

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Telecommunications Carriers Eligible to)	WC Docket No. 09-197
Receive Universal Service Support)	
)	
Petitions for Designation as an Eligible)	
Telecommunications Carrier for the Purpose of)	
Becoming Eligible to Receive Connect America)	
Fund Phase II Auction Support)	
)	
Petition of Northern Arapaho Tribal Industries,)	
Inc. d/b/a/ Wind River Internet)	
)	
Petition of Fond du Lac Communications, Inc.)	

REPLY COMMENTS OF CENTURYLINK¹

I. INTRODUCTION AND SUMMARY

CenturyLink provides these comments in response to the Commission's Public Notice seeking comments on several Eligible Telecommunications Carrier (ETC) designation petitions.² CenturyLink is specifically commenting on two petitions: the petitions of Fond Du Lac Communications, Inc. (FDLCI) and Northern Arapaho Tribal Industries, Inc. dba Wind River Internet (WRI). Each of these petitioners is a tribally-owned telecommunications company and each seeks to be designated as an ETC for a geographic area larger than that of the census blocks they won in the Connect America Fund Phase II (CAF II) auction. CenturyLink has service

¹ This filing is made on behalf of CenturyLink, Inc's subsidiary entities that are incumbent local exchange carriers, including its incumbent local exchange carrier Qwest Corporation d/b/a CenturyLink QC.

² See *Wireline Competition Bureau Seeks Comment on Petitions for Designation as an Eligible Telecommunications Carrier for the Purpose of Becoming Eligible to Receive Connect America Fund Phase II Auction Support*, WC Docket No. 09-197, Public Notice, DA 18-1019 (Oct. 3, 2018) (*Public Notice*).

territory within these areas and is impacted directly and indirectly by these petitioners' ETC designation requests. CenturyLink does not oppose either petition, but comments to note two issues that arise in the context of these petitions.

First, with respect to both petitions, CenturyLink notes that where the Commission designates these carriers as high-cost ETCs within CenturyLink service areas CenturyLink is relieved of its high-cost ETC obligations. CenturyLink will immediately have no federal ETC obligation to offer voice service to new customers in these areas. Second, with respect to the FDLCI petition, CenturyLink raises a concern that it may be necessary to relieve CenturyLink from CAF II deployment obligations with respect to the number of CAF II eligible locations it has on the Fond Du Lac Reservation to avoid the inefficient use of federal and state funding to deploy duplicative broadband-capable networks in an area. CenturyLink may decide that it does not make good business sense to pursue its plans to use CAF II funding to deploy broadband service to eligible locations on the Fond Du Lac Reservation due to FDLCI's plans to deploy a high-speed broadband network for the entire reservation and be the sole broadband provider for the reservation. In that event, the Commission should permit CenturyLink the flexibility to return the CAF II funding associated with up to the number of CAF II eligible locations on the reservation to which it did not deploy broadband service without penalty if CenturyLink is not ultimately able to meet its full CAF II final deployment numbers in Minnesota.

In order to be designated an ETC by the Commission, federal law requires that (1) the requesting entity be a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a state commission; (2) the requesting entity meet the requirements of § 214(e)(1) which are (i) to offer voice telephony throughout the service area for which designation is received using its own facilities or a combination of its own facilities

and resale of another carrier's services and (ii) to advertise the availability of voice telephony and the charges for the service; and (3) the Commission must determine that designation is in the public interest.³

With respect to ETC designation for CAF Phase II auction winners the Commission forbore from § 214(e)(5)'s service area conformance requirement.⁴ Thus, a CAF II auction winner's ETC designation service area does not need to match the service area of the incumbent rural company. The Commission has also determined that it is not in the public interest to have more than one ETC designated to receive high-cost support in high-cost areas.⁵

The Commission has stated that to the extent these petitions seek ETC designation for areas outside of the census blocks they won in the CAF II auction, the ETC designation is limited to a Lifeline-only ETC designation in those areas.⁶ In other words, the Commission will only designate these carriers as high-cost ETCs in the CAF II auction census blocks that they won. This is consistent with the Commission's prior determination that there should only be one ETC subject to CAF support obligations and receiving CAF support in an area. CenturyLink agrees with the Commission's determination to limit each petitioner's high-cost ETC designation to the census blocks that it won in the CAF II auction.

³ 47 USC § 214(e)(6).

⁴ *Connect America Fund; ETC Annual Reports and Certifications; Rural Broadband Experiments*, WC Docket Nos. 10-90, 14-58, 14-259, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949, ¶¶ 146, 159-168 (2016).

⁵ *See, e.g., USF/ICC Transformation Order*, FCC 11-161, 26 FCC Rcd 17663, ¶ 509 (eliminating the identical support rule and noting that where an incumbent carrier declines CAF II model-based support others will compete for that support and "[i]n other areas, where the incumbent service providers will be responsible for achieving the universal service goals, we find it would not be in the public interest to provide additional support to carriers providing duplicative services.")

⁶ *Public Notice*.

II. WRI PETITION

The Wind River Reservation in Wyoming is a large reservation that is shared by the Eastern Shoshone Tribe and the Northern Arapaho Tribe. In its petition, WRI seeks to be designated an ETC throughout its service territory on the reservation, which covers roughly thirty-six percent of the reservation. The WRI service territory is larger than the census blocks that it won in the CAF II auction.

CenturyLink's service territory significantly, but not completely, overlaps WRI's service territory on the reservation. There is also a significant portion of the reservation that CenturyLink serves that is outside of WRI's service territory on the reservation. CenturyLink is currently an ETC throughout its service territory on the reservation.⁷ CenturyLink did not take CAF II model support in Wyoming, but currently receives frozen support in the state.

WRI was a winning bidder for 138 census blocks with 849 supported locations. All these census blocks at least partially overlap CenturyLink's service territory on the reservation and CenturyLink estimates that approximately 839 of those locations are in CenturyLink's service territory on the reservation. Given this overlap, in accord with the Commission's prior statements, in all of these census blocks where WRI will now be receiving CAF II auction support, CenturyLink will no longer have a federal ETC obligation to provide voice service to new customers in those census blocks.⁸

⁷ Qwest Corporation d/b/a CenturyLink QC is the CenturyLink local exchange carrier that provides service on the reservation and is an ETC.

⁸ In December 2014, the Commission granted limited forbearance from the federal high-cost requirement that price cap carriers offer voice telephone service throughout their service areas pursuant to section 214(e)(1)(A) in three types of geographic areas (1) census blocks that are determined to be low-cost, (2) all census blocks served by an unsubsidized competitor as defined in our rules, offering voice and broadband at speeds of 10/1 Mbps, and (3) *census blocks where a subsidized competitor—i.e., another ETC—is receiving federal high-cost support to deploy*

III. FDL CI PETITION

The Fond du Lac Reservation is in northeastern Minnesota in Carlton and St Louis counties, approximately twenty miles west of Duluth. The reservation covers approximately 170 square miles, and the population was 4,240 at the 2010 census.⁹ CenturyLink and Frontier are both service providers for portions of the reservation. CenturyLink's service area covers approximately three-quarters of the reservation and encompasses approximately 190 census blocks of which seventy-eight are CAF II model-support-eligible census blocks. CenturyLink estimates that there are approximately 1,842 service locations within its service area on the reservation, and of those approximately 1,066 are eligible for deployment of at least 10/1 Mbps broadband service from CenturyLink using CAF II model support. CenturyLink is currently an ETC throughout its service territory on the reservation.¹⁰

In the CAF II auction, FDL CI won support for eight census blocks on the reservation. All these census blocks are at least partially within CenturyLink's service territory, but none are census blocks for which CenturyLink has received CAF II model support. With respect to these eight census blocks, in accord with the Commission's forbearance pronouncement, CenturyLink should be relieved of its high-cost ETC obligations in these census blocks once FDL CI begins receiving its CAF II support for those census blocks.

modern networks capable of providing voice and broadband to fixed locations. See December 2014 Connect America Order, 29 FCC Rcd 15644, 15663-71, ¶¶ 50-70.

⁹ Petition of Fond du Lac Communications, Inc., p. 4 (filed Sept. 14, 2018).

¹⁰ Qwest Corporation d/b/a CenturyLink QC is the CenturyLink local exchange carrier that provides service on the reservation and is an ETC.

This relief from CenturyLink's high-cost ETC obligations in the eight census blocks won by FDLCI in the CAF II auction should occur as a matter of course under the CAF II program. Yet, with respect to the FDLCI petition, there is another situation that warrants mention. It is clear from reading the FDLCI petition that the Fond Du Lac Band has determined that it would prefer to meet the communication needs of those residing on the reservation through establishment of a tribally-owned telecommunications provider. The Band has obtained approximately \$12 million in state and federal funding to deploy a high-speed broadband network on the reservation by the end of 2019.¹¹ According to the funding map, virtually the entire reservation is covered by the funding.¹² And, it appears that all or almost all of CenturyLink's CAF II eligible census blocks within the reservation are encompassed by the Band's funded area.

In turn, CenturyLink is concerned about the potential use of state and federal funding to support duplicative broadband deployment in areas that cannot sustain a single network without outside support. CenturyLink would prefer to work with the Band to accomplish high-speed broadband deployment on the reservation. If, however, as seems to be the case, the preference of the Band is to move forward with deploying high-speed broadband service through its own telecommunications provider, then CenturyLink is not in a position to fight that determination. But, given these circumstances, CenturyLink would ask that it be permitted flexibility in its CAF II deployment in Minnesota to not have the number of CAF II eligible locations on the reservation that it does not deploy count against it in any final tally of whether CenturyLink has

¹¹ Petition of Fond du Lac Communications, Inc., pp. 1-2.

¹² Petition of Fond du Lac Communications, Inc., Exhibit B.

met its final CAF II milestone in Minnesota.¹³ If CenturyLink were not to reach its current final CAF II deployment milestone in Minnesota, CenturyLink should be permitted to return any CAF II support for the number of CAF II eligible locations on the reservation to which it did not deploy broadband under the program without penalty, and its final deployment milestone number should be reduced by that number of locations.

IV. CONCLUSION

CenturyLink takes no position on the merits of the ETC designation petitions of FDLCI and WRI. CenturyLink provides these comments to note that with any grant of these ETC designation petitions and award of support, CenturyLink should automatically be relieved of its high-cost ETC obligations in the census blocks won that overlap CenturyLink's service territory. Additionally, CenturyLink requests that the Commission recognize that FDLCI's broadband deployment plans as described in its petition indicate a plan to use state and federal funding that will overbuild CenturyLink's service territory on the Fond du Lac Reservation including approximately seventy-eight census blocks with over 1,000 locations that are eligible for broadband deployment by CenturyLink using CAF II model support. To avoid unnecessarily duplicative use of state and federal funding, CenturyLink requests that the Commission permit

¹³ CenturyLink would expect that it would be able to count the CAF II eligible locations on the reservation that it has already deployed under the CAF II program.

CenturyLink flexibility in its final CAF II milestone in Minnesota commensurate with the number of CAF II eligible locations on the Fond du Lac Reservation to which CenturyLink ultimately does not deploy broadband using CAF II support.

Respectfully submitted,

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