty to the limited liability company or to its members;
  - (2) For acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law;
  - (3) For any distributions from the Company which are determined to be illegal under North Dakota Statutes (Section 10-32-66 or any successor thereto);
  - (4) For any transaction from which the governor derived an improper personal benefit; or,
  - (5) For any act or omission occurring before the date when the provision in the Articles of Organization eliminating or limiting liability becomes effective.

DATED this 22<sup>nd</sup> day of April, 2004.

Daktel Communications, LLC

By:   
Craig Headland, President

This Document Was Prepared By:  
Steven E. Noack  
Vogel Law Firm  
Attorneys at Law  
PO Box 1389  
Fargo ND 58107-1389  
Telephone: (701) 356-6380

# *State of North Dakota*

## SECRETARY OF STATE



### RESTATED ARTICLES OF ORGANIZATION OF

DAKTEL COMMUNICATIONS, LLC

The undersigned, as Secretary of State of the State of North Dakota, hereby certifies that Restated Articles of Organization of

DAKTEL COMMUNICATIONS, LLC

duly signed and executed pursuant to the provisions governing a North Dakota Limited Liability Company, have been received in this office and are found to conform to law.

**ACCORDINGLY** the undersigned, as such Secretary of State and by virtue of the authority vested in him by law, hereby issues this Restated Certificate of Organization to

DAKTEL COMMUNICATIONS, LLC

Effective Date: April 30, 2004

A handwritten signature in black ink, appearing to read "Alvin A. Jaeger".

Alvin A. Jaeger  
Secretary of State

# *State of North Dakota*

## SECRETARY OF STATE



### Certificate of Good Standing of DAKTEL COMMUNICATIONS, LLC

SOS Control ID#: 0000062823

Certificate #: 019468335

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

DAKTEL COMMUNICATIONS, LLC

a Limited Liability Company - Business - Domestic was formed under the laws of NORTH DAKOTA and filed with this office effective April 11, 2000. 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:** January 12, 2021

A handwritten signature in black ink, reading "Alvin A. Jaeger".

Alvin A. Jaeger  
Secretary of State

# Organization Chart Dakota Central Telecommunications Cooperative & Subsidiaries

