

8300 Greensboro Dr.
Suite 1200
Tysons, VA 22102

(703) 584-8671
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September 27, 2018

VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A306
Washington, D.C. 20554

**Re: Petition for Designation as an Eligible Telecommunications Carrier
Pursuant to Section 214(e)(6) of the Communications Act of 1934
Telecommunications Carriers Eligible for Universal Service Support,
WC Docket No. 09-197**

Dear Secretary Dortch:

On behalf of BARConnects, LLC ("BARConnects"), a wholly-owned subsidiary of BARC Electric Cooperative, please find attached a petition for designation as an eligible telecommunications carrier ("ETC") pursuant to Section 214(e)(6) of the Communications Act of 1934, 47 U.S.C. § 214(e)(6).

Please contact the undersigned if any questions arise concerning BARConnects' ETC petition or if you require any additional information.

Sincerely,

A handwritten signature in blue ink, which appears to read "Todd B. Lantor", is written over a horizontal line.

Todd B. Lantor

Counsel to
BARConnects, LLC

Attachment

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
BARConnects, LLC)	WC Docket No. 09-197
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
Pursuant to Section 214(e)(6) of the)	
Communications Act of 1934)	

**PETITION FOR
ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION**

Pursuant to § 214(e)(6) of the Communications Act of 1934 (“Act”), as amended, and § 54.202 of the Commission’s Rules (“Rules”), BARConnects, LLC (“BARConnects” or “Petitioner”) respectfully requests designation as a high-cost and low-income Eligible Telecommunications Carrier (“ETC”) in the Commonwealth of Virginia in all areas in which its parent company, BARC Electric Cooperative (“BARC”), through its participation in the Rural Electric Cooperative Consortium, has been allocated Connect America Fund (“CAF”) Phase II support as a winner of the CAF Phase II auction (“Auction 903”).

Petitioner is a wholly-owned direct subsidiary of BARC Electric Cooperative, a non-profit electric cooperative. Incorporated in 1938, BARC now serves approximately 12,750 meters spanning the following Virginia counties: Alleghany, Augusta, Bath, Highland and Rockbridge. BARC is vitally interested in the residential, industrial, and commercial development of its service area.

Petitioner is obligated to obtain ETC designation status within 180 days of the Commission's announcement of its winning bids for the locations it will serve,¹ and requests expeditious action by the Commission so that it may meet this requirement.

I. INTRODUCTION AND SUMMARY

Petitioner is a wholly-owned direct subsidiary of BARC, a non-profit electric cooperative. BARC is a member of the Rural Electric Cooperative Consortium, which was announced as a winning bidder in Auction 903 for a number of locations in Virginia. Pursuant to the process established in the Phase II Auction Closing Public Notice, the Rural Electric Cooperative Consortium has assigned certain winning bids in Virginia to BARConnects.²

BARConnects will assist with the deployment and operation of a new state-of-the-art, low latency, fiber-to-the-home ("FTTH") network, that will provide high-speed broadband Internet access and Voice over Internet Protocol ("VoIP") services to cooperative members who lack access to such services. Petitioner will offer Internet service at speeds of 1 Gbps or higher and will provide its customers with voice grade access to the Public Switched Telephone Network ("PSTN") through its interconnected VoIP service.

Petitioner seeks ETC designation from the Commission to deploy voice and broadband service in the winning areas of the CAF Phase II-eligible census block groups listed in Exhibit A hereto (the "Proposed ETC Service Area").

As discussed in more detail below, the Commission has the authority to grant ETC designation status to BARConnects pursuant to § 214(e)(6) of the Act, and BARConnects meets

¹ 47 C.F.R. § 54.315(b).

² *Connect America Fund Phase II Auction (Auction 903) Closes, Winning Bidders Announced*, FCC Form 683 Due October 15, 2018, Public Notice, DA No. 18-887, rel. Aug. 28, 2018 ("Phase II Auction Closing Public Notice").

all of the statutory and regulatory requirements for ETC designation. Designating BARConnects as a high-cost and low-income ETC in the areas requested will allow BARConnects to receive CAF Phase II support, as well as federal Lifeline support, in its Proposed ETC Service Area and will serve the public interest by enabling BARConnects to provide voice and gigabit tier broadband services to its customers – some of whom will be eligible for federal Lifeline benefits.

II. THE COMMISSION HAS AUTHORITY TO GRANT THE ETC DESIGNATION REQUESTED BY BARCONNECTS

Pursuant to § 214(e)(6) of the Act, the Commission may designate an ETC where the Petitioner “is not subject to the jurisdiction of a state commission.”³ The State Corporation Commission of the Commonwealth of Virginia has provided an affirmative statement that it will not assert jurisdiction over broadband and/or VoIP providers seeking ETC designation, and that such providers should apply to the FCC to be designated as an ETC.⁴ In addition, the Code of Virginia provides, in part, that “[t]he [Virginia State Corporation] Commission shall not have jurisdiction with respect to the regulation of Voice-over-Internet protocol service, including but not limited to the imposition of regulatory fees, certification requirements, and the filing or approval of tariffs.”⁵

³ 47 U.S.C. § 214(e)(6).

⁴ See Exhibit B, Petition of BARConnects, LLC, Case No. 2018-00157, State Corporation Commission, Commonwealth of Virginia, *Order*, adopted September 25, 2018.

⁵ § 56-1.3 of the Code of Virginia.

III. PETITIONER MEETS THE STATUTORY AND REGULATORY PREREQUISITES TO BE DESIGNATED AS AN ETC

As demonstrated herein, Petitioner satisfies each of the statutory and regulatory requirements set forth in the Act and the FCC's Rules to be a high-cost and low-income ETC.

A. Petitioner Will Provide Service as a Common Carrier

Petitioner will provide service on a common carrier basis in its Proposed ETC Service Area. As such, BARConnects certifies that it is a common carrier under §§ 214(e)(1) and 214(e)(6) of the Act.⁶

B. Petitioner Will Offer the Services Supported by the Federal Universal Service Support Mechanisms

As described below, BARConnects certifies that it will provide the following services that are supported by federal universal service support mechanisms:⁷

1. Voice Grade Access to the PSTN – BARConnects will meet this requirement through the provision of IP-based voice communications service that is interconnected to the PSTN. BARConnects will be legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting universal service-related requirements. BARConnects will offer stand-alone voice telephony service throughout its Proposed ETC Service Area, and will offer such service at rates that are reasonably comparable to urban rates. This service will include minutes of use for local service provided at no charge to end users and access to emergency services via 911 or E-911, wherever available from local government or public safety organizations.⁸ BARConnects also commits to provide toll limitation services to qualifying low-income consumers as provided in §§ 54.400 - 54.423 of the Rules.⁹
2. Broadband Internet Access Services – BARConnects' broadband Internet offering will provide the capability to transmit data to and receive data by wire from all or substantially all Internet endpoints, including any capabilities that are incidental

⁶ See Exhibit C (Affidavit of Michael Keyser) ("Keyser Affidavit").

⁷ See *id.*

⁸ 47 C.F.R. § 54.101(a)(1) and (b).

⁹ 47 C.F.R. § 54.101(a)(1).

to and enable the operation of the communications service. BARConnects will offer low-latency broadband Internet service at speeds of 1 Gbps or higher throughout its Proposed ETC Service Area, and will offer such service at rates that are reasonably comparable to urban rates.¹⁰

3. Lifeline Service – BARConnects will offer Lifeline voice and broadband services to qualifying low-income consumers in accordance with the FCC’s Rules throughout its Proposed ETC Service Area.¹¹

BARConnects further commits to provide these services consistent with the FCC’s high-cost and low-income universal service support rules applicable to it.¹²

C. Petitioner Will Provide Service Using Its Own Facilities

BARConnects will deploy and operate a new state-of-the-art, low latency, FTTH facilities-based network to provide high-speed broadband Internet access, as well as interconnected VoIP services, to customers and locations in its Proposed ETC Service Area identified in Exhibit A.¹³

D. Petitioner Will Provide the Requisite Supported Services Throughout Its Proposed ETC Service Area

BARConnects commits to providing the supported services throughout its Proposed ETC Service Area, consistent with all applicable requirements.¹⁴

¹⁰ 47 C.F.R. § 54.101(a)(2).

¹¹ 47 C.F.R. § 54.405(a), 54.400 *et seq.*

¹² See 47 C.F.R. §§ 54.101 and 54.201.

¹³ 47 C.F.R. § 54.201(d)(1).

¹⁴ See 47 C.F.R. §§ 54.101 and 54.201.

E. Petitioner Will Advertise the Availability of Its
Services and Charges Using Media of General Distribution

BARConnects will advertise the availability of and charges for its supported service offerings using media of general distribution, and will undertake outreach initiatives to increase consumer awareness of its service offerings, consistent with all applicable requirements.¹⁵ BARConnects will offer and advertise its broadband and voice services, including those offerings that include all of the supported services, through a combination of media channels, such as television and radio, newspaper, magazines, and other print advertisements, outdoor advertising, direct marketing, and/or the Internet. BARConnects will use the appropriate media outlets to advertise its universal service offerings in a manner consistent with applicable requirements.

F. Petitioner Possesses the Financial and Technical
Capability to Provide the Supported Services

With the financial backing of its parent, BARC Electric Cooperative, BARConnects possesses the financial and technical capabilities to pay for all start-up expenses (*e.g.*, construction, hardware, operations, *etc.*) to get its fiber optic network built and to begin the provision of voice and broadband services throughout its Proposed ETC Service Area. BARConnects will be able to obtain the requisite amount of lending under its existing lines of credit and BARConnects will be able to obtain additional financing, in addition to the CAF Phase II support being made available pursuant to Auction 903. Additional construction funding and other financial information will be provided to the FCC by Petitioner as part of its FCC Form 683 application.

¹⁵ 47 C.F.R. § 54.201(d)(2).

G. Petitioner Will Meet the Additional Requirements for Designation as an ETC

Petitioner further certifies that it will meet all of the Commission's requirements for designation as an ETC under § 214(e)(6) of the Act.¹⁶

1. Compliance with Applicable Service and Performance Quality Requirements. Petitioner certifies that it will comply with the service requirements applicable to the support that it receives, including the requirements for CAF Phase II support, and will provide additional information in this regard as part of its FCC Form 683 application, including a certification from a professional engineer that the fiber optic network is capable of delivering voice and broadband service that meets the requisite performance requirements and sufficient capacity to meet customer demand at or above the prescribed levels during peak usage periods.¹⁷
2. Ability to Remain Functional in Emergency Situations. Petitioner certifies that its fiber optic network will have the ability to remain functional in emergency situations, will have a reasonable amount of back-up power to ensure functionality without an external power source, will be able to reroute traffic around damaged facilities and will be capable of managing traffic spikes resulting from emergency situations.¹⁸ Petitioner's fiber optic network will support telephone service using Session Initiation Protocol-based VoIP technology and will support all phone features, including 911 services.

IV. ANTI-DRUG ABUSE CERTIFICATION

BARConnects certifies that no party to this petition is subject to denial of federal benefits, including Commission benefits, pursuant to § 5301 of the Anti-Drug Abuse Act of 1988.¹⁹

V. GRANT OF THIS PETITION WILL SERVE THE PUBLIC INTEREST

The grant of this petition will clearly serve the public interest by permitting BARConnects to fulfill the objectives of Auction 903 by bringing low latency, gigabit-speed

¹⁶ See Exhibit C (Keyser Affidavit).

¹⁷ See 47 C.F.R. § 54.309.

¹⁸ See 47 C.F.R. § 54.202(a)(2).

¹⁹ See Exhibit C (Keyser Affidavit).

broadband and voice services to consumers in its Proposed ETC Service Area, as well as subsidized voice and broadband services to those households that qualify for federal Lifeline benefits throughout its Proposed ETC Service Area. Petitioner's participation will "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . ,"²⁰ and will aid the Commission's objective of ensuring that federal universal service support, including CAF Phase II support, is used "efficiently and effectively."²¹

VI. CONCLUSION

For all of the foregoing reasons, BARConnects respectfully requests that the Commission designate it as a high-cost and low-income ETC, as requested, so that BARConnects will be eligible to receive CAF Phase II support won via Auction 903, as well as provide Lifeline services to those within its Proposed ETC Service Area who are qualified to receive Lifeline benefits.

Respectfully submitted,

BARConnects, LLC



Todd B. Lantor

LUKAS, LAFURIA, GUTIERREZ & SACHS, LLP

8300 Greensboro Drive, Suite 1200

Tysons, VA 22102

Phone: (703) 584-8678

E-mail: tlantor@fcclaw.com

Counsel for BARConnects, LLC

²⁰ 47 U.S.C. § 1302(a).

²¹ *Connect America Fund*, 32 FCC Rcd 968, 975 (¶20) (2017).

EXHIBIT A

**LIST OF CENSUS BLOCK GROUPS WHERE
BARCONNECTS, LLC SEEKS HIGH-COST AND LOW-INCOME
ETC DESIGNATION IN ITS CAF-II WINNING AREAS**

511639301001
511639301003
511639301004
511639301005
511639301006
511639302001
511639302003
511639303003
511639304001
510150701002
510150710002
510230402002
510150710001
510179201001
510179201002

EXHIBIT B

**AFFIRMATIVE STATEMENT FROM
THE VIRGINIA STATE CORPORATION COMMISSION**

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, SEPTEMBER 25, 2018

SCC-CLERK'S OFFICE
DOCUMENT CONTROL CENTER

2018 SEP 25 1 A 10:15

CASE NO. PUR-2018-00157

APPLICATION OF

BARCONNECTS, LLC

For designation as an eligible
telecommunications carrier

ORDER

On September 14, 2018, BARConnects, LLC ("BARConnects" or "Company"), filed with the State Corporation Commission ("Commission") an application for designation as an eligible telecommunications carrier ("ETC") pursuant to 47 U.S.C. § 214(e), in which the Company asks that the Commission enter an order stating that the Commission declines to exercise jurisdiction over the Company for purposes of making an ETC designation in accordance with 47 U.S.C. § 214(e)(6) ("Request").

In its Request, BARConnects states that it is a subsidiary of BARC Electric Cooperative, which has been allocated support funding by the Federal Communications Commission ("FCC") as a winner of an FCC auction to provide broadband services to residents and businesses in portions of multiple counties in Virginia. BARConnects states that as a condition to this funding, the FCC requires that the Company seek and obtain ETC status for these areas within 180 days of the FCC's August 28, 2018 public notice announcing the winning bids.

BARConnects states that it intends to provide solely broadband and Voice-over-Internet Protocol ("VoIP") services. The Company notes that pursuant to the applicable federal statutes, the designation of a carrier as an ETC is made by the state commission, except where the carrier

is not subject to the jurisdiction of the state commission.¹ The Company asserts that the Commission may decline to exercise jurisdiction over it for purposes of making an ETC designation given the Commission's limited jurisdiction over broadband and VoIP.²

The Company notes that in 2015, in dealing with a similar application by BARConnects, the Commission entered an Order finding that as the Commission has not asserted jurisdiction over service providers such as BARConnects, 47 U.S.C. § 214(e)(6) is applicable to the Company's request for ETC designation, and BARConnects should make its request to the FCC to be designated as an ETC.³ BARConnects states that it must file its application for ETC designation with the FCC by September 27, 2018, if the Commission declines to exercise jurisdiction. Accordingly, BARConnects requests an expedited determination as to whether the Commission will assert jurisdiction so that the Company may begin the ETC designation process with the FCC, if necessary, and entry of an order declining to exercise jurisdiction before September 27, 2018, if the Commission so determines.

NOW THE COMMISSION, upon consideration of the representations of BARConnects and of the applicable law, is of the opinion and finds that, as the Commission has not asserted jurisdiction over service providers such as BARConnects, 47 U.S.C. § 214(e)(6) is applicable to the Company's request for ETC designation, and BARConnects should make its request to the FCC to be designated as an ETC. We further find that this case should be dismissed.

Accordingly, IT IS SO ORDERED.

¹ See 47 U.S.C. § 214(e)(2) and (6).

² For example, § 56-1.3 of the Code of Virginia provides in part that "[t]he Commission shall not have jurisdiction with respect to the regulation of Voice-over-Internet protocol service, including but not limited to the imposition of regulatory fees, certification requirements, and the filing or approval of tariffs."

³ *Application of BARConnects, LLC, For designation as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e)*, Case No. PUC-2015-00015, Doc. Con Cen. No. 150330048, Order (Mar. 30, 2015).

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Todd B. Lantor, Esquire, Lukas, LaFuria, Gutierrez & Sachs, LLP, 8300 Greensboro Drive, Suite 1200, Tysons, Virginia 22102. A copy also shall be delivered to the Commission's Office of General Counsel and Division of Public Utility Regulation.

1803055

EXHIBIT C

**AFFIDAVIT OF
MICHAEL KEYSER
CEO
BARC ELECTRIC COOPERATIVE AND
BARCONNECTS, LLC**

AFFIDAVIT OF MICHAEL KEYSER

COMMONWEALTH OF VIRGINIA)
) SS.
COUNTY OF ROCKBRIDGE)

Michael Keyser, after being duly sworn, states the following:

1. I have personal knowledge of the facts and information set forth in this Affidavit and I am competent to testify to these facts if called as a witness.
2. I am the CEO of BARC Electric Cooperative (“BARC”), which is the sole member/manager for its wholly-owned direct subsidiary, BARConnects, LLC (“BARConnects”). Acting on behalf of BARC and BARConnects, I have read the Petition to which this Affidavit is attached. I have knowledge of the facts stated in the Petition and those facts are true to the best of my knowledge and my belief.
3. BARConnects certifies that it is a common carrier under §§ 214(e)(1) and 214(e)(6) of the Communications Act of 1934, as amended (“Act”).
4. BARConnects commits to provide the services and functionalities required for designation as an Eligible Telecommunications Carrier (“ETC”) in the winning areas of the Census Block Groups identified in Exhibit A to the Petition.
5. BARConnects certifies that it will meet all of the Commission’s requirements for designation as an ETC under § 214(e)(6) of the Act, as specified in paragraphs 1 and 2 of Section II.G. of the Petition.
6. I am the corporate officer responsible for certifying BARConnects’ use of federal high-cost support. Petitioner is eligible to be designated as an ETC within the meaning of Section 214(e) of the Act, and is eligible to receive universal service support pursuant to Section 254(e) of the Act.
7. Petitioner will use the federal high-cost support funds that it receives only to provide, deploy, upgrade and/or maintain facilities and services for which the support is intended.

8. Petitioner certifies that no party to this petition is subject to denial of federal benefits, including Commission benefits, pursuant to § 5301 of the Anti-Drug Abuse Act of 1988.



Michael Keyser
CEO
BARC Electric Cooperative
Member/Manager for BARConnects, LLC

County of Rockbridge
Commonwealth of Virginia

The foregoing instrument was acknowledged before me
this 27th day of September, 2018, by Michael Keyser



Notary Registration Number: 368628

My commission expires: 6/30/21

