

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of	DOCKET No.
APPLICATION OF ZIPLY FIBER PACIFIC, LLC FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER	Petition of Ziplly Fiber Pacific, LLC for Designation as an Eligible Telecommunications Carrier

ZiPLY Fiber Pacific, LLC, DBA ZiPLY Fiber ("ZFP" or the "Company"), pursuant to the Federal Communications Act of 1934, as amended (the "1996 Act"), 47 U.S.C. § 214(e), Federal Communications Commission ("FCC") rules related to Universal Service, 47 C.F.R. §§ 54.101 through 54.207 (the "FCC Rules"), and Washington Administrative Code ("WAC") 480-123-030, hereby requests that the Washington Utilities and Transportation Commission ("WUTC" or "Commission") designate ZFP as an Eligible Telecommunications Carrier ("ETC") in the State of Washington in order to receive federal high-cost and Lifeline support in the state of Washington.

ZFP respectfully requests that the Commission grant this Application and that it do so expeditiously so ZFP may begin providing high-cost and Lifeline service at the earliest practicable time.

INFORMATION REGARDING THE APPLICATION

1. ZFP is a Delaware limited liability company authorized to do business in Washington with its principal offices located at 135 Lake Street South, Suite 155, Kirkland, WA 98033. ZFP is a Competitive Telecommunications Company registered with the Commission in Docket UT-220087.

2. ZFP is an affiliate of ZiPLY Fiber Northwest, LLC which also has ETC designation in Washington.

3. Correspondence or communications pertaining to this Application or questions concerning the ongoing operations of ZFP should be directed to:

Jessica Epley
ZiPLY Fiber

135 Lake Street South
Suite 155
Kirkland, WA 98033
Telephone: (503) 431-0459
Email: jessica.epley@ziply.com

BACKGROUND

4. The FCC has adopted a number of cost recovery policies and mechanisms designed to promote and maintain universal service. One aspect of universal service is the availability of subsidies from the federal Universal Service Fund ("USF"), created by the Act. The USF was created, in part, to provide support to qualifying low-income communications end-users. Mechanisms were also established to moderate the amount of costs to be recovered through basic, recurring charges to low-income users, thereby assisting efforts to maintain reasonable basic rate levels for those users. Only carriers designated as an ETC may receive subsidies from the USF. Moreover, only a "common carrier" designated as an ETC under 47 U.S.C § 214(e) is eligible to receive subsidies from the federal USF. Common carriers that provide services consistent with the requirements of Section 214(e) may be deemed ETCs. Section 214(e)(2) of the Act provides that:

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 and 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.

Section 214(e)(1) of the Act provides:

A common carrier designated as an eligible telecommunications carrier under paragraph (2), (3), or (6) shall be eligible to receive universal service support in accordance with Section 254 of this title and shall, throughout the service area for which the designation is received -

(A) offer the services that are supported by Federal universal service

support mechanisms under Section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

5. The FCC has promulgated rules governing ETC designations to establish various requirements for carriers to obtain ETC status. Applications seeking ETC status in Washington must address and satisfy each of the ETC designation criteria under the FCC Rules.

6. Pursuant to 47 U.S.C. § 214(e)(2), the Commission has the statutory authority to designate a common carrier as an ETC that offers the services supported by the federal Universal Service Fund support mechanisms and advertises "the availability of such services and the charges therefore using media of general distribution."¹

7. ZFP is a common carrier and will offer the voice and broadband services and functionalities detailed in Section 54.101(a) of the FCC Rules throughout its Service Area, defined below. Additionally, ZFP will advertise the availability of such services and the charges for these services using media of general distribution and commits to continue to advertise the availability of both its Lifeline program and high-cost supported services.

8. The Commission has granted ZFP the authority to provide service throughout the state of Washington.² ZFP's business plan includes continually analyzing growth opportunities throughout the state. ZFP has listed the potential exchanges where it may compete at Exhibit A.

9. As shown herein, ZFP meets the additional requirements set forth in the FCC Rules for obtaining ETC designation for purposes of receiving high-cost and Lifeline funding support because it can:³

¹ 47 C.F.R. § 54.201(d)(2).

² See Commission Docket UT-220087, letter from Amanda Maxwell to Steve Weed, March 2, 2022.

³ 47 C.F.R. § 54.202.

(a) Certify ZFP's compliance with the service requirements applicable to the support that it receives;

(b) Demonstrate ZFP's ability to remain functional in emergency situations, including a demonstration of possession of reasonable amount of back-up power to ensure functionality without an external power source, and ability to reroute traffic around damaged facilities, and capability of managing traffic spikes resulting from emergency situations;

(c) Demonstrate that ZFP satisfies the applicable consumer protection and service quality standards;

(d) Demonstrate ZFP's financial and technical capability of providing high-cost and Lifeline service in compliance with the FCC's rules and regulations;³

(e) Submit information describing the terms and conditions of any service plans offered to Lifeline subscribers, and

(f) Demonstrate that ETC designation is in the public interest.

10. Designation of ZFP as an ETC is in the public interest of the State of Washington and its low-income telecommunications end-users. Upon designation as an ETC, ZFP will make Lifeline service available to qualifying customers in the Service Area pursuant to the guidelines and requirements of the universal service program and 47 C.F.R. § 54.202.

ZFP MEETS THE REQUIREMENTS FOR DESIGNATION AS AN ETC IN WASHINGTON

11. As demonstrated below, ZFP meets the requirements for ETC designation by the Commission pursuant to Section 214(e)(2) of the Act.⁴ In addition, ZFP complies with the standards established by the FCC for determining whether applicants for ETC status serve the public interest.⁵ The requested designation of ZFP will provide better service and increased consumer choice in the designated area.

⁴ 47 U.S.C. § 214(e)(2)

⁵ See Federal-State Joint Board on Universal Service, *Report and Order*, CC Docket No. 96-45, 20 FCC Red 6371, 40-43

12. The Commission has jurisdiction to designate ZFP as an ETC. Pursuant to the provisions of Section 214(e)(2) of the Act, state commissions, such as this Commission, have primary responsibility for the designation of eligible telecommunications carriers under Section 214(e)(2). As shown in this Application, ZFP meets the requirements for designation as an ETC in Washington. The Commission may and should grant ZFP's application for ETC status.

13. ZFP's affiliate company, Ziplly Fiber Northwest, generates substantial revenues from non-Lifeline and wholesale services derived from its network subscribers. ZFP and Ziplly Fiber Northwest are both operating companies of Northwest Fiber, LLC and have access to capital and resources required to comply with duties as an ETC. Consequently, ZPF will not rely exclusively on high-cost or Lifeline reimbursement for operating revenues.

14. The same individuals who operate Ziplly Fiber Northwest will operate ZFP. Thus, ZFP has the same level of technical expertise and experience in running high-cost and Lifeline programs as does Ziplly Fiber Northwest, an existing ETC in Washington.

15. ZFP will offer all required services and functionalities. Section 214(e)(1)(A) of the Act⁶ requires an ETC to offer the services that are supported by federal universal service support mechanisms under Section 254(c). Effective December 29, 2011, pursuant to the USF/ICC Transformation Order⁷ as further clarified by the USF/ICC Order on Reconsideration, the FCC eliminated its former list of nine supported services and amended Section 54.101(a) of its rules to specify that "voice telephony service" is supported by the federal universal service mechanisms. The amended Section 54.101(a) and its list of supported services reads as follows:

(Rel. March 17, 2005).

⁶ 47 U.S.C. § 214(e)(1).

⁷ In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Inter-carrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform-Mobility Fund, WC Docket No. 10-90, GN Docket No. 09-51, WC Docket No. 07-135, WC Docket No. 05-337, CC Docket No. 01-92, CC Docket No. 96-45, WC Docket No. 03-109, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011) ("USF/ICC Transformation Order").

§54.101 Supported services for rural, insular and high cost areas.

(a) *Services designated for support.* Voice telephony services and broadband service shall be supported by federal universal service support mechanisms.

(1) Eligible voice telephony services must provide 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; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

(2) Eligible broadband Internet access services must provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.

(b) An eligible telecommunications carrier eligible to receive high-cost support must offer voice telephony service as set forth in paragraph (a)(1) of this section in order to receive federal universal service support.

(c) An eligible telecommunications carrier (ETC) subject to a high-cost public interest obligation to offer broadband Internet access services and not receiving Phase I frozen high-cost support must offer broadband services as set forth in paragraph (a)(2) of this section within the areas where it receives high-cost support consistent with the obligations set forth in this part and subparts D, K, Land M of this part.

(d) Any ETC must comply with subpart E of this part.

16. Upon designation as an ETC in Washington, and consistent with state and federal policies favoring universal service, ZFP will offer voice telephony services as described in the amended Section 54.101 of the FCC Rules.⁸ The service will provide voice grade access to the public switch network or its functional equivalent and minutes of use for local service at no additional charge to end users. ZFP will also provide broadband services.

⁸ 47 C.F.R. § 54.101(a).

17. The Company also will provide access to emergency services provided by local government or public safety officials, including 911 and enhanced 911 ("E911") to the extent local governments in an eligible carrier's service area have implemented 911 or E911 systems.

18. ZFP will provide service through its own facilities, whether owned or leased pursuant to an IRU or wholesale arrangement. Under Section 214(e)(l)(A) of the Act, an ETC must offer the services supported by federal universal service support mechanisms throughout its designated service area "either using its own facilities or a combination of its own facilities and resale of another carrier's services."⁹

19. ZFP will 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)). ZFP 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 television, radio, newspapers, magazines or other print advertisements, outdoor advertising, direct marketing, the Company website, and/or the Internet.

20. ZFP will provide the supported services throughout the designated service area (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)).

21. ZFP 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.

ADDITIONAL ELIGIBILITY CRITERIA

22. 47 C.F.R. § 54.202 imposes a number of requirements in order to be designated an ETC under Section 214(e)(6). ZFP will comply with the requirements of 47 C.F.R. § 54.202.

⁹ 47 U.S.C. § 214(e)(l)(a).

23. ZFP will comply with service requirements. Per the requirements of 47 C.F.R. § 202(a)(1)(i), ZFP certifies that it will comply with the service requirements applicable due to its designation as an ETC for purposes of receiving high-cost and Lifeline support. ZFP not only commits to provide service throughout its Service Area, but also commits to provide universal service in a timely manner to all customers in the Service Area who make a reasonable request for service pursuant to the FCC Rules.¹⁰ If designated as an ETC, ZFP will provide service throughout its Service Area through its own facilities, IRU facilities, or other wholesale arrangements.

24. ZFP will comply with the consumer protection standards set by the FCC, including:

(a) Customer Proprietary Network Information- ZFP will satisfy all consumer privacy protection standards as provided in 47 C.F.R. § 64, Subpart U as applicable and will protect Customer Proprietary Network Information ("CPNI") as required by state and federal law and will certify compliance with the same on an annual basis.

(b) General Compliance – ZFP commits to reporting information on consumer complaints per 1,000 lines on an annual basis consistent with the FCC's USF Order.¹¹ ZFP in general commits to satisfying all applicable state and federal requirements related to consumer protection and service quality standards.

25. Further, under the FCC Rules, and in compliance with WAC 480-123-030(1)(g), an ETC applicant must demonstrate its ability to remain functional in emergency situations.¹² ZFP certifies that it maintains adequate backup power to meet state and federal standards.

¹⁰ 47 C.F.R. § 54.202(a)(1) also requires the submission of a five-year plan demonstrating how high-cost universal service support will be used to improve the ETC's coverage, service quality and capacity. This requirement, however, is inapplicable to this application, since RCN is not seeking high-cost assistance.

¹¹ Federal-State Joint Board on Universal Service, First Report and Order, 12 FCC Red 8776 at 4 (1997) ("USF Order").

¹² 47 C.F.R. § 54.202(a)(2).

26. WAC 480-123-030(1)(d) requires petitions for ETC designation to include a substantive plan of the investments to be made with initial federal support during the first two years in which support is received. ZFP Will use the initial federal support received in the first two years to extend and maintain its network used in the provision of federal USF supported programs.

27. The FCC has also identified factors that are to be considered in determining whether designation of additional ETCs will serve the public interest and whether the benefits of an additional ETC would outweigh potential harms. These factors include: 1) the benefits of increased competitive choice; and 2) the unique advantages of the applicant company's service offerings.¹³ ZFP affirms that its requested ETC designation meets these criteria as described below.

28. The FCC has long acknowledged the benefits to consumer of being able to choose from a variety of telecommunications providers and the resulting variety of telecommunications services they provide.¹⁴

29. Designation of ZFP as an ETC creates competitive pressure for other wireline and wireless providers within the proposed service area. In order to remain competitive in low-income markets, therefore, all carriers will have greater incentives to improve networks, increase service offerings and lower prices. This results in improved customer services and, consistent with federal law, benefits consumers by allowing ZFP to offer the services designated for support at rates that are "just, reasonable, and affordable."¹⁵

30. ZFP will offer local voice telephony service and broadband service. Details of ZFP's offerings can be found at <https://get.ziPLYfiber.com/internet>.

¹³ 47 U.S.C. § 54.202(c).

¹⁴ See e.g. Specialized Common Carrier Services, 29 FCC2d 870 (1971).

¹⁵ 47 U.S.C § 254(b)(l).

31. ZFP will announce and advertise telecommunications services as an ETC in its Service Area and will publicize the availability of Lifeline services in a manner reasonably designed to reach those likely to qualify for those services. Accordingly, more low-income Washington residents will be made aware of the opportunities afforded to them under the Lifeline program and will be able to take advantage of those opportunities by subscribing to ZFP's service.

32. ZFP will provide universal service as an ETC in all of its Service Area.

33. In addition, all providers are required to contribute a portion of the interstate revenues received from their customers to the Universal Service Fund. In accordance with current federal regulations, ZFP will make contributions based on that portion of its revenue that is determined to be interstate. As such, approving ZFP as an ETC will actually create contributions to the USF that were previously non-existent.

34. Designation of ZFP as an ETC benefits the public interest by supporting low-income consumers throughout ZFP's Service Area. Approval of ZFP's ETC Application will serve the public interest by increasing participation of qualified consumers in the Lifeline program in the State of Washington. It will also increase the number of carriers eligible for federal USF support, thereby proportionately increasing the amount of federal USF dollars available to Washington consumers. Granting ETC status to ZFP will contribute to more Washington residents receiving Lifeline, thereby increasing the amount of federal USF dollars flowing into and thereby benefiting Washington residents. In short, Washington residents will have an expanded opportunity to get more of their money back.

ZFP WILL COMPLY WITH ALL ANNUAL REPORTING REQUIREMENTS

35. Consistent with the requirements of 47 C.F.R § 54.422, ZFP will comply with the FCC's annual reporting requirements:

(a) As required by 47 C.F.R. §54.422(b)(l), Zipy Fiber will report, on an annual basis, "any outage in the prior calendar year, as that term is defined in 47 C.F.R. 4.5, of at least 30 minutes in duration" that potentially affects 1) at least ten percent of the end users

served in a designated service area; or 2) a 911 special facility. The report will include 1) the date and time of the onset of the outage; 2) a brief description of the outage and its resolution; 3) the particular services affected; 4) the geographic areas affected; 5) the steps taken to prevent a similar situation in the future; and 6) the number of customers affected.

(b) Consistent with the requirements of 47 C.F.R. § 54.422(b)(2), ZFP will annually report the number of complaints received by ZFP from the FCC, this Commission, or the Better Business Bureau, per 1,000 connections.

(c) As required by 47 C.F.R. § 54.422(b)(3), ZFP will certify its continuing compliance with all applicable service quality standards and consumer protection rules.

(d) Consistent with the requirement of 47 C.F.R. § 54.422(b)(4), ZFP will certify, on an annual basis, its continued ability to remain functional in emergency situations.

CONCLUSION

Having demonstrated that ZFP satisfies the conditions necessary for designation as an ETC in Washington and having shown that the public and universal service interests of the telecommunications consumers of Washington will be properly served, ZFP respectfully requests that the Commission designate Zply Fiber Pacific, LLC as an ETC for the provision of low-income support throughout the state of Washington.

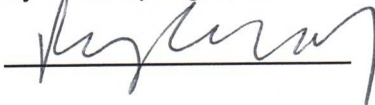
CERTIFICATION

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

Signed on the 22 day of May, 2023

At Kirkland, WA

Byron E. Springer, JR



RESPECTFULLY SUBMITTED this 23rd day of May, 2023

Zipty Fiber Pacific, LLC d/b/a Zipty Fiber

Name of Party



Signature on Behalf of Party

George Baker Thomson, Jr.

Name of Signer

Associate General Counsel

Title of Signer

Law Department

1800 41st Street

Everett, Washington 98203

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425.261.5344

Telephone Number for Signer

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Designated Email for Party

Exhibit A

Aberdeen-Hoquiam	Chimacum	Ephrata	La Crosse	Newport	Renton	Stevenson
Acme	Clarkston	Eureka	Lake Quinault	Nile	Republic	Sultan
Alger	Cle Elum	Everett	Latah	North Bend	Richland	Sumas
Almira	ClearWater	Everson	Laurel	Northport	Richmond Beach	Sumner
Amboy	Colfax	Fairfield	Leavenworth	Oak Harbor	Ridgefield	Sunnyside
Ames Lake	Columbia	Fall City	Lebam	Oakesdale	Rimrock	Swift
Anacortes	Colville/Orient Laurier	Farmington	Liberty Lake	Ocosta	Ritzville	Tacoma
Anatone	Concrete	Ferndale	Lind	Odessa	Rochester	Tacoma
Arlington	Connell	Forks	Long Beach	Olympia	Rockford	Tacoma
Ashford	Conway	Garfield	LongView Kelso	Omak	Roosevelt	Tacoma
Asotin	Copalis	George	Loomis	Onalaska	Rosalia	Tekoa
Auburn	Cougar	Gig Harbor	Loon Lake	Oroville	Roslyn	Tenino
Bainbridge Island	Coulee City	Glenoma	Lyle	Orting	Roy	Tieton
Battleground	Coulee Dam	Glenwood	Lyman-Hamilton	Othello	Royal City	Toledo
Belfair	Coupeville	Goldendale	Lynden	Pacific Beach	Salkum	Tonasket
Bellevue	Cowiche	Graham	Mabton	Packwood	San Juan	Toppenish
Bellingham	Creston	Grandview	Mansfield	Palouse	Seattle	Touchet
Benton City	Crystal Mountain	Granger	Maple Falls	Pasco	Sedro Woolley	Trout Lake
Big Lake	Curlew	Granite Falls	Maple Valley	Pateros	Selah	Twisp
Black Diamond	Curtis	Grayland	Marblemount	Paterson	Sequim	Union
Blaine	Cusick	Grays River	Marysville	Pe Ell	Shelton	Uniontown
Bothell	Custer	Green Bluff	Mathews Corner	Point Roberts	Silver Lake	Vader
Bremerton	Dallesport	Halls Lake	Mattawa	Pomeroy	Silverdale	Vancouver
Brewster	Darrington	Harrah	McCleary	Port Angeles	Silverton	Vashon
Bridgeport	Davenport	Harrington	Medical Lake	Port Angeles	Skykomish	Waitsburg
Buckley	Dayton	Hat Island	Metaline Falls	Port Angeles	Snohomish	Walla Walla
Bucoda	Deer Park	Hood Canal	Mineral	Port Angeles	Snoqualmie Pass	Wapato
Burlington	Deming	Hoodsport	Molson	Port Ludlow	Soap Lake	Warden
Camas- Washougal	Des Moines	Ione	Monroe	Port Orchard	South Bend	Washtucna
Camas- Washougal	Dewatto	Issaquah	Montesano	Port Townsend	South Prairie	Waterville
Camas- Washougal	Easton	Kalama	Morton	Poulsbo	South Whidbey	Wenatchee
Carnation	Eatonville	Kapowsin	Moscow	Prescott	Spangle	Westport
Cashmere	Edison	Kennewick	Moses Lake	Priest River	Spokane	White Salmon
Castle Rock	Edwall-Tyler	Kent	Mossyrock	Prosser	Sprague	White Swan
Cathlamet/Puge t Island	Elk	Kettle Falls	Mt Hull	Pullman	Springdale	Whitstran
Centralia	Ellensburg	Kingston	Mt Vernon	Puyallup	St John	Wilbur
Chehalis	Elma	Kirkland	Naches	Quincy	Stanwood	Willard
Chelan	Endicott	Klickitat	Naselle	Randle	Starbuck	Wilson Creek
Cheney	Entiat	La Center	Nespelem	Raymond	Stehekin	Winlock
Chewelah	Enumclaw	La Conner	Newman Lake	Reardan	Stevens Pass	Woodland