

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NUMBER S-35895

CENTURYLINK COMMUNICATIONS, LLC, EX PARTE

Docket No. S-35895, In re: Application for Designation as an Eligible Telecommunications Carrier.

(Decided at the May 19, 2021 Business and Executive Session.)

ORDER

Overview

On March 1, 2021, CenturyLink Communications, LLC (“CLC” or “Company”) filed an application with the Louisiana Public Service Commission (“LPSC” or “Commission”) seeking designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e) of the Communications Act of 1934, as amended (the “Act”)(47 U.S.C. §214(e)); Sections 54.201 and 54.202 of the rules and regulations of the Federal Communications Commission (“FCC”)(47 C.F.R. §§ 54.201 and 54.202); and the Commission’s General Order No. R-27841 dated May 20, 2004 (“ETC General Order”). CLC seeks designation as an ETC solely for the purpose of receiving high-cost and low-income federal support from the FCC’s Rural Digital Opportunity Fund (“RDOF”) Phase I Auction to fulfill RDOF obligations. Notice of the application was published in the Commission’s Official Bulletin No. 1240, dated March 5, 2021. No interventions or protests were filed.

CLC is a Delaware limited liability company with principal offices located at 100 CenturyLink Drive, Monroe, LA 71203. By virtue of its Certificate Number TSP00572-D, CLC is authorized to offer, render, furnish, or supply telecommunication services in Louisiana as a Competitive Local Exchange Carrier, a Competitive Access Provider, and a Long Distance Carrier. CLC is an indirect, wholly owned subsidiary of Lumen Technologies, Inc. (“CenturyLink/Lumen”).

CenturyLink/Lumen was selected as a winning bidder in multiple census blocks in Louisiana under the FCC’s RDOF Phase I Auction. Following auction procedures and instructions, CenturyLink/Lumen subsequently assigned winning bids to its ILEC affiliate, CenturyLink of Louisiana, LLC d/b/a CenturyLink (“CTL of Louisiana”). CLC will work with CTL of Louisiana to fulfill RDOF obligations for those census blocks won by CenturyLink/Lumen where a CenturyLink/Lumen affiliate is not currently designated as an ETC (“Designated Service Areas”).

Jurisdiction and Applicable Law

The Commission exercises jurisdiction over public utilities and common carriers in Louisiana pursuant to the Louisiana Constitution Article IV, Section 21(B), which states:

The commission shall regulate all common carrier and public utilities and have other such regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

As set forth in Section 214(e)(2) of the Act, state commissions are vested with the authority to designate as ETCs, those common carriers that meet the service requirements found in 47 U.S.C. §214(e)(1) and 47 C.F.R. §54.101, thereby entitling them to Universal Service Fund (“USF”) support in accordance with 47 U.S.C. §254. To be eligible for ETC designation, 47 U.S.C. §214(e)(1) requires that a common carrier:

“[O]ffer 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

“[A]dvertise the availability of such services and the charges therefor using media of general distribution.”

Finally, a state commission must find the designation of an ETC to be consistent with the public interest, convenience, and necessity—especially in the case of an additional ETC seeking designation in an area served by a rural telephone company. FCC regulations regarding ETC obligations further supplement these statutory requirements. In particular, 47 C.F.R. §54.101 requires the following:

1. An ETC must offer voice telephony service as set forth in 47 C.F.R. § 54.101(a)(1).
2. An ETC subject to a high-cost public interest obligation to offer broadband Internet access services must offer broadband services within the areas where it receives high-cost support consistent with obligations particular to certain support programs, including the universal service support program for high-cost areas.
3. An ETC must comply with 47 C.F.R. §§54.400-423 relating to USF support for low-income consumers through the Lifeline program.

Thus, under applicable law and regulations, the Commission must conduct a two-fold analysis prior to approving or denying a request for ETC designation. First, the Commission must determine whether the company complies with 47 U.S.C. § 214(e)(1)-(2) and applicable FCC regulations, i.e., generally whether the company offers supported universal services consistent with its regulatory obligations and whether the Company advertises the availability of, and charges for, those services through media of general distribution. Second, the Commission must determine whether granting the company’s application would be in the public interest. In addition, the

Commission may also consider factors reviewed by the FCC in its consideration of requests for ETC designation under 47 U.S.C. §215(e)(6); nevertheless, as these factors are merely persuasive guidelines and not binding upon the Commission's evaluation of petitions for ETC designation, Staff refrains from discussion of the FCC's non-binding criteria.

Consistent with the foregoing federal and state authority, and additional federal pronouncements, the Commission issued the ETC General Order which established a comprehensive set of public interest criteria to be applied, on a case-specific basis, to all requests for ETC designation in areas served by rural telephone carriers. Some of the public interest factors set forth in the ETC General Order do not apply in this instance, since the Company does not seek to provide wireless telephony services, i.e., commercial mobile radio services and private mobile radio services. Further, some of the underlying FCC and Commission regulations have been repealed or waived or were not subsequently adopted. Accordingly, Staff has applied the remaining, applicable public interest criteria of the ETC General Order in its review of the specific facts presented by the Company's application.

Staff Recommendation

After a thorough review of the Company's application, Staff filed its Staff Report and Recommendation on April 22, 2021. Therein, Staff detailed that the Company meets all of the requirements to be designated as an ETC. Staff further found that such a designation would serve the public interest, should the request for ETC designation be granted. Nevertheless, Staff recommended that any ETC designation granted by the Commission be for the limited purpose of obtaining high-cost RDOF Phase I support and low-income Lifeline support incidental thereto, subject to a number of conditions to ensure compliance with all applicable Commission regulations. Staff also reviewed the Company's responses to each of the applicable public interest factors set out in the ETC General Order, which are summarized below:

- CLC indicated that it will be developing and offering services that are not currently available to residents in the proposed ETC designation area. Specifically, CLC will offer services that are nearly 40 times the speed of the landline services currently available in the proposed ETC designation area.
- CLC stated that through the RDOF, the FCC has designated a fixed sum of money to provide voice and broadband Internet services in eligible census blocks. CLC argues that, by designating CLC as an ETC to receive a share of these specifically designated funds, there should be no impact on the Universal Service Fund.
- CLC stated that it will offer fiber-based gigabit and VoIP services that are not currently available in many areas of Louisiana. These services will help to close the digital divide, expand economic opportunities, and increase competition in the proposed ETC designation area. Further, CLC indicates that it will offer 24-hour battery back-up as an option for customers to compensate for the lack of central-office provided power for the fiber service.

- CLC states that it will comply with the service and performance requirements, as well as the deployment milestones, associated with RDOF support. CLC also commits to complying with all applicable state and federal consumer protection quality standards associated with the receipt of RDOF support. CLC stated that it would provide appropriate updates regarding its provision of supported services in the proposed ETC designation area as may be required by the LPSC.
- CLC submits that once it has deployed fiber and launched services in the proposed ETC designation area, it will provide supported services within a reasonable amount of time upon request. The Company indicated that it would report unfulfilled requests to the Commission after determining that the Company could not serve a customer.
- CLC stated that it will maintain compliance with both applicable federal and state requirements for providing 911 and E-911 services to its customers in the proposed ETC designation area.
- CLC indicated that it will abide by all other relevant Commission regulations and orders.

Staff ultimately recommended that CLC's request be granted within the Designated Service Areas for the sole purpose of obtaining high-cost RDOF support and low-income Lifeline support incidental thereto, subject to certain conditions.

Commission Consideration

This matter was considered at the Commission's May 19, 2021 Business and Executive Session. On motion of Commissioner Campbell, seconded by Chairman Greene, and unanimously adopted, the Commission voted to accept the Staff Report and Recommendation filed into the record on April 22, 2021, approving CLC's application for designation as an ETC within the Designated Service Areas, subject to conditions.

IT IS THEREFORE ORDERED THAT:

CenturyLink Communications, LLC be designated as an Eligible Telecommunications Carrier within the Designated Service Areas, subject to the following conditions:

1. Upon Commission designation as an ETC, the Company will provide Staff with a copy of the advertisement(s) for its federally supported services intended for distribution in Louisiana for Staff approval. Staff will approve or provide recommended changes to the proposed advertisement within thirty days of receipt of the same.
2. No less than semi-annually, the Company shall file into the record of this proceeding periodic updates on the status of the Company's plan of investment and expenditure of RDOF Phase I funds for review by Staff. The Company shall file its first such update within thirty days of the FCC's approval of the Company's long-form application and authorization for the Company to begin receiving RDOF Phase I support, but in no event later than ninety days from the date of issuance of an order in this proceeding. The Company shall file subsequent updates every 180 days after the immediately previous filing, beginning 180 days after the date of the initial filing. The Company shall make such filings in this manner for the entire period for deployment of support. At the expiration of the period for deployment of support, the reporting requirement of this condition shall cease to be in effect. This condition shall have no precedential effect. The Commission may at any time amend this order and require the Company to file such updates on a more frequent basis, including on a quarterly basis.

3. The Company will comply with the requirements set forth in 47 C.F.R. § 54.402(d), which requires that certain information be filed with the Administrator, i.e., the Universal Service Administrative Company, upon a State commission designating an ETC, within sixty days of the issuance of an order from the Commission designating the Company as an ETC. The Company shall file proof of such compliance into the record of this docket within thirty days of performing such compliance.
4. The Company shall file a new petition with the Commission if the Company seeks to amend its ETC designation to allow it to provide federally supported services through resale only or to provide wireless services or to provide any federally supported services outside the Designated Service Areas.
5. The Company's ETC designation is conditioned upon full and timely compliance with all applicable rules and regulations of State and federal agencies, including, but not limited to, the rules and regulations of the Commission and the FCC. The Commission reserves the right to suspend or revoke the Company's ETC designation in the event of non-compliance and/or untimely compliance with the same.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

June 4, 2021



A handwritten signature in blue ink, appearing to read "Brandon M. Frey".

**BRANDON M. FREY
SECRETARY**

/S/ CRAIG GREENE

DISTRICT II

CHAIRMAN CRAIG GREENE

/S/ ERIC F. SKRMETTA

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VICE CHAIRMAN ERIC F. SKRMETTA

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