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February 21, 2025

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VIA EMAIL AND FED-EX

Mr. Steve Kahl, Executive Secretary
North Dakota Public Service Commission
600 E. Boulevard Ave., Dept. 408
Bismarck, ND 58505-0480

RE: Application of Griggs County Telephone Company for Designation as the Incumbent Local Exchange Carrier, Certificate for Public Convenience and Necessity, and Eligible Telecommunications Carrier Designation

Dear Mr. Kahl:

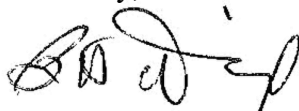
Griggs County Telephone Company ("Griggs"), by its attorneys, hereby files the attached comments in the above-referenced applications. Enclosed for filing are the following, which have been redacted for public inspection:

- Comments of Griggs County Telephone Company
- Attachment 1: Application for Trade Secret Protection
- Attachment 2: Network Diagrams
- Attachment 3: Network Maps – TRADE SECRET

In addition, one unredacted copy of these materials was sent via USPS under seal.

Please do not hesitate to contact the undersigned with any questions regarding these applications.

Sincerely,



Benjamin H. Dickens, Jr.
Salvatore Taillefer, Jr.
Counsel to Griggs County Telephone Company

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

**Griggs County Telephone Co.
Leonard and Kindred Exchanges
Public Convenience and Necessity**

Case No. PU-24-386

**Griggs County Telephone Co.
Leonard and Kindred Exchanges
Designated Eligible Carrier Application**

Case No. PU-24-387

Comments of Griggs County Telephone Company

Griggs County Telephone Company (“Griggs”), by its attorneys, hereby files these comments in the above-captioned proceedings. At a high level, this matter differs from typical Commission proceedings to determine the fitness of a new market entrant to provide service to the public because Griggs, through its wholly-owned subsidiary MLGC LLC, has already completely overbuilt the Leonard and Kindred exchanges (the “Requested Exchanges”), currently served by Lumen Technologies, Inc. (“Lumen,” previously CenturyLink Communications, LLC), with a state-of-the-art fiber network that is comparable to Griggs’ network serving its existing ILEC exchanges.¹ Griggs also is already an eligible telecommunications carrier in portions of the Requested Exchanges. Accordingly, Griggs’ application for a Certificate of Public Convenience and Necessity (“CPCN”) as an incumbent local exchange carrier (“ILEC”) (the “CPCN Application”) and its application for expansion of its designation as an ETC (the “ETC Application,” together, the “Applications”) meet all applicable requirements and should be granted.

¹ Griggs’ presence in the Requested Exchanges is through its wholly-owned subsidiary, MLGC. The Applications and these Comments refer to the companies uniformly as Griggs for the sake of simplicity.

I. Background and Introduction

On December 23, 2024, Griggs filed the Applications requesting a CPCN recognizing Griggs as an ILEC and an expansion of its ETC status. The Applications demonstrated that it meets the relevant requirements set forth in the North Dakota Century Code (“NDCC”) and the North Dakota Administrative Code (“NDAC”). Griggs further contended that Lumen should be deemed to have relinquished the Requested Exchanges from its study area for the purposes of Federal universal service support calculations.² Griggs requested that the Commission grant the Applications without a hearing if no interested party has requested a hearing after receiving at least 20 days’ notice.³ On January 8, 2025, this Commission issued its Notice of Opportunity for Consolidated Hearing (“Notice”), setting a hearing request deadline of February 21, 2025, and inviting written comments by the same date.⁴

As detailed throughout the Applications, the facts weigh strongly in favor of granting Griggs’ requests. Griggs has supplanted Lumen as the ILEC in the Requested Exchanges because Griggs has overbuilt Lumen and captured almost all of the local exchange customers in the Requested Exchanges.⁵ At the same time, Lumen has ceased maintaining its plant in the Requested Exchanges and the “vast majority” of telecommunications complaints in these exchanges have been due to the cessation of maintenance referenced above.⁶ As such, there is a demonstrated need and strong customer desire for the enhanced telecommunication services

² See, CPCN Application at ¶6; Affidavit of Griggs President Tyler Kilde at ¶4.

³ See CPCN Application at p. 4; ETC Application at p. 3.

⁴ Docket No. 5.

⁵ ETC Application ¶¶2-4.

⁶ According to Commission data, Lumen (under the CenturyLink name) has about 80% of the telecommunications consumer complaints filed in the last ten years.

already provided by Griggs in the Requested Exchanges.⁷ Griggs therefore respectfully submits that the facts support granting the Applications.

II. Comments on the Specific Issues to Be Considered on the CPCN Application

In furtherance of the Commission's consideration of the Applications, Griggs submits the following comments on the specific issues identified in the *Notice of Opportunity for Consolidated Hearing* regarding the CPCN Application, Case No. PU-24-386.

1. Fitness and ability of Griggs to provide local exchange telecommunication services.

Griggs' Application establishes a *prima facie* case as to its fitness and ability to provide local exchange services. In this respect, the CPCN Application shows that Griggs serves six North Dakota telephone exchanges, as an ILEC, with associated NXX local exchange prefixes.⁸ Three factors further support Griggs' demonstrated fitness and ability: (i) a long history of providing exceptional service in the referenced exchanges, as early as 1906;⁹ (ii) strong financial position, as evidenced by submitted financial data;¹⁰ and (iii) successful completion of its commitment to a complete fiber overbuild in the Requested Exchanges.¹¹

Griggs' market success also provides compelling evidence of its capabilities. In the Requested Exchanges, Griggs has captured approximately 95% of local exchange customers in the Requested Exchanges, including 66% of total subscribers (both voice and broadband).¹² These facts, coupled with the specific commitments in Mr. Kilde's Affidavit regarding backup

⁷ CPCN Application at ¶6.

⁸ CPNC Application at ¶1.

⁹ *Id.* at ¶¶5-6.

¹⁰ *Id.* See also, CPCN Application at Exhibit 7.

¹¹ CPCN Application at ¶¶5-6.

¹² *Id.*

power, service provision intervals, local usage plans and equal access, demonstrate Griggs' comprehensive service abilities.¹³

Griggs maintains robust operational infrastructure through its service territory. For the past 119 years, Griggs has maintained and repaired its own facilities and has strategically positioned construction equipment and inventory to ensure quick and professional repair. For the Requested Exchanges, Griggs maintains a fully staffed and supplied office in Kindred. Current staffing includes four technicians, one plant manager, and one network manager working out of the Kindred office. The Leonard central office is 15 miles from Kindred.

2. Adequacy of Griggs' proposed telecommunication service.

The facts also demonstrate that Griggs' service in the Requested Exchanges exceeds adequacy requirements. Specifically, the high customer take rate in the Requested Exchanges is directly objective evidence that the service is adequate. Mr. Kilde's Affidavit certifies that Griggs will provide service in a timely manner where the network passes the potential customer and will provide service within a reasonable period of time if the potential customer is within the proposed designated service area but outside existing network coverage, if Griggs can provide service at a reasonable cost.¹⁴ Griggs further commits to continuing to provide outstanding customer service, and to upgrade and maintain its network in the Requested Exchanges.¹⁵ Griggs further commits to maintain backup power in the Requested Exchanges; satisfy the Commission's applicable consumer protection standards; offer local usage plans required by the

¹³ Affidavit of Tyler Kilde at ¶3(f).

¹⁴ *Id.* at ¶¶3(d).

¹⁵ *Id.* at ¶3(f).

Commission; and offer equal access to long distance carriers within the Commission's requirements.¹⁶

Griggs' service in the Requested Exchanges is comparable to its service in its current ILEC territory. Accordingly, its extensive history of providing telephone service in North Dakota and clear market preference in the Requested Exchanges demonstrates that Griggs service meets and exceeds the adequacy standard.

3. Technical, financial, and managerial ability of Griggs to provide telecommunication services.

The facts likewise demonstrate Griggs' technical, financial, and managerial ability to provide telecommunications services. Unlike a new entrant purchasing existing facilities, Griggs has proven its capabilities through a 100% fiber overbuild of Lumen's network with its own facilities. Griggs has already successfully captured almost all of the local exchange customers and a majority of the broadband customers from a New York Stock Exchange-listed enterprise that recently announced financial 2025 EBITDA guidance of between \$3.2 billion and \$3.4 billion.¹⁷ This successful network deployment and market penetration, achieved while maintaining a spotless Commission complaint record, evidences Griggs' technical, financial, and managerial expertise.

Technical Capabilities. As discussed previously, Griggs' technical capabilities are amply supported by its existing state-of-the-art network and demonstrated track record of excellent service in the Requested Exchanges. Griggs affirmatively states that its existing installation and repair teams, outside plant, central office staff, and executive management all stand ready to

¹⁶ Affidavit at ¶3(i).

¹⁷ See, e.g., Seeking Alpha, Lumen targets \$3.2B-\$3.4B EVITDA in 2025 with focus on AI and telecom cloudification, February 4, 2025, available at https://seekingalpha.com/news/4403251-lumen-targets-3_2b-3_4b-ebitda-in-2025-with-focus-on-ai-and-telecom-cloudification (last visited February 21, 2025).

continue to provide the technical support which has produced the overbuild and customer penetration rates in the Requested Exchanges. In addition, Griggs attaches hereto certain network information requested by the Commission at the informal hearing of January 22, which further demonstrates its technical capabilities.¹⁸

Financial Capabilities. In addition to the financial capabilities demonstrated by the balance sheet, income statement, and independent accountants' financial opinion provided in the CPCN Application, Griggs has indicated that it does not expect to receive Federal high cost support in the first year following its ETC designation in the Requested Exchanges outside the RDOF support it already receives.¹⁹

Managerial Capabilities. Griggs managerial qualifications are similarly meritorious. Mr. Kilde has approximately 21 years in telecommunications management positions and has overseen significant customer growth and service improvement. The management capabilities of Mr. Kilde and his team are demonstrated by their successful overbuilding of the Requested Exchanges and their subsequent success in winning most of Lumen's customer base. Griggs further suggests that the quality of service is a relevant metric of its management qualifications; there have been no customer complaints filed against Griggs with the Commission in the past ten years, whereas approximately 80% of the customer complaints filed in that time period have been against Lumen.

Against this background the commission has substantial evidence to conclude that Griggs is more than qualified to hold the CPCN for the Requested Exchanges, as per its CPCN Application.

¹⁸ See, Attachment 2: Network Diagrams; Attachment 3: Network Maps – TRADE SECRET.

¹⁹ Affidavit at ¶3(e).

4. Whether, upon granting a certificate of public convenience and necessity to Griggs to provide local exchange telecommunication services in the areas currently known as the Leonard and Kindred exchanges, CenturyLink's certificates of public convenience and necessity should be relinquished or transferred to competitive local exchange service?

Griggs does not believe there is a need for Lumen's CPCN to be relinquished in order for the Commission to grant the CPCN Application. Unlike a transfer of control, where one carrier is exiting the business and no longer requires a CPNC, Lumen has not made any indication that it intends to cease its operations in the requested exchanges. Accordingly, there is no need to treat Lumen's CPCN as relinquished in the Requested Exchanges in order to grant the CPCN Application. Rather, Griggs should be deemed to be the ILEC in the Requested Exchanges.

Nor does it appear necessary to transfer Lumen's CPCN to competitive local exchange service. The FCC addressed a similar issue in *In re: Mid-Rivers*, which Griggs references in the Applications. In that case, the FCC found that Mid-Rivers had met the requirements of Section 214(h)(2) to be designated an ILEC.²⁰ However, the agency found that the Communications Act does not provide for the removal or modification of ILEC status in the event another LEC has effectively replaced the legacy ILEC.²¹ To address the issue, the FCC indicated that it would consider removal of regulatory obligations in the affected exchanges pursuant to formal request by Qwest, under its authority to remove unnecessary regulations.²² Griggs respectfully submits that Lumen may pursue a similar course if so inclined, and the Commission need not act on the question until it does.

²⁰ *In the Matter of Petition for Mid-Rivers Telephone Cooperative, Inc.*, 21 FCC Red 11506 (2006).

²¹ *Id.* at ¶22.

²² *Id.*

III. Comments on the Specific Issues to Be Considered on the ETC Application

In furtherance of the Commission's consideration of the Applications, Griggs submits the following comments on the specific issues identified in the *Notice of Opportunity for Consolidated Hearing* regarding the ETC Application, Case No. PU-24-387.

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.

Griggs currently holds ETC designation in six North Dakota exchanges where it is the ILEC.²³ More importantly, Griggs also already holds ETC designation in portions of the Requested Exchanges through its wholly owned subsidiary.²⁴ Accordingly, there can be no question that Griggs is qualified to be designated an ETC in the remaining portions of the Requested Exchanges for which is not already so designated.

As outlined in its Application, Griggs satisfies the requirements of Section 214(e) of the Communications Act for ETC designation because it (i) is a common carrier that offers services supported through the universal service fund mechanism over its own facilities or through a combination of its own facilities and resale of another carriers facilities where necessary and (ii) advertises the availability of such services and the related charges using media of general distribution.²⁵ Furthermore, Griggs commits to provide (i) voice grade access to the public switch network; (ii) minutes of use for local service provided at no additional charge; (iii) access to emergency service provided by local government or other public safety organizations such as 911 and enhanced 911, to the extent the local government and the requested exchanges has implemented such 911 systems; (iv) Lifeline and toll limitation service to qualifying low-income

²³ ETC Application at ¶1.

²⁴ *Id.* at ¶3; Case No. PU-21-050.

²⁵ Affidavit at ¶4.

consumers; (v) single-party service; (vi) DTMF signaling or its functional equivalent; (vii) access to operator services; (viii) access to interexchange services; and (ix) access to directory assistance.²⁶ For these reasons, there can be no question that Griggs is qualified for designation in the Requested Exchanges.

2. The ETC universal service support area to be designated.

Griggs seeks to have the Requested Exchanges added to its existing designated ETC area, to the extent they are not already a part of its designated ETC area as a result of its prior successful application for the RODF program.²⁷ Griggs also seeks to have these same areas added to its Federal universal service study area. Given that Griggs is already designated in parts of the Requested Exchanges, expansion to include those parts in which it is not designated is logical and efficient.

3. Whether it is in the public interest to designate Griggs as an ETC in the Leonard and Kindred local exchange areas for the purposes of receiving universal service support?

Griggs submits that the requested expansion of its ETC designation is squarely in the public interest. As noted throughout the Applications and in these Comments, Griggs has completely overbuilt Lumen in the Requested Exchanges and has captured approximately 95% of the local exchange customers in the Requested Exchanges. This fiber-to-the-premise build is far superior to the existing ILEC network. In addition, Griggs believes that customers will benefit from choosing a locally-owned and North Dakota based provider which has demonstrated success in responding to the service needs of its residents. Indeed, Griggs' track record vis-à-vis Commission complaints is vastly superior to that of the ILEC. Griggs was also one of the only

²⁶ 47 USC § 214(e); § 254 (c); and *In the Matter of Federal-State Joint Board on Universal Service*, 12 FCC Rcd 8807, 8812-8814 (1997). *See also*, Affidavit at ¶¶1-3.

²⁷ *See*, Case No. PU-21-050.

rural companies to participate in the Affordable Connectivity Program and offered a \$30 broadband plan in the Requested Exchanges, which was available at zero cost for those who qualified.

Griggs further notes that the FCC has previously determined that the treatment of such a rural LEC as an incumbent LEC in such overbuilt circumstances is in the public interest.²⁸ The Commission should make a similar public interest finding here.

4. Whether, upon designation of Griggs as an ETC for the Leonard and Kindred exchanges, CenturyLink's designation as an ETC for the Leonard and Kindred exchanges should be relinquished or transferred to competitive local exchange service?

As with CPCN, Griggs does not believe Lumen's ETC designation needs to be relinquished or transferred to competitive local exchange service in order to grant Griggs' ETC Application. The Communications Act expressly provides that a State commission may designate more than one common carrier as an ETC, so long as it meets the requirements of Section 214(e)(1).²⁹ However, the Commission should find that Lumen has relinquished the Requested Exchanges from its study area for the purposes of Federal universal service support, and that Griggs' designated expanded service area (including the Requested Exchanges) is a rural study area for such purposes. The Commission routinely makes this finding in the context of transfers of control.³⁰

²⁸ See, *In re: Mid-Rivers*, *supra* fn. 19.

²⁹ 47 USC § 214(e)(2).

³⁰ See, e.g., *Reservation Tel, et al., Medora and Beach Exchanges Public Convenience & Necessity*, Case No. PU-24-319; *Reservation Tel, et al., Designated Eligible Carrier Application*, Case No. PU-24-320.

IV. Conclusion

For the foregoing reasons, Griggs respectfully submits that the Commission should grant the Applications and recognize Griggs as the ILEC in the Requested Exchanges.

Respectfully submitted,

A handwritten signature in black ink, appearing to be a cursive or stylized script, likely representing Benjamin H. Dickens, Jr. and Salvatore Taillefer, Jr.

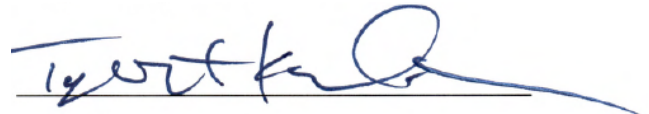
Benjamin H. Dickens, Jr.
Salvatore Taillefer, Jr.

Filed: February 21, 2025

Declaration of Tyler Kilde

I, Tyler Kilde, President of Griggs County Telephone Company, do hereby declare under penalty of perjury that the forgoing filing was prepared under my direction and supervision, and that the factual assertions of said filing are true and correct to the best of my knowledge, information, and belief.

Executed on this 21st day of February 2025



Tyler Kilde, President

Griggs County Telephone Company

ATTACHMENT 1

STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION

Application for Trade Secret

COMES NOW, Griggs County Telephone Company ("Griggs" or the "Company") and respectfully moves the Commission for entry of a trade secret protective order under section 69-02-09-01 of the North Dakota Administrative Code. The purpose of the requested protective order is to protect against public disclosure of trade secret information as defined by section 47-25.1-01 of the North Dakota Century Code. In support of the motion, Griggs states as follows:

1. A general description of the nature of the information sought to be protected.

Griggs wishes to protect from disclosure certain network infrastructure information contained in the documents attached hereto (Attachment 3).

2. Explanation of why the information derives independent economic value.

The infrastructure information could have economic value to potential competitors. This type of information in a competitive telecommunications marketplace is highly sensitive, and its public disclosure could place Griggs at an unfair competitive disadvantage.

3. An explanation of why the information is not readily ascertainable by proper means by other persons.

Griggs maintains the confidentiality of its infrastructure information and does not make it readily available by proper means to competitors or the general public.

4. A general description of the persons or entities that would obtain economic value from the disclosure or use of the information.

If disclosed, competitive carriers could use the infrastructure information against Griggs's interests.

5. A specific description of known competitors and competitors' goods and services that is pertinent to the tariff or rate filing.

Not Applicable.

6. A description of the efforts used to maintain the secrecy of the information.

Griggs's infrastructure information is not disclosed to the public or to persons other than employees or authorized agents of the Company who need to know the information to fulfill their responsibilities or to third persons pursuant to an agreement to maintain the confidentiality of the information.

In accordance with section 69-02-09-02 of the North Dakota Administrative Code, Griggs provides one copy of the trade secret material in the enclosed sealed envelope labeled: TRADE SECRET - PRIVATE.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "BH Dickens, Jr.", written over a horizontal line.

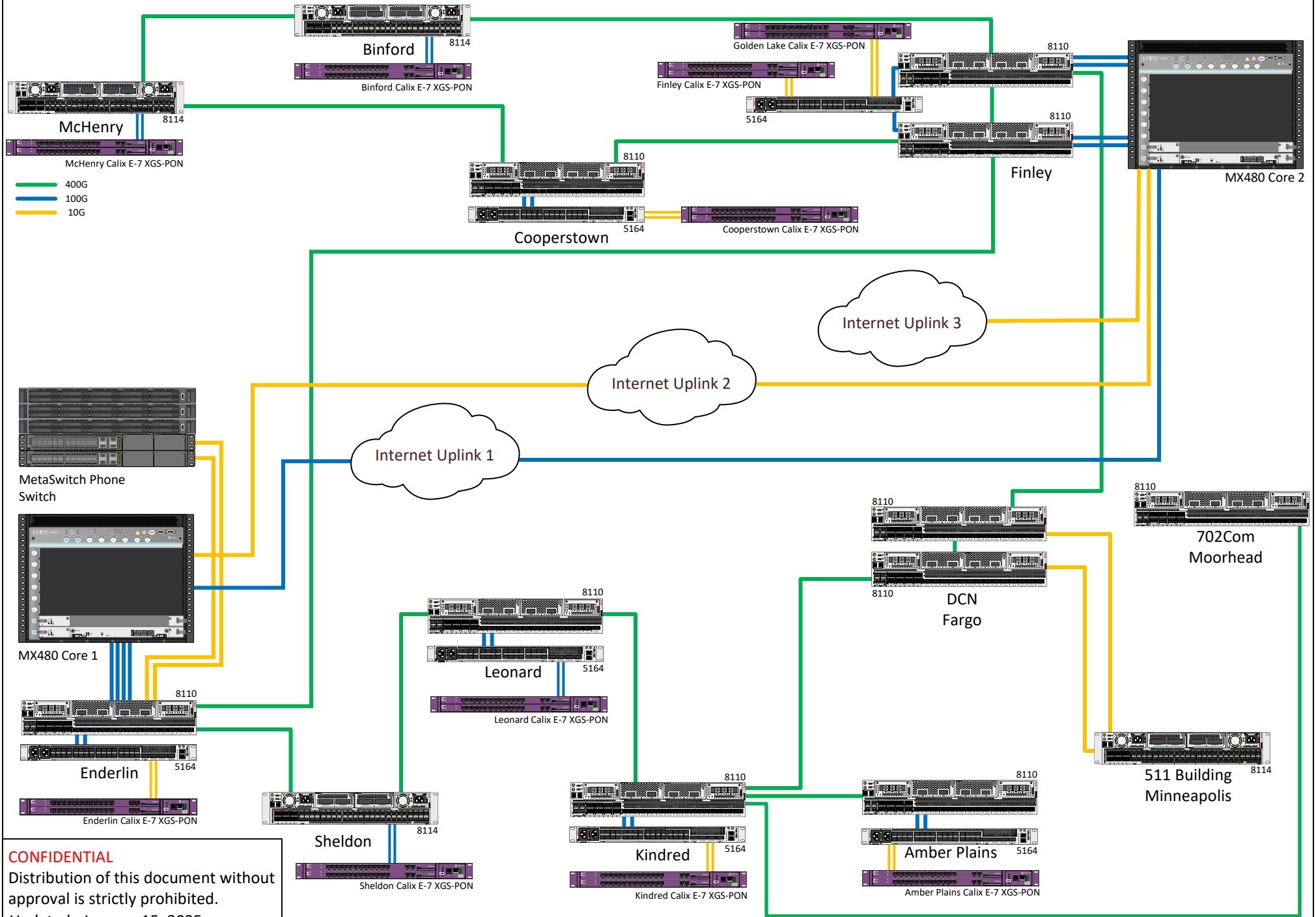
Benjamin H. Dickens, Jr.
Salvatore Taillefer, Jr.

Counsel to Griggs County Telephone Company

Dated this 21st day of February 21, 2025

ATTACHMENT 2

MLGC Customer Access Network



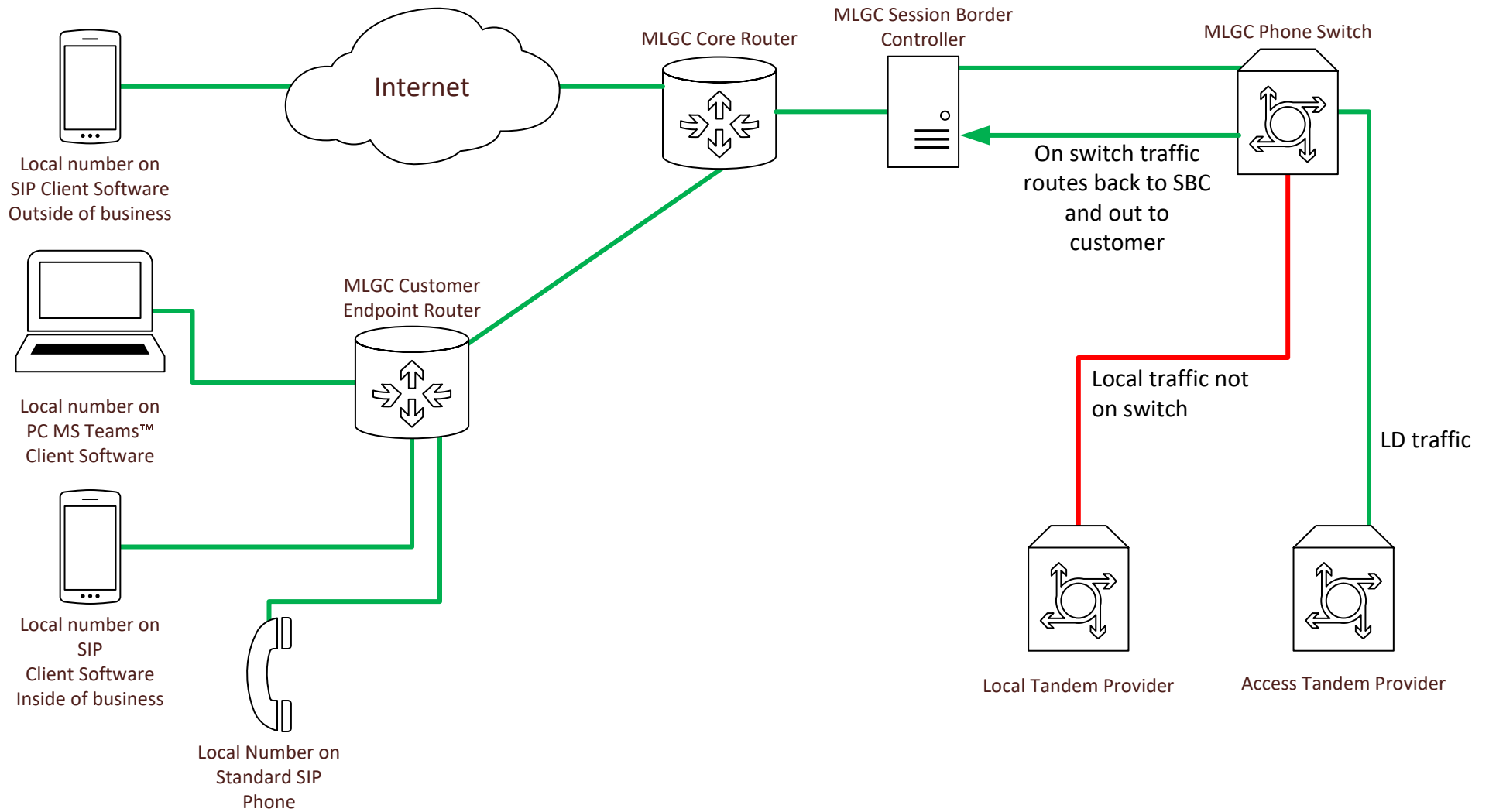
CONFIDENTIAL

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Updated: January 15, 2025

MLGC Call Flows

All calls are treated as landline origination and terminating from/to our exchanges.



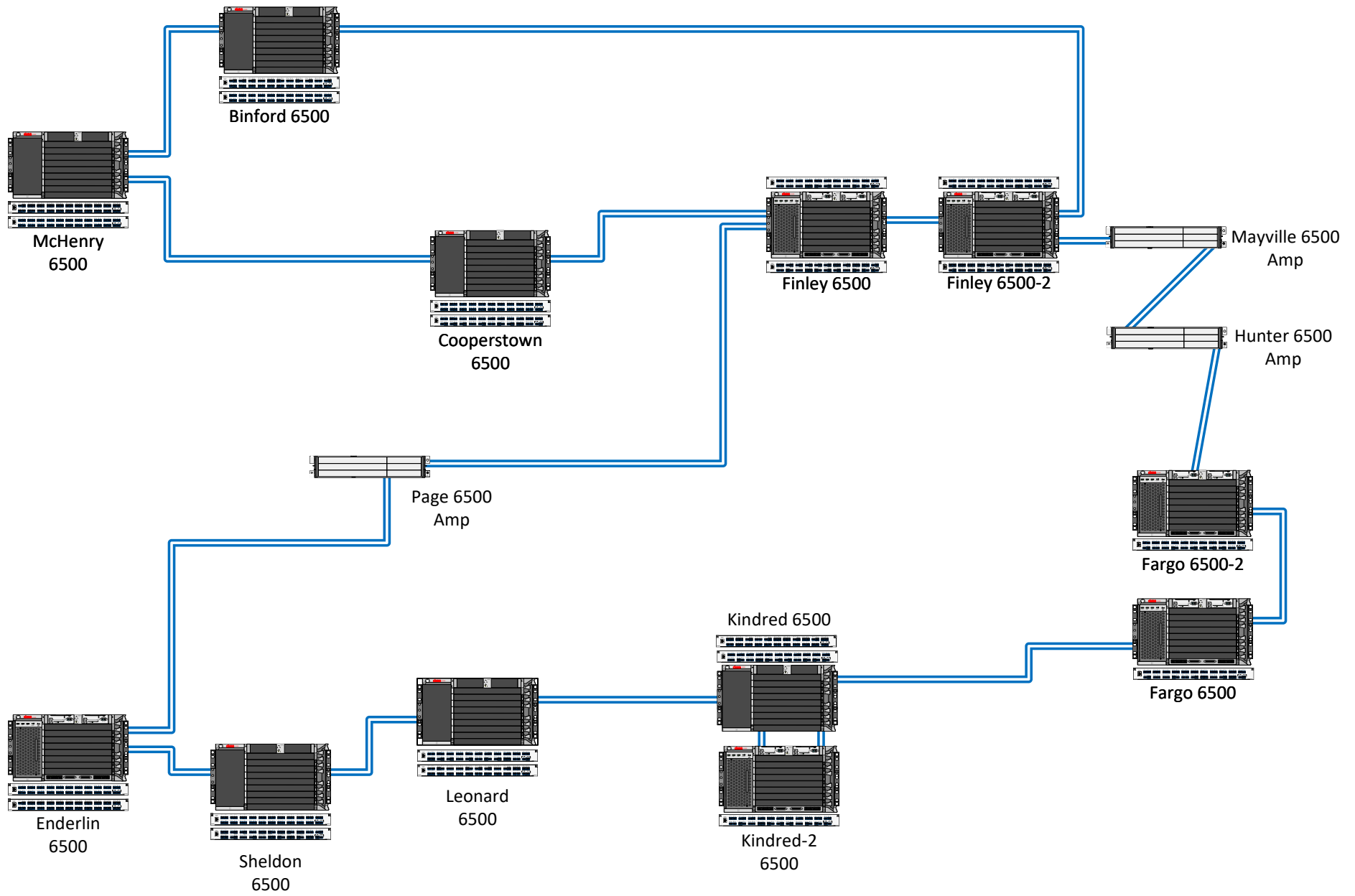
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Updated: January 15, 2025

— IP Based Traffic
— TDM Based Traffic

MLGC 6500 Transport Ring



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Updated: January 14, 2025

ATTACHMENT 3

[REDACTED IN ENTIRETY]