

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Northwest Communications / Midstate Telephone Company Case No. PU-22-408
Portal Exchange
Public Convenience and Necessity

Northwest Communications / Midstate Telephone Company Case No. PU-22-409
Designated Eligible Carrier
Application

ORDER

February 8, 2023

Preliminary Statement

On November 15, 2022, Northwest Communications Cooperative, Inc. (NCC) and Midstate Telephone Company, LLC (Midstate) filed a joint application requesting authorization for NCC to provide local exchange telecommunications services in the area currently known as the Portal exchange, in North Dakota, which is currently served by Midstate, Case No. PU-22-408.

Also on November 15, 2022, NCC and Midstate filed a joint application requesting that NCC be designated as an eligible telecommunications carrier (ETC) in the Portal local exchange area, Case No. PU-22-409.

On December 14, 2022, the Commission issued a Notice of Opportunity for Consolidated Hearing (Notice) that provided until January 27, 2023, for comments and requests for hearing. No comments or requests for hearing were received. The Notice stated that, if deemed appropriate, the Commission can determine the matters without a hearing.

The Notice identified the issues to be considered in Case No. PU-22-408 are:

1. Fitness and ability of NCC to provide local exchange telecommunications services.
2. Adequacy of NCC's proposed telecommunications services.
3. Technical, financial and managerial ability of NCC to provide telecommunications services.
4. Whether, upon granting a certificate of public convenience and necessity to NCC to provide local exchange telecommunications services in the area

currently known as the Portal exchange, Midstate's certificate of public convenience and necessity should be relinquished?

The notice identified the issues to be considered in Case No. PU-22-409 are:

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

Discussion

NCC is a North Dakota Cooperative Association with offices located at 111 Railroad Avenue, Ray, North Dakota 58849.

In support of the joint applications, NCC provided an affidavit of Jeremy Becker, CEO and General Manager of NCC. Midstate provided an affidavit of Shane Hart, CEO and General Manager of Midstate.

Public Convenience and Necessity

NCC holds certificates of public convenience and necessity to provide local exchange telecommunications services inside 16 telephone exchanges in North Dakota. NCC is designated as an ETC for the purpose of receiving federal universal service support in a study area that encompasses those North Dakota telephone exchanges.

Midstate holds Certificate of Public Convenience and Necessity Number 5802 to provide local exchange telecommunications services inside the Portal local exchange area, serving 90 voice and 57 internet access lines in North Dakota. Midstate is designated as an ETC to receive federal universal service support in a study area that encompasses the Portal local telephone exchange in North Dakota.

Midstate will continue to provide local exchange service until all members in the Portal local exchange have been connected to NCC.

Midstate's Portal customers will not experience any immediate change to rates, terms, or conditions of service.

NCC plans to offer a cost-effective voice over internet protocol voice service to Portal customers upon approval of the transfer. NCC also plans to upgrade the customer premises equipment at each customer location and bury fiber optic cable to the locations.

The Commission finds that NCC is fit and able to provide telecommunications services to the customers served in the Portal telephone exchange geographic area.

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

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

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

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

Designation as an Eligible Telecommunications Carrier

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

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

For telecommunications customers, the services designated by the FCC for support by universal service support mechanisms include voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911,

to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems, lifeline support and toll limitation services to qualifying low-income consumers.

The affidavit of Jeremy Becker, NCC, affirms that it will continue to meet the obligations of an ETC in the Portal telephone exchange. NCC also affirms that no waiver of ETC criteria is requested.

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

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

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

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

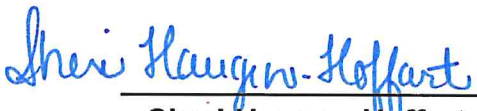
Order

The Commission Orders:

1. Northwest Communications Cooperative's application for a certificate of public convenience and necessity to provide incumbent local exchange telecommunications services in the area currently known as the Portal telephone exchange in North Dakota is approved.
2. Northwest Communications Cooperative is issued First Amended Certificate of Public Convenience and Necessity Number 5802 to provide local exchange telecommunications services inside the Portal, North Dakota telephone exchange.
3. Northwest Communications Cooperative's request for designation as an eligible telecommunications carrier in the Portal telephone exchange is granted.
4. Midstate Telephone Company, LLC's Certificate of Public Convenience and Necessity Number 5802 to provide local exchange telecommunications services inside the Portal, North Dakota telephone exchange area is relinquished.

5. Midstate Telephone Company, LLC's designation as an eligible telecommunications carrier in the Portal exchange area is relinquished and cancelled.

PUBLIC SERVICE COMMISSION



**Sheri Haugen-Hoffart
Commissioner**



**Randy Christmann
Chair**



**Julie Fedorchak
Commissioner**

PUBLIC SERVICE COMMISSION

STATE OF NORTH DAKOTA

Certificate of Public Convenience and Necessity

First Amended Certificate Number 5802

This is to certify that public convenience and necessity require, and permission is granted for Northwest Communications Cooperative, Inc., to provide local exchange telecommunications services inside the Portal, North Dakota local exchange area.

This certificate was issued in Case No. PU-13-258 and amended in Case No. PU-22-408, and is conditioned upon Northwest Communications Cooperative, Inc. securing the franchise or other authority of the proper municipal or other public authority for the exercise of these rights and privileges.

Bismarck, North Dakota, February 8, 2023.

ATTEST:

PUBLIC SERVICE COMMISSION


Executive Secretary


Commissioner