

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF INTERSTATE)	ORDER GRANTING)
TELECOMMUNICATIONS COOPERATIVE, INC.)	EXPANDED ELIGIBLE)
APPLICATION FOR EXPANDED DESIGNATION)	TELECOMMUNICATIONS)
AS AN ELIGIBLE TELECOMMUNICATIONS)	CARRIER DESIGNATION IN)
CARRIER)	CERTAIN CENSUS BLOCKS;)
)	ORDER GRANTING WAIVER)
))
)	TC21-011)

On March 9, 2021, the South Dakota Public Utilities Commission (Commission) received an application from Interstate Telecommunications Cooperative, Inc. (ITC) for designation as an Eligible Telecommunications Carrier (ETC) in all census blocks in which it was awarded Rural Digital Opportunity Fund (RDOF) Phase 1 support (Application) as shown in Exhibit A and as mapped in Exhibit B. ITC was previously designated by the Commission as an ETC within the local exchange areas that constitute its service area in Docket TC97-078. ITC has been awarded RDOF support for 732 locations in South Dakota that are within the service area of Qwest Corporation d/b/a CenturyLink QC, (CenturyLink), a non-rural incumbent local exchange carrier. ITC requested a waiver of the two-year plan requirement found in ARSD 20:10:32:43.02.

On March 11, 2021, the Commission electronically transmitted notice of the filing and the intervention deadline of March 26, 2021, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. No petitions to intervene or comments were filed. On April 1, 2021, ITC responded to Commission staff's first data request. On May 6, 2021, ITC responded to Commission staff's second data request. On May 7, 2021, ITC filed an amended response to Commission staff's second data request.

The Commission has jurisdiction in this matter pursuant to SDCL Chapter 49-31, specifically 49-31-78, ARSD 20:10:32:42-46, and 47 U.S.C. § 214.

At its May 13, 2021, regularly scheduled meeting, the Commission considered the request for expanded ETC designation. The Commission voted unanimously to grant the application for expanded ETC designation, and it further voted unanimously to grant the waiver request.

In order to be designated an ETC, a carrier must offer the supported services throughout the service area for which the designation is received and advertise the availability of, and the charges for, those services throughout the service area. 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201. The Federal Communications Commission (FCC) has designated the following services for support by federal universal service support mechanisms: (1) voice grade access to the public switched network or its functional equivalent; (2) minutes of use for local service provided at no additional charge to end users; (3) 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; (4) toll limitation services to qualifying low-income consumers; and (5) eligible broadband internet access services which will provide the capability to transmit data to and receive data by wire or radio from all internet endpoints, including any capabilities that are

incidental to and enable the operation of the communication service. 47 C.F.R. § 54.101. In its filing, ITC stated that it can and will provide all of the supported services through the provision of VOIP and high-speed broadband Internet services. (App. pgs. 3). The Commission finds that ITC is able to offer the supported services.

A carrier must offer the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services...." 47 U.S.C. § 214(e)(1)(A). ITC will primarily use its own facilities, but at times may resell another carrier's services to offer the services that are supported by Federal universal service support mechanisms. ITC is a facilities-based fiber to the premises (FTTP) carrier and will primarily use its own state-of-the-art facilities to provide any requested services (App. pg. 4).

The carrier must also advertise the availability of such services and the rates for the services using media of general distribution. 47 U.S.C. § 214(e)(1)(B). ITC stated that it will advertise the availability of the supported services and the charges thereof using media of general distribution with methods that may include newspapers, bill inserts, contacts with social service agencies, and its website. (App. pg. 5). ITC also stated it will advertise the availability of Lifeline service available to qualifying low-income consumers and publicize the availability of Lifeline service in a manner reasonably designated to reach those likely to qualify for the service. ITC may advertise via newspapers, bill inserts, newsletter, and on its website. (App. pg. 5).

Pursuant to ARSD 20:10:32:43.01, an applicant for ETC designation must commit to providing service to customers making a reasonable request for service in the designated service area. ITC has made that commitment in its filing. (App. pgs. 4 and 5). ITC certified that it will:

A. Provide service on a timely basis to requesting customers within its proposed designated service area where its network already passes the potential customer's premises or will pass, consistent with FCC RDOF buildout requirements; and

B. If the potential customer is within ITC's proposed designated service area but outside its existing network coverage, it will provide service within a reasonable period of time, if the service can be provided at a reasonable cost, by

1. Extending, modifying, adjusting, or replacing network or customer's facilities; or
2. Reselling services of another carrier's facilities to provide service.

Pursuant to ARSD 20:10:32:43.02, an applicant must provide a two-year plan that explains upgrades or improvements the applicant will make in each wire center. ITC requested a waiver of this rule since ITC will be required to meet all buildout and public interest reporting requirements for the RDOF support and all buildout progress will be included in annual ETC recertification requests to the Commission. (App. pg. 8).

Pursuant to ARSD 20:10:32:43.03, an applicant must demonstrate its ability to remain functional in emergency situations including a demonstration to remain functional in emergency situations without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. ITC stated it has a reasonable amount of back-up power to ensure functionality of voice services without a commercial power source by use of batteries or generators. Further the company has a fiber optic protected ring as its backbone to each exchange area served and can reroute traffic around damaged facilities automatically to a redundant back-up route (App. pg. 6).

Pursuant to ARSD 20:10:32:43.04, an applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. ITC stated that it will comply with all applicable regulations concerning consumer protection and service quality throughout its proposed ETC designated service areas. (App. pg. 6).

Pursuant to ARSD 20:10:32:43.05, an applicant must demonstrate that it offers a local usage plan comparable to the one offered by the incumbent carrier. ITC's voice and fiber internet service plans are found on page 8 of the Application and response to Commission staff's Second Data Request.

The Commission finds that ITC has met the requirements of ARSD 20:10:32:43.01 through 20:10:32:43.05.

In order to designate an applicant as an ETC, the Commission must also determine whether such designation is in the public interest. See ARSD 20:10:32:43.07. When making this determination, the Commission must consider the following:

Prior to designating an eligible telecommunications carrier, the commission shall determine that such designation is in the public interest. The commission shall consider the benefits of increased consumer choice, the impact of multiple designations on the universal service fund, the unique advantages and disadvantages of the applicant's service offering, commitments made regarding the quality of the telephone service provided by the applicant, and the applicant's ability to provide the supported services throughout the designated service area within a reasonable time frame. In addition, the commission shall consider whether the designation of the applicant will have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier. If an applicant seeks designation below the study area level of a rural telephone company, the commission shall also conduct a creamskimming analysis that compares the population density of each wire center in which the applicant seeks designation against that of the wire centers in the study area in which the applicant does not seek designation. In its creamskimming analysis, the commission shall consider other factors, such as disaggregation of support pursuant to 47 C.F.R. § 54.315 (January 1, 2006) by the incumbent local exchange carrier.

The Commission will first consider the benefits of increased consumer choice, the unique advantages and disadvantages of the service offerings, commitments regarding telephone service quality, and ability to provide the supported services throughout the designated service area within a reasonable time frame. ITC stated that it will deploy state-of-the-art FTTP services in the census blocks in Exhibit A, in order to provide communities access of up to Gigabit speeds and better voice service. Lifeline-eligible customers will have a greater choice of providers for accessing telecommunications services that may not be available today. (App. pg. 8). The Commission finds that the designation of ITC will bring the benefits of increased consumer choice and it has committed to providing quality services to the designated service area.

Regarding the impact of multiple designations on the universal service fund, the incumbent local exchange carrier is CenturyLink. CenturyLink did not intervene or submit comments in this docket. ITC was also awarded RDOF funding from the FCC to provide services in the requested areas. The Commission finds that no evidence was presented to show that the designation of ITC as an ETC would have a detrimental effect on the provisioning of universal service by the

incumbent local exchange carrier.

After evaluating the public interest considerations, the Commission finds that the expanded designation of ITC as an ETC is in the public interest. ITC will provide the supported services in the service areas and will upgrade the network infrastructure and improve and expand on the services currently being offered. It is therefore

ORDERED, that ITC's request for expanded designation as an ETC in the requested ETC service area as shown in Exhibit A is hereby granted. It is further

ORDERED that ITC's request for a waiver of ARSD 20:10:32:43.02 is hereby granted.

Dated at Pierre, South Dakota, this 19th day of May 2021.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.
By: <u>Adam deVueck</u>
Date: <u>5/19/21</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Chris Nelson
CHRIS NELSON, Chairperson

Kristie Eiegen
KRISTIE EIEGEN, Commissioner

Gary Hanson
GARY HANSON, Commissioner