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January 16, 2015

VIA UPS OVERNIGHT DELIVERY

Steven V. King
Executive Director and Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Park Drive S.W.
Olympia, WA 98504-7250

Re: Petition of Computer 5, Inc. d/b/a LocalTel Communications and SkyFi Wireless Internet

Dear Mr. King:

On behalf of Computer 5, Inc. d/b/a LocalTel Communications and SkyFi Wireless Internet (“LocalTel”), enclosed for filing are:

1. Original and 12 copies of Petition of Computer 5, Inc. d/b/a LocalTel Communications and SkyFi Wireless Internet for Conditional Designation as an Eligible Telecommunications Carrier to Participate in the Rural Broadband Experiments Program (the “Petition”), including supporting Confidential Exhibits A and B, Exhibit C, and an electronic Shapefile depicting the U.S. Census Blocks identified in Confidential Exhibit B; and
2. Original and one copy of the Petition and Exhibits with the confidential information redacted.

Please note that Confidential Exhibits A and B and the electronic Shapefile each contain confidential information, and are accordingly each designated as **Confidential per WAC 480-07-160**. Please contact me if you have any questions concerning this filing.

Very truly yours,

Davis Wright Tremaine LLP



Alan J. Galloway

AJG:cap/cap
Enclosures

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**BEFORE THE
WASHINGTON UTILITIES & TRANSPORTATION COMMISSION**

In the Matter of

Petition of Computer 5, Inc. d/b/a LocalTel Communications and SkyFi Wireless Internet for Conditional Designation as an Eligible Telecommunications Carrier to Participate in the Rural Broadband Experiments Program

Docket No. UT-_____

PETITION OF COMPUTER 5, INC. D/B/A LOCALTEL COMMUNICATIONS FOR CONDITIONAL DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO PARTICIPATE IN THE RURAL BROADBAND EXPERIMENTS PROGRAM AND REQUEST FOR EXPEDITED CONSIDERATION

**PETITION OF COMPUTER 5, INC. D/B/A LOCALTEL COMMUNICATIONS
FOR CONDITIONAL DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER TO PARTICIPATE IN THE RURAL BROADBAND EXPERIMENTS
PROGRAM AND
REQUEST FOR EXPEDITED CONSIDERATION**

Computer 5, Inc. d/b/a LocalTel Communications and SkyFi Wireless Internet (“LocalTel” or the “Company”) respectfully submits this Petition for conditional 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. LocalTel seeks designation throughout the rural census blocks identified in **Confidential Exhibit A** (the “Designated Service Area”) for the purpose of receiving federal high-cost support through the FCC's Rural Broadband Experiments program. LocalTel requests conditional designation of its ETC status in the event that the FCC awards LocalTel support in response to its pending applications.

Sections 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 LocalTel – as an ETC. This Petition demonstrates that LocalTel meets all requirements for ETC designation under federal and state statutes and regulations. LocalTel's planned Rural Broadband Experiments projects and service offerings, as described further below, shows that designating LocalTel as an ETC in the proposed area would serve the public interest and advance the goals of universal service.

In support of this Petition, LocalTel states as follows:

I. BACKGROUND

LocalTel is a Washington corporation headquartered in East Wenatchee, Washington. LocalTel has been registered with the Washington Secretary of State since 1982, UBI Number 600456956. LocalTel is a facilities-based CLEC. LocalTel was classified as a competitive telecommunications carrier by the Commission on November 15, 1999 in docket UT-991575, and has provided voice services in North Central Washington since 2000, and Internet service since 2001.¹

LocalTel provides broadband via fiber-to-the-premises (FTTP), and has successfully deployed fixed wireless, last mile solutions under its 'SkyFi Wireless Internet' brand to provide broadband and VoIP services to unserved and underserved parts of North Central Washington since 2012, at prices comparable to urban rates.

LocalTel's address and telephone number are set forth below:

Attn: John Seabeck, Vice President
LocalTel Communications
341 Grant Road
East Wenatchee, WA 98802
(509) 888-8888

LocalTel's counsel in this matter is set forth below:

¹ LocalTel has interconnection agreements with Qwest Corporation, CenturyTel of Washington, Inc., CenturyTel of InterIsland, Inc., CenturyTel of Cowiche, Inc. and GTE Northwest Incorporated (now Frontier Communications Northwest, Inc.).

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II. LOCALTEL'S PROPOSED PARTICIPATION IN THE FCC'S RURAL BROADBAND EXPERIMENTS PROGRAM

On July 14, 2014, the FCC issued an order, establishing the parameters of its planned Rural Broadband Experiments program ("*Rural Broadband Experiments Order*").² Under this program the FCC will disburse up to \$100 million for providers—including competitive providers such as competitive local exchange carriers, cable operators, fixed wireless ISPs or alternative providers such as electric utilities and governmental entities—to deploy broadband networks in high-cost, unserved price cap areas.

The \$100 million allocated for the experiments is divided into three groups as follows:

- \$75 million to test competitive interest in building networks that are capable of delivering 100 Mbps downloads and 25 Mbps uploads³
- \$15 million to test interest in delivering service at 10 Mbps/1 Mbps speeds in high cost areas⁴

² In the Matter of Connect America Fund, et al., WC Docket No. 10-90, WC Docket No. 14-58, Report and Order and Further Notice of Proposed Rulemaking, FCC 14-98 (released July 14, 2014) ("*Rural Broadband Experiments Order*.")

³ *Id.* at ¶ 61.

- \$10 million for 10 Mbps /1 Mbps service in areas that are extremely costly to serve.⁵

Over 600 projects proposed by 181 applicants were submitted prior to the application deadline of November 7, 2014, and the FCC may select provisionally winning bidders by the end of 2014.

LocalTel has submitted applications for two projects under Rural Broadband Experiments program. Under its SkyFi Wireless Internet brand, LocalTel proposes to deploy fixed wireless technologies to extend voice and broadband service (with speeds of at least 25Mbps/5Mbps) into two additional areas. The SkyFi North project will extend voice and broadband to residences and small businesses along the Columbia River north of Wenatchee, into the farmlands around the town of Waterville, and into the orchards and vineyards around the southern end of Lake Chelan. The counterpart SkyFi South project will do the same along the Columbia River south of East Wenatchee, into the farmlands around the town of Quincy.

The combined projects will reach more than four thousand residents and numerous community anchor institutions of Chelan, Douglas, and Grant Counties. LocalTel anticipates investing approximately \$670,000 in this project, and is seeking annual funding of \$500,000, with a total project cost of \$5,670,000 over the life of the projects. LocalTel plans to offer the following plans to customers:

- A voice-only service that will be \$18.95 per month;
- A 25Mbps/5Mbps broadband-only offering that will be \$49.95 per month for 200GB of usage;
- A bundled "FiberTalk" voice-broadband offering with voice service and SkyFi internet access (25Mbps/5Mbps at 200GB/month) for \$59.95.

⁴ *Id.*

⁵ *Id.*

In addition to providing much needed broadband and voice services, the projects will also provide an economic boost to the region as a result of the anticipated infrastructure investments, and by stimulating the creation of desirable jobs as LocalTel builds its facilities.

Although applicants need not be designated eligible telecommunications carriers (“ETCs”) at the time of application, they must obtain ETC designation from the state commission within 90 days after receiving a bid award.⁶ According to the FCC's Rural Broadband Experiments Order:

Any winning bidder that fails to notify the Bureau that it has obtained ETC designation within the 90 day timeframe will be considered in default and will not be eligible to receive funding for its proposed rural broadband experiment. Any funding that is forfeited in such a manner will not be redistributed to other applicants.⁷

Because the timeframe for winners to obtain ETC designation is short and the consequences of failure to do so are serious, LocalTel respectfully requests that the Commission consider its Petition on an expedited basis, and grant it conditional ETC designation in the areas of the SkyFi North and SkyFi South projects, on the understanding that designation for each area is conditioned on LocalTel's project(s) being awarded funding by the FCC.

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

LocalTel 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.

⁶ *Id.* at ¶ 22

⁷ Rural Broadband Experiments Order, ¶ 22. Although the Order does allow an applicant to petition the FCC to waive the 90 day deadline for good cause, there is no guarantee that such waivers would be granted. *See id.*

A. LocalTel 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, LocalTel meets all the requirements of WAC 480-123-030 as follows:

- a) In satisfaction of WAC 480-123-030(a), LocalTel describes herein the area for which designation is sought by identifying the U.S. Census blocks described in **Confidential Exhibit A**;
- b) In satisfaction of WAC 480-123-030(1)(b), LocalTel 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(c), LocalTel describes herein how each supported service will be provided, including a through description of its calling plans, which are discussed in greater detail below;
- d) In satisfaction of WAC 480-123-030(d), LocalTel provides herein, as **Confidential Exhibit B**, its proposal for funding under the Rural Broadband Experiments program, which constitutes a substantive investment plan of how support will be spent to benefit customers;
- e) In satisfaction of WAC 480-123-030(e), LocalTel 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) LocalTel not subject to WAC 480-123-030(1)(f);⁸
- g) In satisfaction of WAC 480-123-030(g), LocalTel is able to remain functional in emergencies, as described herein (*see also* WAC 480-120-411(1)), including by maintaining at least five hours back up battery power and backup generators at each switch or microwave hubs in Washington State;⁹
- h) In satisfaction of WAC 480-123-030(1)(h), LocalTel commits to abide by all applicable consumer protection and service quality standards of chapter 480-120.
- i) LocalTel provides herein, as **Exhibit C**, the supporting Declaration of John Seabeck certifying the information in this Petition (WAC 480-123-030(2));
- j) LocalTel will fully comply with the annual certification requirements adopted by the Commission in WAC 480-123-070, including 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. Details of any failures to provide service;
 - iv. Complaints per one thousand lines;
 - v. Certification of compliance with applicable service quality standards;
 - vi. Certification of ability to function in emergency situations;
 - vii. Advertising certification, including advertisement on any Indian reservations within the Designated Service Area;

⁸ WAC 480-123-030(1)(f) requires "wireless petitioners" to provide a digital map, in shapefile format, of "proposed service areas (exchanges)," with existing and planned cell sites and signals coverage information. Although LocalTel is a wireless Internet service provider ("WISP"), it interprets WAC 480-123-030(1)(f) as applicable only to Commercial Mobile Radio Service providers that have cell sites. Because LocalTel has no cell sites, the requirement is inapplicable to LocalTel. However, should the Commission determine that it is applicable, LocalTel requests a waiver of WAC 480-123-030(1)(f).

⁹ The remaining provisions of WAC 480-123-030(g) appear to be directed at Commercial Mobile Radio Service providers, and do not apply to LocalTel, which has no cell sites in Washington State.

B. LocalTel Meets All Federal Requirements For ETC Designation.

LocalTel 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) LocalTel 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), LocalTel 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 services¹⁰ (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 no 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 consumers as provided in subpart E of 47 C.F.R. Part 54;
- 3) As described in greater detail below, LocalTel will make available Lifeline service to qualifying low-income consumers (47 C.F.R. § 54.405(a))
- 4) LocalTel 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) LocalTel 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 channels, such as television and radio, newspaper, magazine and other print advertisements, outdoor advertising, direct marketing, and the Internet;
- 6) LocalTel 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) LocalTel 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. LocalTel Will Provide Lifeline Service to Qualifying Low-Income Consumers

Upon designation as an ETC, LocalTel will make a discounted service offering that meets all applicable Lifeline requirements available to qualified low-income consumers. LocalTel plans to offer the Lifeline discount on (1) its voice-only offering, with a price reduction of \$9.25 (the amount of the federal Lifeline discount) resulting in a price to qualifying customers of only \$9.70 per month for the voice service, and on (2) the bundled "FiberTalk" voice-broadband offering with voice service and SkyFi internet access (25Mbps/5Mbps at 200GB/month), with the \$9.25 price reduction resulting in a price to qualifying customers of \$50.70.¹¹ LocalTel does not plan offer a discounted broadband-only plan for low-income consumers.

LocalTel is committed to advertising the availability of services supported by federal universal service mechanisms, specifically including its Lifeline offerings. LocalTel's advertisements for Lifeline services will be reasonably calculated to reach qualified low-income

¹¹ LocalTel's proposal to the Rural Broadband Experiment program lists the price as \$9.95 per month. However, LocalTel will pass-through the full discount to Lifeline customers, resulting in an actual price of \$9.70 per month.

consumers not receiving discounts. Both the content of LocalTel's Lifeline advertisements and the modes of advertising selected will be designed to reach qualifying subscribers that would benefit from Lifeline service.

LocalTel does not currently seek funds from the Washington Telephone Assistance Program ("WTAP"). To the extent that WAC 480-122-020 would otherwise require LocalTel to offer WTAP discounts on its planned SkyFi North and SkyFi South service offerings, LocalTel hereby requests that the Commission waive WAC 480-122-020 as applied to LocalTel, on the basis that the need for discounted service on these service offerings will be adequately met by LocalTel's planned Lifeline offerings.

IV. CONDITIONAL DESIGNATION OF LOCALTEL 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.C. § 214(e)(2), for its part, requires that designation with respect to rural areas 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).

Granting LocalTel's petition will serve the public interest by promoting the deployment of broadband and voice services to unserved areas in the state, supporting investment in facilities and equipment, and expanding the number of competitive providers serving these portions of North Central Washington. Designation of LocalTel as an ETC will permit the company to receive Rural Broadband Experiments program funds, directly advancing the goals of the FCC's Rural Broadband Experiments program. In the Rural Broadband Experiments order, the FCC described its goals as including "ensuring that rural Americans benefit from the historic technology transitions that are transforming our nation's communications services." FCC Chairman Tom Wheeler's statement on the *Rural Broadband Experiments Order* demonstrates the public interest in expanding broadband in rural areas, noting the continuing existence of a "digital divide, with rural communities ... on the wrong side of that divide, getting bypassed by the Internet revolution."¹²

In addition, LocalTel's rural broadband proposal will bring expanded voice and broadband connectivity to rural areas of North Central Washington that will ensure that these areas are not left on the wrong side of the digital divide. The proposal will also result in greater economic benefits for communities in these areas. Finally, because the designation LocalTel seeks is conditional, it will only occur if the FCC itself has determined that LocalTel's proposal has merits and would advance the public interest that the Rural Broadband Experiment program is designed to serve. Thus, because designation of LocalTel as an ETC will help to facilitate the expansion of broadband to North Central Washington, grant of this application is plainly in the public interest.

¹² *Rural Broadband Experiments Order*, FCC 14-98, Statement of Chairman Tom Wheeler.

V. CONCLUSION

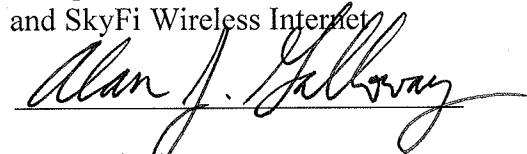
For the reasons stated herein, LocalTel respectfully requests that the Commission expeditiously: (i) conditionally designate LocalTel as an ETC in the Designated Service Area conditioned on LocalTel's proposals winning support from the FCC's Rural Broadband Experiments program, (ii) send the appropriate notice of the Order designating LocalTel as an ETC for the census blocks in the requested ETC Area to the FCC and the Universal Service Administrative Company; and (iii) order such other relief as may be appropriate.

Dated this 16th day of January, 2015.

Respectfully submitted,

Computer 5, Inc. d/b/a LocalTel Communications
and SkyFi Wireless Internet

By:



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LIST OF EXHIBITS

Confidential Exhibit A – Designated Service Area

Confidential Exhibit B – Rural Broadband Experiments Project Information – SkyFi North & SkyFi South

Exhibit C – Declaration of John Seabeck

CONFIDENTIAL PER WAC 480-07-160

CONFIDENTIAL EXHIBIT A

*****[Redacted]*****

CONFIDENTIAL EXHIBIT B

RURAL BROADBAND EXPERIMENTS PROJECT INFORMATION,
SKYFI NORTH & SKYFI SOUTH

CONFIDENTIAL PER WAC 480-07-160

CONFIDENTIAL EXHIBIT B

*****[Redacted]*****

EXHIBIT C

DECLARATION OF JOHN SEABECK

**BEFORE THE
WASHINGTON UTILITIES & TRANSPORTATION COMMISSION**

In the Matter of

Petition of Computer 5, Inc. d/b/a LocalTel
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as an Eligible Telecommunications Carrier to
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Docket No. UT-_____

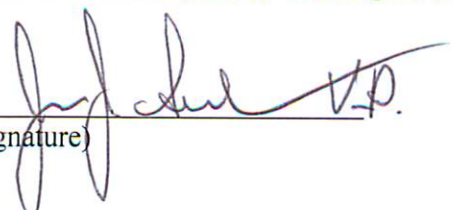
DECLARATION OF JOHN SEABECK

I, the undersigned, John Sebeck, do hereby declare under penalty of perjury as follows:

1. I am Vice President of Computer 5, Inc. d/b/a LocalTel Communications and SkyFi Wireless Internet ("LocalTel"), a Washington corporation with its headquarters at 341 Grant Road, East Wenatchee, WA 98802
2. This Declaration is submitted in support of the Petition of Computer 5, Inc. d/b/a LocalTel Communications and SkyFi Wireless Internet for Conditional Designation as an Eligible Telecommunications Carrier to Participate in the Rural Broadband Experiments Program and Request for Expedited Consideration in the above-captioned matter (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 LocalTel will be used only for the purposes for which the support is intended.
5. To the best of my knowledge, LocalTel, including all officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting or non-voting) of the Company 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:

1/16/15 East Wenatchee
(Date and Place) WA:


(Signature)