

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Cable One VoIP LLC
Designated Eligible Carrier
Application**

Case No. PU-21-123

AFFIDAVIT OF SERVICE BY CERTIFIED AND ELECTRONIC MAIL

**STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH**

Geralyn R. Schmaltz deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **28th day of May 2021**, she deposited in the United States Mail, at Bismarck, North Dakota, **two** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and containing a photocopy of:

- **Order on Eligible Telecommunications Carrier Designation**

The envelopes were addressed as follows:

Wade C. Mann
Casey Furey
Crowley Fleck PLLP
PO Box 2798
Bismarck, ND 58502-2798
Cert. No. 7020 1810 0000 0894 1922

Chérie R. Kiser
Angela F. Collins
Cahill Gordon & Reindel LLP
1990 K Street NW Suite 950
Washington, D.C. 200006
Cert. No. 7020 1810 0000 0894 2042

Geralyn R. Schmaltz further deposes and says that on the **28th day of May 2021**, she sent an electronic message to **four** addressees, each including an electronic copy in portable document format of the same document.

The electronic mails were addressed as follows:

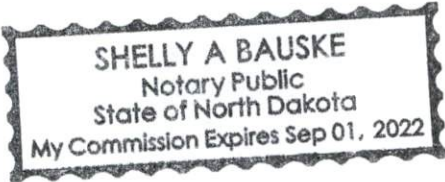
Wade C. Mann
wmann@crowleyfleck.com
Casey A. Furey
cfurey@crowleyfleck.com
Crowley Fleck PLLP

Chérie R. Kiser
ckiser@cahill.com
Angela F. Collins
acollins@cahill.com
Cahill Gordon & Reindel LLP

The addresses shown is the respective addressee's last reasonably ascertainable post office and electronic addresses.

Subscribed and sworn to before me
this **28th day of May 2021**.

[Handwritten signature]



Shelly A Bauske

Notary Public

SEAL

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Cable One VoIP LLC
Designated Eligible Carrier
Application

Case No. PU-21-123

ORDER ON ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION

May 27, 2021

Preliminary Statement

On March 30, 2021, Cable One VoIP LLC (Cable One) filed an application for designation as an eligible telecommunications carrier (ETC) for the purpose of receiving Federal Communications Commission's Rural Digital Opportunity Fund (RDOF) Phase I funding in Federal Communications Commission (FCC) specified census blocks in North Dakota. The FCC requires that Cable One be designated as an ETC by June 7, 2021.

In the March 30, 2021 application, Cable One also seeks designation as an ETC for the purpose of receiving federal universal service support for low-income consumers under 47 Code of Federal Regulation (CFR) Part 54 Subpart E. Cable One proposes to provide lifeline service in the Reed, Briarwood, Fargo, Prairie Rose, Horace, Frontier, Cass and Reile's Acres areas within the Fargo exchange. Such designation is also known as Lifeline-only ETC designation.

On April 14, 2021, the Commission issued a Notice of Opportunity for Hearing (Notice) providing until May 24, 2021, for comments and requests for hearing. No comments or requests for hearing were received.

The Notice identified the following issues to be considered in both matters:

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

Discussion

Cable One is a foreign limited liability company authorized to do business in North Dakota, with a principal office located at 210 East Earl Drive, Phoenix, AZ 85012.

Cable One is in good standing with the North Dakota Secretary of State and has provided a copy of its corporate papers with its application.

Cable One is a common carrier.

The Certification Relating to Order Provisions, as signed by Peter Witty, Vice President and Secretary of Cable One and filed on April 26, 2021, is incorporated by reference and attached to this Order.

North Dakota Administrative Code (NDAC) section 69-09-05-12(6)(a) requires a full description of available services in the ETC's official telephone directory. Since Cable One is an interconnected voice over internet protocol (voip) service provider, it does not have an official telephone directory in North Dakota and requests a waiver from this requirement pursuant to NDAC section 69-09-05-12(2)(c) and (d).

RDOF

A telecommunications carrier is eligible to receive federal universal service support if the company meets the requirements established under 47 United States Code (USC) section 214(e)(1) and defined in 47 CFR Part 54. These requirements are: (1) company must provide each of the supported telecommunication services listed by the FCC; (2) company must offer and advertise the availability of, and charges for, such services throughout the supported areas; (3) company must certify that it will comply with the service requirements applicable to the support it receives; (4) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout the supported areas, and (5) demonstrate that it will satisfy consumer protection and service quality standards.

In addition, to receive RDOF Phase I funding, Cable One must offer commercially at least one voice and one broadband service at speeds of at least 1 gigabit per second with a latency at or below 100 milliseconds. Cable One must offer these services to 40% of the assigned locations in North Dakota by the end of the third year of support, and an additional 20% by the end of each of the fourth and fifth years of support. By the end of year six, revised location totals will be announced. If there are fewer locations than originally estimated by the cost model, Cable One must serve the revised number of locations by the end of the sixth year of support. If there are more locations than originally estimated by the cost model, Cable One 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 remaining locations by the end of the eighth year of support.

Both federal law and state law give the Commission the authority to designate a common carrier as an ETC.

Cable One will offer the services and functionalities detailed in 47 CFR Part 54 in the RDOF Phase I areas. Cable One proposes to provide the service required for RDOF Funding by either using its own facilities or a combination of its own facilities and the resale of another carrier's services.

Cable One is qualified for designation as an ETC eligible to receive federal universal service support under 47 CFR Part 54.

The FCC has specified the geographic areas, RDOF Phase I areas, that will receive funding and Cable One was awarded RDOF Phase I support for the areas listed on page 1 of Exhibit 1 of its March 30, 2021 application.

Under NDAC section 69-09-05-12, the Commission shall determine that the designation of Cable One as an ETC is in the public interest. In doing so, the Commission shall consider the benefit of increased consumer choice and the unique advantages and disadvantages of the applicant's service offering. It is significant that subscribers in these RDOF Phase I areas will have access to high-speed broadband. The provision of adequate essential and nonessential telecommunications service in these exchanges will be facilitated and supported by the full current technical and financial capabilities of Cable One. It is in the public interest that Cable One be designated as an ETC in the RDOF Phase I areas as requested.

Lifeline

Cable One will offer the services and functionalities detailed in 47 CFR section 54.101 using a combination of its own facilities and the facilities of other providers.

The Telecommunications Act of 1996 provides financial support for universal services to common carriers that have been designated as ETCs and that (1) offer the universal services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services and (2) advertise the universal services, advertise the availability of such services, and advertise the charges for such services, using media of general distribution. Cable One's application states that it will meet each of these criteria.

Cable One is qualified under the Telecommunications Act of 1996, section 214(e) for designation as an ETC eligible to receive federal universal service support for low-income consumers under 47 CFR Part 54 Subpart E.

Universal Service Support Area

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

The Act defines service area:

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

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

Cable One is seeking ETC status for a portion of the Fargo telephone exchange depicted on page 2 of Exhibit 1 of its March 30, 2021 application.

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

Order

The Commission orders:

1. Cable One VoIP LLC's request to be designated as an eligible telecommunications carrier for the purposes of receiving Rural Digital Opportunity Fund Phase I funding in the areas listed on page 1 of Exhibit 1 of Cable One's March 30, 2021 application, attached to and made part of this Order, is APPROVED.
2. Cable One VoIP LLC's request to be designated as an eligible telecommunications carrier for the purpose of receiving federal universal service support for low-income consumers under 47 CFR part 54 subpart E for portions of the Fargo telephone exchange depicted on page 2 of Exhibit 1 of Cable One's March 30, 2021 application, attached to and made part of this Order, is APPROVED.

3. Under NDAC section 69-09-05-12(2)(c) and (d). Cable One VoIP LLC is granted a waiver of the requirements of NDAC section 69-09-05-12(6)(a) regarding the publication of a full description of its services in an official telephone directory.

4. The April 26, 2021 Certification Relating to Order Provisions is incorporated by reference and attached to this Order.

PUBLIC SERVICE COMMISSION

Randy Christmann

Randy Christmann
Commissioner

Julie Fedorchak

Julie Fedorchak
Chair

Brian Kroshus

Brian Kroshus
Commissioner

EXHIBIT 1

Designated Service Area

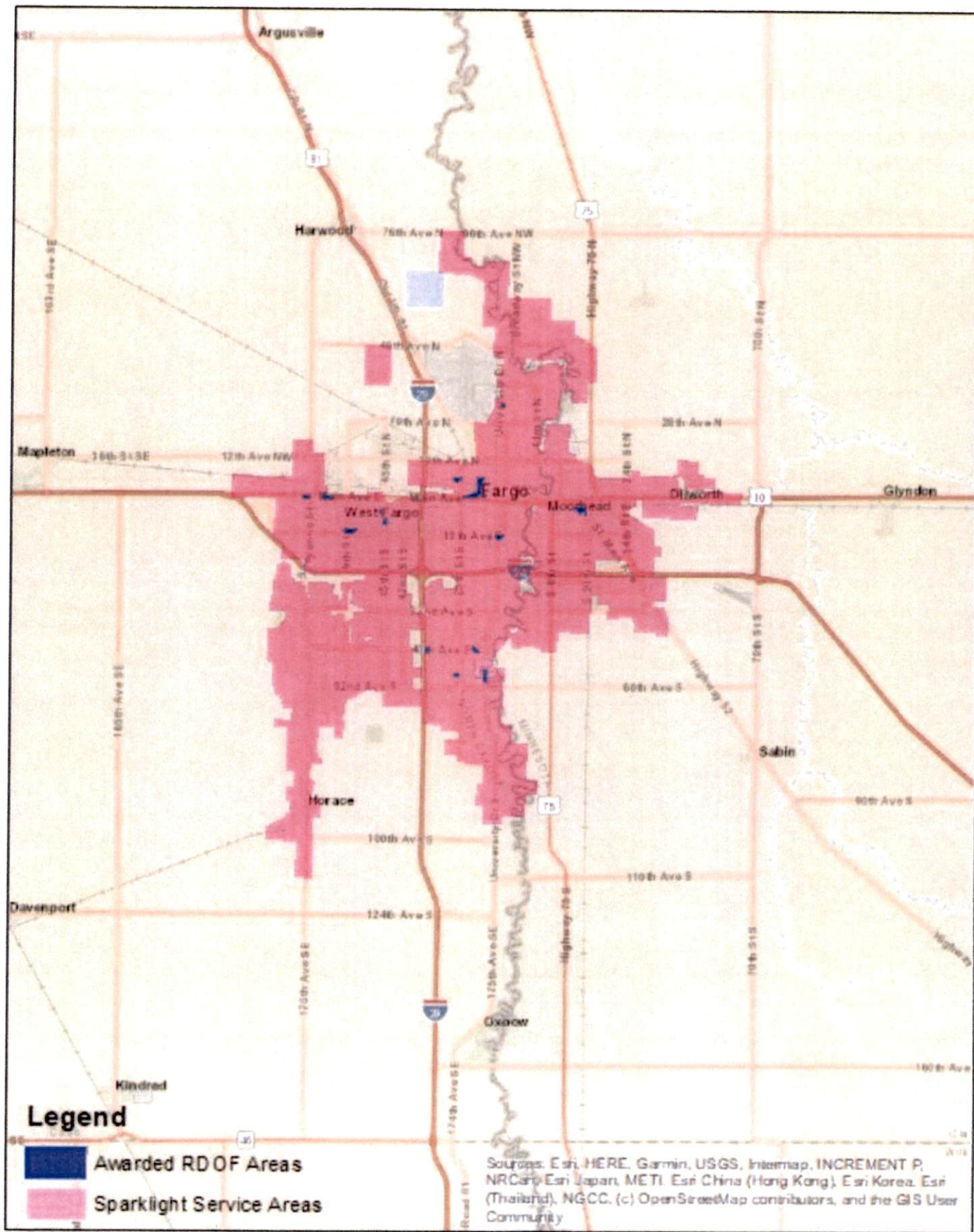
RDOF Service Areas

<u>County</u>	<u>Census Block Group</u>
Cass	380170002022
Cass	380170005011
Cass	380170006003
Cass	380170009012
Cass	380170101091
Cass	380170101092
Cass	380170102013
Cass	380170102033
Cass	380170103034
Cass	380170103071

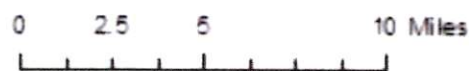
Additional Lifeline-Only Service Areas

(the following franchise areas may include the census block groups covered by the RDOF service area listed above, but Lifeline-only service will be offered only in those areas not covered by the RDOF service area)

<u>Franchise Area</u>	<u>County</u>
Reed	Cass
Briarwood	Cass
Fargo	Cass
Prairie Rose	Cass
Horace	Cass
Frontier	Cass
Cass	Cass
Reile's Acres	Cass



SPARKLIGHT RDOF AREAS



**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Cable One VoIP LLC
Designated Eligible Carrier
Application

Case No. PU-21-123

**Cable One VoIP LLC
CERTIFICATION RELATING TO ORDER PROVISIONS FOR LIFELINE-ONLY ELIGIBLE
TELECOMMUNICATIONS CARRIER DESIGNATION**

I am Peter N. Witty, a representative of Cable One VoIP LLC (Cable One) with authority to bind Cable One and I certify that:

1. Cable One is seeking designation as a Lifeline-Only Eligible Telecommunications Carrier (Lifeline-Only ETC) in the area highlighted pink in the attached map (lifeline area).
2. For the lifeline area, Cable One understands and agrees to the conditions and criteria set forth in Chapter 49-21 of the North Dakota Century Code and Chapter 69-09-05 of the North Dakota Administrative Code that pertain to Lifeline-Only Eligible Telecommunications Carriers (Lifeline Only ETC) , and Cable One will be responsible for compliance with this Certification, the Public Service Commission's order in this proceeding, and conditions and criteria set forth in the applicable federal and state laws and rules pertaining to Lifeline-Only ETCs.

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

3. Cable One agrees to comply with all statements, processes and procedures set forth in its Application for designation as a Lifeline-Only ETC in the lifeline area. Cable One agrees that all statements made and matters set forth in its Application are true and correct to the best of Cable One's knowledge, information, and belief.
4. Cable One will use the federal low-income universal service support it receives only for the provision of services for which the support is intended.
5. Cable One meets all of the prerequisites to be designated as a Lifeline-Only ETC throughout the proposed ETC Designated Area in this proceeding.
6. Cable One provides each of the services supported by federal universal service support mechanisms, specified in Federal Communications Commission's (FCC's) rules, 47 C.F.R. § 54.101, and will offer these supported services in North Dakota upon designation as a Lifeline-Only ETC, including voice grade access, minutes of

use for local service at no additional charge, access to emergency services and toll limitation services.

7. Cable One will 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.
8. Cable One will provide service within a reasonable period of time, if the potential customer is within Cable One'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) Adjusting network or customer facilities; or
 - (c) Reselling services from another carrier's facilities to provide service.
9. Cable One will not seek Universal Service Fund high-cost support for any lifeline-only areas in its designated service area in North Dakota.
10. Cable One will use all available means to ensure customers are eligible for the Lifeline program at the time of sign-up and recertification in accordance with the federal eligibility criteria in 47 C.F.R. § 54.409 and the relevant proof documentation specified in 47 C. F. R. § 54.410. Cable One will check all available databases including the National Lifeline Accountability Database to prevent duplication and determine eligibility.
11. Cable One has taken, and will continue to take, steps to work with its underlying carriers to remain functional in emergency situations by: (1) maintaining a reasonable amount of backup power to ensure functionality without an external power source; (2) maintaining the ability to re-route traffic around damaged facilities and to manage traffic spikes resulting from emergency situations; and (3) establishing procedures for employees to follow in an emergency to prevent or minimize interruption or impairment of telecommunications services.
12. Cable One will advertise the availability of the supported services detailed in its Application, and the corresponding rates and charges, in a manner designed to inform the general public within North Dakota. This advertising will occur through a combination of media channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet.
13. Cable One will offer the services described in its Application.
14. Cable One understands and agrees that if Cable One has not advertised its Lifeline services or signed up any North Dakota customers within 12 months of the effective date of Cable One's designation as a Lifeline-only ETC, the Public Service Commission may revoke Cable One's Lifeline-only ETC designation and Cable One may reapply to be designated as a Lifeline-only ETC in North Dakota.
15. Cable One will comply with all applicable annual reporting requirements

associated with being an ETC in North Dakota including filing with the Public Service Commission a copy of each report filed with the FCC, within 30 days of filing with the FCC.

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

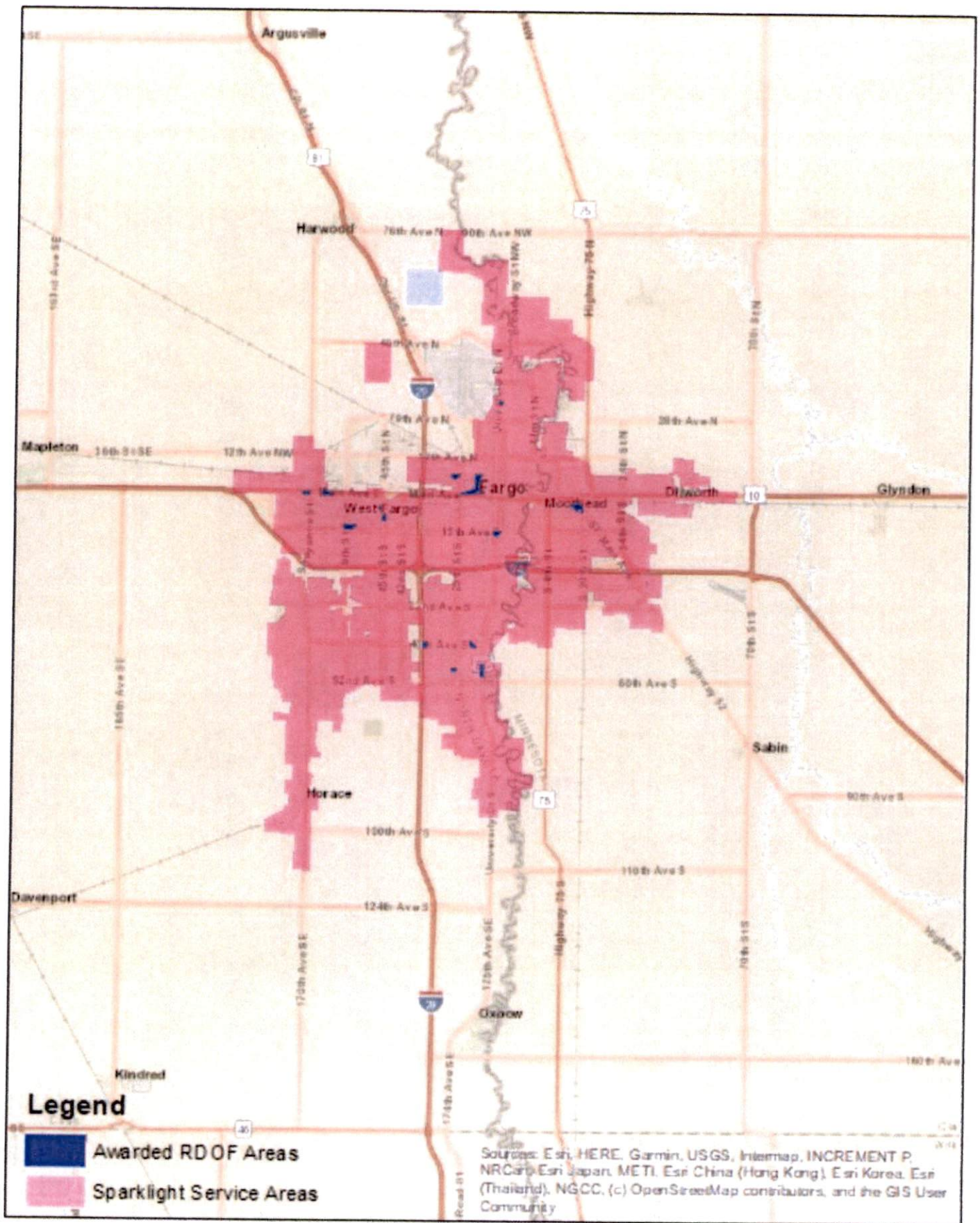
Dated this 26th day of April, 2021.

CABLE ONE VoIP LLC

By: 

Peter N. Witty

Its Vice President & Secretary



SPARKLIGHT RDOF AREAS

