

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

IN THE MATTER)	
)	
NW FIBER, LLC FOR DESIGNATION)	Docket No. UT-210101
AS AN ELIGIBLE)	Revised Petition and Request for
TELECOMMUNICATIONS)	Expedited Consideration
CARRIER)	

NW Fiber, LLC (“NW Fiber” or the “Company”) respectfully submits this Petition for designation as an Eligible Telecommunications Carrier (“ETC”) to the Washington Utilities and Transportation Commission (“Commission”) pursuant to 47 U.S.C § 214(e) of the Communications Act of 1934, as amended (the “Act”), Part 54, Subpart C of the rules of the Federal Communications Commission (“FCC”), and WAC § 480-123-030 through 040. NW Fiber seeks designation in fourteen census blocks listed in Exhibit A (the “Designated Service Area”), for the purpose of receiving federal support for deploying voice and broadband in high-cost areas from the FCC’s Rural Digital Opportunity Fund Auction (Auction 904) (the “RDOF Auction”). In the Public Notice issued upon the close of the RDOF Auction on December 7, 2020, (hereinafter the “*Auction Results Notice*”), the FCC identified St. John Telephone Company as a winning bidder.¹ The winning bid was assigned to NW Fiber according to FCC procedures. However, NW Fiber’s receipt of the support is conditioned upon NW Fiber obtaining designation as an ETC in the pertinent census blocks within 180 days of the Notice.

Section 214(e)(2) and 254 of Title 47 of the United States Code expressly authorize the Commission to designate a company that meets the requirements of 47 U.S.C. § 214(e)(1) – such as NW Fiber – as an ETC. Moreover, Washington State law requires that the Commission “will

¹ *Rural Digital Opportunity Fund Phase I Auction (Auction 904)* AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10-90, Public Notice, DA 20-1422 (released December 7, 2020) (“*Auction Results Notice*”), Attachment A.

approve a petition for designation as an ETC if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest.” As demonstrated in this Petition, NW Fiber meets all state and federal requirements for ETC designation, and, as shown by the description herein and in NW Fiber’s long form application provided to the Commission separately of NW Fiber’s planned voice and broadband deployment projects, designating NW Fiber as an ETC in the proposed area would advance the goals of universal service and is in the public interest. To be clear this is a request to be designated as an ETC for RDOF purposes, not state fund purposes.

In support of this Petition, NW Fiber states as follows:

I. BACKGROUND

NW Fiber is a Washington limited liability company headquartered in Colfax, Washington. NW Fiber has been operating an interconnected over the top VoIP service since 2013 with about 300 customers (business and residential) as of this date. In 2019, NW Fiber launched internet service with a 300-unit apartment complex with fiber to the unit, and currently operating at gigabit to every unit.

NW Fiber is a facilities-based CLEC. NW Fiber was classified as a competitive telecommunications carrier by the Commission on August 17, 2020 in Docket UT-200657. NW Fiber plans to provide service via fiber-to-the-premises (FTTP) to provide broadband and VoIP services to fourteen census blocks (and other areas) at prices comparable to or below urban rates.²

² This is required by 47 C.F.R. § 54.805.

NW Fiber's address and telephone number are set forth below:

Attn: Jim Kuznir, Owner
NW Fiber, LLC
212 S. Main St.
Suite 1
Colfax, WA 99111-1835
509-288-4056

NW Fiber's counsel in this matter is set forth below:

Richard A. Finnigan
Law Office of Richard A. Finnigan
2112 Black Lake Blvd. SW
Olympia, WA 98512
360-956-7001

II. NW FIBER'S PROPOSED PARTICIPATION IN THE FCC'S RDOF AUCTION

A. NW Fiber's Selection as a Winning Bidder

The FCC's December 7, 2020, Auction Results Notice announced that St. John Telephone Company was among the winners of the recently-concluded RDOF Auction.³ Through an assignment by St. John to NW Fiber, the FCC, in effect, designated NW Fiber as the winning bidder in Census Blocks listed in Exhibit A, attached hereto. In order for NW Fiber to receive the RDOF support that it has been awarded, it must provide evidence to the FCC showing that it has been designated as an ETC in the areas where it was the winning bidder. The FCC's deadline for submitting proof of the ETC designation is 180 days from the announcement of the winning bids.

B. Details of NW Fiber's Planned Broadband and Voice Deployment and Services

The services that NW Fiber proposed in its winning bid consisted of a FTTP network.

³ DA 20-1422

NW Fiber's proposed deployment will allow it offer speed of one gigabit symmetrical service.

With respect to voice services, NW Fiber will provide VoIP circuit-switched voice services from its switch, which is connect to the PSTN, local 911 centers, multiple public service answering points (PSAPs), incumbent local exchange carriers (ILECs) and provides all carrier-class features. NW Fiber will utilize the G711 Codec, which provides a full 64k bandwidth for voice and fax services. The technologies that NW Fiber will utilize will allow for average latency to the home under 20 ms, providing customers with high-quality voice service.

C. Need for Expedited ETC Designation

Although applicants need not be designated ETCs at the time of application, winning bidders must, within 180 days of being announced as winning bidders, certify they are an ETC in any areas for which they seek support and submit relevant documentation.

Again, NW Fiber has already been identified as a winner of the RDOF Auction. Because the timeframe for winners to obtain ETC designation is short and the consequences of failure to do so are serious, NW Fiber respectfully requests that the Commission consider its Petition on an expedited basis, and to grant NW Fiber's ETC designation in the Designated Service Area without delay.

III. NW FIBER MEETS THE STATE AND FEDERAL STATUTORY AND REGULATORY REQUIREMENTS FOR ETC DESIGNATION

NW Fiber meets all applicable requirements for ETC designation as established under federal law and rules of the FCC, including 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201, *et seq.*, and the WAC 480-123-030.

A. NW Fiber Meets All State Requirements For ETC Designation

WAC 480-123-040 states that the Commission “will approve a petition for designation as an ETC if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest.” As explained below, NW Fiber meets all the requirements of WAC 480-123-030 as follows:

- a) In satisfaction of WAC 480-123-030(a), NW Fiber identifies the area for which designation is sought as the State of Washington as described in Exhibit A;
- b) In satisfaction of WAC 480-123-030(1)(b), NW Fiber will offer the services supported by federal universal service support mechanisms using its own facilities or a combination of its own facilities and resale of another carrier’s services;
- c) In satisfaction of WAC 480-123-030(1)(c), NW Fiber describes herein how each supported service will be provided, including a thorough description of its deployment plans and Lifeline service plans, which are discussed in greater detail below;
- d) In satisfaction of WAC 480-123-030(1)(d), NW Fiber directs the Commission to the above description of the voice and broadband deployments that NW Fiber plans to carry out using the funds from the RDOF Auction and as further described in its long form application, and which constitutes a substantive investment plan of how support will be spent to benefit customers;
- e) In satisfaction of WAC 480-123-030(1)(e), NW Fiber states that it will advertise the availability of services supported by federal universal service mechanisms, including

advertisement of applicable telephone assistance programs, such as Lifeline, that is reasonably calculated to reach low-income consumers not receiving discounts;

- f) NW Fiber is not subject to WAC 480-123-030(1)(f);⁴ which pertains only to providers of commercial mobile radio service (“CMRS”) with cell sites;
- g) In satisfaction of WAC 480-123-030(1)(g), NW Fiber is able to remain functional in emergencies, as described herein (*see also* WAC 480-120-411(1)), including by maintaining back up battery power and backup generators at its switch site in Washington State;⁵
- h) In satisfaction of WAC 480-123-030(1)(h), NW Fiber commits to abide by all applicable consumer protection and service quality standards of chapter 480-120;
- i) NW Fiber provides herein, as Exhibit B, the supporting Declaration of Jim Kuszniir certifying the information in this Petition (WAC 480-123-030(2));
- j) NW Fiber will fully comply with the annual certification requirements adopted by the Commission in WAC 480-123-060, 480-123-070, and 480-123-080, including requesting certification by July 1st each year, certifying that federal high-cost support is used as intended, and reporting the following information on an annual basis with respect to the Designated Service Area:
 - i. Use of federal funds and benefits to customers;
 - ii. Local service outages;
 - iii. The number and details of unfulfilled service requests;

⁴ WAC 480-123-030(1)(f) asks “wireless petitioners” to provide a “a map in .shp format of proposed service areas (exchanges) with *existing and planned locations of cell sites* and shading to indicate *where the carrier provides and plans to provide commercial mobile radio service signals.*” Because NW Fiber is not a CMRS provider, and has no cell sites, the requirement is inapplicable to NW Fiber.

⁵ The remaining provisions of WAC 480-123-030(g) appear to be directed at Commercial Mobile Radio Service providers, and do not apply to NW Fiber, which has no cell sites in Washington State.

- iv. Complaints per one thousand connections;
- v. Certification of compliance with applicable service quality standards and consumer protection rules;
- vi. Certification of ability to function in emergency situations;
- vii. Advertising certification, including advertisement on any Indian reservations within the Designated Service Area.

As expressly allowed by WAC 480-123-070, NW Fiber reserves the right to refer the Commission to fulfill the reporting requirements of that section by referring the Commission to reports already filed with the FCC or another federal agency.

B. NW Fiber Meets All Federal Requirements for ETC Designation.

NW Fiber also meets all criteria for designation as an ETC under federal law, including those in 47 U.S.C. § 214(e) and 47 C.F.R § 54.201, *et seq.* In particular:

- 1) NW Fiber is a common carrier (see 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));
- 2) As required by 47 C.F.R. § 54.101(b), NW Fiber will offer the Voice Telephony services supported by federal universal service support mechanisms as defined in 47 C.F.R. §54.101(a) 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); 47 C.F.R. § 54.201(d)(1)), including the following services.
 - a. Voice grade access to the public switched network or its functional equivalent;
 - b. Minutes of use for local service at not additional charge to end users;
 - c. 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;

d. Toll limitation services to qualifying low-income customers as provided in subpart E of 47 C.F.R. Part 54;

- 3) As described in greater detail below, NW Fiber will make available Lifeline service to qualifying low-income consumers (47 C.F.R. § 54.405(a));
- 4) NW Fiber will also publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service (47 C.F.R. § 54.405(B));
- 5) NW Fiber 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 media, such as advertising via radio, newspapers, magazines or other print advertisements, outdoor advertising, direct marketing, or the Internet;
- 6) NW Fiber will provide the supported services throughout the designated service area (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));
- 7) NW Fiber 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.

C. NW Fiber Will Provide Lifeline Service to Qualifying Low-Income Consumers

Upon designation as an ETC, NW Fiber will make a discounted service offering that meets all applicable Lifeline requirements available to qualified low-income consumers. NW Fiber plans to offer the Lifeline discount on all of its service plans that include voice service.

NW Fiber will advertise the availability of services supported by federal universal service mechanisms, including its Lifeline offerings. NW Fiber's advertisements for Lifeline services will be reasonably calculated to reach qualified low-income consumers not receiving discounts. Both the content of NW Fiber's Lifeline advertisements and the modes of advertising selected will be designed to reach qualifying subscribers that would benefit from Lifeline service.

D. DESIGNATION OF NW FIBER AS AN ETC IS IN THE PUBLIC INTEREST

Pursuant to WAC 480-123-040, the Commission "will approve a petition for designation as an ETC if the petition meets the requirements of WAC 480-123-030, the designation will advance some or all of the purposes of universal service found in 47 U.S.C. § 254, and the designation is in the public interest." 47 U.S.S § 214(e)(2), requires that designation be "in the public interest" only where multiple ETCs are designated for areas served by a rural telephone company, and otherwise requires only that designation meet the lower threshold of being "consistent with the public interest." Section 214(e)(2) states:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. 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, 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 paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

Granting NW Fiber's petition will serve the public interest through the deployment of broadband and voice services to unserved and underserved high-cost areas in Washington State, supporting investment in facilities and equipment, and expanding the number of competitive providers serving rural areas in Washington. Designation of NW Fiber as an ETC will permit

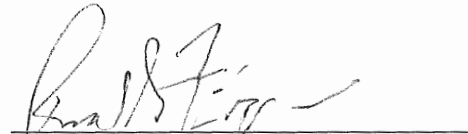
the company to receive RDOF Auction funds, directly advancing the goals of the FCC's RDOF Auction. The resulting deployments will bring expanded voice and broadband connectivity to rural areas in Washington, helping to ensure that residents of Washington are not left on the wrong side of the digital divide, and expanding economic opportunity for communities that will benefit from increased connectivity. By selecting NW Fiber as a recipient of RDOF Auction funds, the FCC has recognized that the voice and broadband services that NW Fiber proposes to deploy with the funds would advance the goal of the RDOF Auction, and hereby advance the goals of universal service.

E. CONCLUSION

For the reasons state herein, NW Fiber respectfully requests that the Commission expeditiously: (i) designate NW Fiber as an ETC in the Designated Service Area for the purpose of receiving RDOF funds, (ii) send the appropriate notice of the Order designating NW Fiber as an ETC for the Designated Service Area to the FCC and the Universal Service Administrative Company; and (iii) order such other relief as may be appropriate.

Dated this 1st day of April, 2021.

Respectfully submitted,



Richard A. Finnigan
Attorney for NW Fiber, LLC

LIST OF EXHIBIT AND ATTACHMENTS

Exhibit A – Designated Service Area

Exhibit B – Declaration of Jim Kuszniir

EXHIBIT A

DESIGNATED SERVICE AREA

Census Block Groups in which the FCC selected NW Fiber as a winning bidder.

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EXHIBIT B

DECLARATION OF JIM KUSZNIR

I, the undersigned, Jim Kuszniir, do hereby declare and under penalty of perjury as follows:

1. I am owner of NW Fiber, LLC (“NW Fiber”), a Washington limited liability company with its headquarters at 212 S. Main St., Suite 1, Colfax, WA 99111.
2. This Declaration is submitted in support of the Petition of NW Fiber for Designation as an Eligible Telecommunications Carrier to receive RDOF Auction (Auction 904) support for the voice and broadband services (the “Petition”).
3. I have reviewed the Petition and that the facts stated therein are true and correct to the best of my knowledge.
4. The federal universal service fund support received by NW Fiber, including all support from the RDOF Auction will be used only for the purposes for which the support is intended.
5. To the best of my knowledge, NW Fiber, including all officers, or persons holding five percent or more of the outstanding interest of NW Fiber are not subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 2nd day of April, 2021.

James Kuszniir
Jim Kuszniir