

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

In the Matter of	)	
Red Spectrum, LLC	)	
	)	
Petition for Designation as an Eligible	)	WC Docket 09-197
Telecommunications Carrier Pursuant to Section	)	
214(e)(6) of the Telecommunications Act of 1996	)	

**SUPPLEMENT TO  
PETITION OF RED SPECTRUM LLC FOR DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER AND  
REQUEST FOR EXPEDITED PROCESSING**

**I. INTRODUCTION**

On September 12, 2018, Red Spectrum, LLC (“Red Spectrum”), a 100% Tribal-government owned wireline carrier of the Coeur d’Alene Tribe (CDA) and a winning bidder in the Connect America Fund Phase II Auction (“CAF Phase II” or “Auction 903”),<sup>1</sup> filed a Petition with the FCC for designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended,<sup>2</sup> within the exterior boundaries of the Coeur d’Alene Reservation (“Reservation”). This Supplement to the pending ETC Petition (“Supplement”) provides further clarification and details regarding Red Spectrum’s request to be designated as an ETC to offer Tribal Lands Lifeline services to qualifying Tribal residents throughout its Tribal service area, including Tribal Lands Lifeline-Only services in

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<sup>1</sup> See *Connect America Fund Phase II Auction (Auction 903) Closes, Winning Bidders Announced*, FCC Form 683 Due October 15, 2018, Public Notice, Docket Nos. AU 17-182 and WC 10-90 (Rel. August 28, 2018)(“*Auction 903 Closing Public Notice*”), available at: <https://www.fcc.gov/reports-research/maps/caf2-auction903-results/>. Red Spectrum is to receive \$521,715 to support build-out to 185 locations. Red Spectrum will receive CAF Phase II support in the following census block group: the Census Block Group ID: 160099400001.

<sup>2</sup> See 47 U.S.C. § 214(e) (“Provision of Universal Service”); as amended (pub. L. No. 105-125, 1997).

ETC areas outside of the CAF Phase II census block group for which it has been awarded high cost support.<sup>3</sup> In addition, Red Spectrum seeks Tribal Lands Link Up support for installations to qualifying subscribers for a primary residence within its ETC-designated service area.<sup>4</sup>

Red Spectrum is owned and chartered by the government of the Coeur d'Alene Tribe and is authorized to provide telecommunications and broadband services within the exterior boundaries of the Reservation.<sup>5</sup> The *Twelfth Report and Order*<sup>6</sup> concluded that a carrier seeking designation of eligibility to receive federal universal service support for telecommunications service offered on Tribal lands may petition the Commission for designation under section 214(e)(6) without first seeking designation from the state commission.<sup>7</sup> The Commission has further concluded that where a Tribally owned carrier seeks ETC designation throughout its recognized reservation, no redefinition of service areas is required.<sup>8</sup> Red Spectrum is not subject to the jurisdiction of the State of Idaho, as demonstrated by Exhibit 2 to its original Petition.<sup>9</sup>

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<sup>3</sup> See Exhibit 1, hereto (map of Coeur d'Alene Reservation highlighting area for which Red Spectrum will receive support pursuant to Auction 903 and areas for which Lifeline-Only ETC designation is being requested).

<sup>4</sup> See 47 C.F.R. §§ 54.413-54.414.

<sup>5</sup> See Exhibit 1 to original Petition (map of Coeur d'Alene Reservation).

<sup>6</sup> *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208 (2000) ("*Twelfth Report and Order*").

<sup>7</sup> *Twelfth Report and Order*, 15 FCC Rcd 12208, 12265-69, ¶¶ 115-27 (2000). In the *Twelfth Report and Order*, the Commission noted that the legislative history of section 214(e)(6) makes clear that the class of carriers covered by this provision is "dominated by tribally owned carriers," although not limited to these. *Id.* at 12261, ¶106.

<sup>8</sup> *Standing Rock Telecommunications, Inc. Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order on Reconsideration*, 26 FCC Rcd 9160, 1123 (2011) ("*Standing Rock II*").

<sup>9</sup> Red Spectrum is serving a copy of this Supplement, along with its original Petition, to the Idaho Public Utilities Commission.

As a potential ETC receiving CAF Phase II high cost support, Red Spectrum is required to offer Lifeline services to qualifying subscribers within its designated service areas, both Basic Internet Access Services (“BIAS”) and legacy voice services, and its qualifying subscribers are eligible for Tribal Lands Lifeline and Link Up support. Red Spectrum’s plant and other facilities will allow the Company to provide additional services efficiently to low-income customers in areas bordering its requested high-cost service areas. Accordingly, Red Spectrum files this Supplement specifically to request designation as a Tribal Lands Lifeline/Link Up ETC in all of its service area within the Coeur d’Alene Reservation, particularly outside of those areas where it will receive CAF Phase II High Cost support, but also within CAF II census block group areas.

## **II. RED SPECTRUM MEETS THE REQUIRMENTS TO BE DESIGNATED A LIFELINE ETC**

### **A. Red Spectrum is a Common Carrier**

Red Spectrum provides voice communications and broadband to the public, subject to the regulation of the Coeur d’Alene Tribe, and therefore meets the ETC requirement of being a common carrier. Red Spectrum certifies that it is a common carrier under 47 U.S.C. §§214(e)(1) and 214(e)(6) for purposes of its ETC designation.<sup>10</sup> Accordingly, Red Spectrum is not required to submit a five-year plan to provide supported Lifeline services.<sup>11</sup>

### **B. Ability to Function in Emergency Situations**

Red Spectrum reiterates its commitment to remaining viable during an emergency. It has established reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in traffic, illness of operators or from fire, storm,

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<sup>10</sup> 47 U.S.C. §214(e)(1), (e)(6).

<sup>11</sup> 47 C.F.R. § 54.202(a)(1)(ii).

or acts of God including provisions for emergency power that meet or exceed the rule requirement to provide:

- A minimum of 8 hours of battery service.
- A permanently installed power unit.
- Mobile power units that can be delivered on short notice and connected in offices without installed emergency power facilities.<sup>12</sup>

**C. Red Spectrum Will Satisfy All Applicable Consumer Protection and Service Quality Standards**

Because the Commission has recognized that Connect America Fund Phase II auction bidders already must demonstrate their ability to meet their public interest obligations in their short-form and long-form applications, CAF Phase II winning bidders “need not provide additional specific evidence of service to the public interest in their petitions for ETC designation.”<sup>13</sup> Similarly, the Commission has waived, on its own motion, the requirement that a winning bidder seeking ETC designation file a five-year improvement plan and demonstrate that it will satisfy appropriate consumer protection and service quality standards.<sup>14</sup> Nevertheless, Red Spectrum has successfully provided advanced services to underserved Tribal areas within the Coeur d’Alene Reservation beginning in 2005. Red Spectrum certifies that it will continue to do so and to ensure that all applicable federal and state consumer protection and service quality standards are met.

**D. Red Spectrum is Financially and Technically Capable of Providing Lifeline Services in Compliance with Commission Rules**

Red Spectrum certifies that it is technically and financially capable of providing Lifeline Services. Red Spectrum has provided telecommunications voice and broadband services to its

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<sup>12</sup> Red Spectrum ETC Petition at 16.

<sup>13</sup> *CAF ETC Public Notice* at 6.

<sup>14</sup> *Id.* at 4-5.

customers on the Coeur d'Alene Reservation since 2015. As a winning bidder in the CAF Phase II auction, Red Spectrum has demonstrated that experienced telecommunications professionals manage it. Additionally, Red Spectrum has provided the Commission with financial information as part of its Form 683 application for which it has been found qualified to participate in the CAF Phase II auction. Thus, Red Spectrum is financially and technically capable of providing Lifeline services.

**E. Red Spectrum Will Comply With Applicable Service Requirements, Including Minimum Service Standards**

Red Spectrum certifies that it will comply with applicable service requirements, including minimum service standards.<sup>15</sup> Red Spectrum will make all Lifeline-supported voice and broadband services available to all qualified consumers, in a manner consistent with Commission rules, including minimum speeds, and minimum minutes of use for voice telephony services. Specifically, Red Spectrum will provide the following service plans to residential customers:<sup>16</sup>

A. For facilities-based fixed broadband service within its CAF Phase II census block groups and outside its CAF Phase II support area where facilities are available:

**Residential Service**

Price	Tier/Max Download Speed	Max Upload Speed
\$19.95	Economy: 3 Mb	630 Kb
\$34.95	Basic: 6 Mb	1 Mb
\$59.95	Standard: 10 Mb	2 Mb
\$79.95	Super: 25 Mb	5 Mb
\$124.95	Lightspeed: 100 Mb	20 Mb

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<sup>15</sup> 47 C.F.R. § 54.408.

<sup>16</sup> Red Spectrum reserves the right to adjust its service packages in the future, based on market conditions, and to adjust its pricing to reflect the rate of inflation, while keeping its pricing packages reasonably comparable to those offered by other carriers for service packages at a similar performance tier and capacity.

B. For Lifeline customers in areas outside of its CAF Phase II census block groups, it will offer the following broadband service plan options:

Price	Tier/Max Download Speed	Max Upload Speed
\$ 19.95	Economy: 3 Mb	630 Kb
\$ 34.95	Basic: 6 Mb	1 Mb
\$ 59.95	Standard: 10 Mb	2 Mb
\$ 79.95	Super: 25 Mb	5 Mb
\$ 124.95	Lightspeed: 100 Mb	20 Mb

Red Spectrum will provide the following plans for voice-telephony services:

Price	Service
\$ 35 <sup>17</sup>	Unlimited local and long distance USA

Red Spectrum submits that its pricing for Lifeline only service plans offered in non-CAF Phase II areas are reasonably comparable to plans it offers or will offer for comparable services at the same performance tiers and latency in high cost areas.<sup>18</sup> These service plans are also reasonably comparable to the service plans offered by other providers in Idaho, including on the Coeur d'Alene Reservation. Red Spectrum's voice telephony plans are unlimited in nature, but to the extent that Red Spectrum offers plans that include a fixed number of minutes or separate toll services, Red Spectrum commits to provide toll limitation services to qualifying low-income consumers as provided in the Rules.<sup>19</sup>

<sup>17</sup> Red Spectrum currently is finalizing its voice service rates and will update its website with this information prior to receiving USF support.

<sup>18</sup> If Red Spectrum is unable to meet the minimum service standards of 15 downstream/1 Mbps upstream or the applicable standard set by the Commission in the future, Red Spectrum will certify its compliance with 47 C.F.R. § 54.408(d), which provides that a fixed broadband provider may receive Lifeline support if it offers a service of at least 4 Mbps downstream/1Mbps upstream in that given area, and the Lifeline funds will be used towards the purchase of its highest performing generally available residential offering, "lexicographically" ranked by upload bandwidth, download bandwidth and usage allowance. Red Spectrum acknowledges that if it certifies compliance with §54.408(d) it will be subject to the Commission's audit authority.

<sup>19</sup>47 C.F.R. §§ 54.400 – 54.423.

The data plans are available on Red Spectrum's website, [www.red-spectrum.com](http://www.red-spectrum.com), and Red Spectrum is currently finalizing the advertising of its voice service pricing.<sup>20</sup> Additionally, Red Spectrum understands and acknowledges that it must continue to comply with any updated service standards in the future, and any increase in costs will be at or below statewide average costs for similar services.<sup>21</sup> Red Spectrum will not charge deposits to its Lifeline customers. Because the services are being provided exclusively on Tribal Lands, Red Spectrum will seek Link Up reimbursement for any installation charges to provide service to its Lifeline customers.

**F. Red Spectrum will Advertise the Availability of Its Services and Charges Using Media of General Distribution**

Red Spectrum will advertise the availability of each of the supported services detailed above, throughout its licensed service area, by media of general distribution, in accordance with Section 214(e)(1). Red Spectrum will undertake outreach initiatives to increase customer awareness of its Lifeline offering. The methods of advertising may include local and tribal newspapers, on the Red Spectrum website via the Internet, tribal offices, public benefits offices, electronic newsletters, billing inserts, and public exhibits. Red Spectrum will publicize the availability of supported services to reach all of the residents in its service area, and ensure that customers are aware of the availability of the supported services, particularly, the support to low income customers.

All materials describing Red Spectrum's Lifeline service offerings will include language in conformity with 54.405(c) of the Commission's Rules.<sup>22</sup> In addition, Red Spectrum will

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<sup>20</sup> 47 C.F.R. § 54.202(a)(5).

<sup>21</sup> 47 C.F.R. § 54.408(d).

<sup>22</sup> 47 C.F.R. § 54.405(c) provides that the Lifeline provider will "[i]ndicate on all materials describing the service, using easily understood language, that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible consumers may enroll in the program, and the program is limited to one discount per household. For the purposes of this section, the term

ensure that its application and certification form will state that subscribers who willfully make a false statement in order to obtain the Lifeline benefit can be barred from the program or punished by fine or imprisonment.

**G. Red Spectrum will Comply With Additional Lifeline ETC Obligations Including Lifeline Eligibility Requirements**

Red Spectrum is aware of and acknowledges the Commission's requirements regarding certification of a customer's eligibility to receive Lifeline services, and will implement procedures to ensure that the requirements are met.<sup>23</sup> Red Spectrum has procedures in place to maintain certification records and associated documents, enrollment and verification of customers, and disenrollment and duplication of benefits.<sup>24</sup> Red Spectrum will validate any Lifeline applicant against the National Lifeline Accountability Database ("NLAD") and utilize the National Lifeline Verifier to confirm eligibility prior to initiating service in accordance with Commission rules.<sup>25</sup> Red Spectrum will comply with annual certification and reporting requirements and other Commission-mandated measures to prevent waste, fraud, and abuse of Lifeline services.<sup>26</sup>

**III. PUBLIC INTEREST SHOWING**

Red Spectrum serves the public interest by promoting competition and the provision of new technologies to the Coeur d'Alene Reservation, which suffers from significant impediments to affordable, competitive telecommunications services. Ubiquitous service penetration is critical

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'materials describing the service' includes all print, audio, video, and web materials used to describe or enroll in the Lifeline service offering, including application and certification forms."

<sup>23</sup> 47 C.F.R. § 54.405(c).

<sup>24</sup> 47 C.F.R. §§ 54.405(e), 54.410(d)-(f).

<sup>25</sup> 47 C.F.R. § 54.410(b)(2).

<sup>26</sup> 47 C.F.R. §§ 54.416, 54.422.



to providing high quality of service essential to securing customers to support the Red Spectrum infrastructure investment. As set forth in its original Petition, Red Spectrum has been actively building out its telecommunications plant for over a decade and completed its \$10.8 million BIP/ARRA grant/loan buildout in 2015.<sup>27</sup> The current infrastructure includes 121 route miles of fiber and eleven communication towers / relay points.<sup>28</sup> Voice services are provided through a class 5 carrier-grade soft switch connected to the Public Switched Telephone Network (PSTN). Broadband services are provided through core routers and switches connected to the Internet through two upstream providers for redundancy.

Red Spectrum thereby satisfies the public interest requirements for ETC certification. Further, grant of the Petition, as amended by this Supplement, will enable Red Spectrum to provide services to qualified Tribal Lands Lifeline-eligible customers both within and without the CAF Phase II supported high cost areas within Red Spectrum's entire service area. Red Spectrum's service offerings will expand access to the Internet to low-income customers who otherwise may not have the opportunity to access broadband services. This will allow these customers to communicate with employers, family and friends, help their children complete homework tasks, and research employment opportunities, which they otherwise would be unable to do. Additionally, because Red Spectrum is an established facilities-based provider in these Tribal areas of the Coeur d'Alene Reservation, it has the ability and experience to provide these services in a cost-efficient manner.

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<sup>27</sup> USDA RUS BIP ID 1103-A40.

<sup>28</sup> See Petition, *Exhibit 3* for a map of the Red Spectrum build-out.

#### **IV. DRUG ABUSE ACT CERTIFICATION**

Red Spectrum certifies that no party to this Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

#### **V. CONCLUSION**

As discussed above, designating Red Spectrum as an ETC to offer Tribal Lands Lifeline services in areas within its service area where it is not receiving CAF Phase II high cost support on the Coeur d'Alene Reservation is consistent with the requirements of Section 214(e)(6) of the Act, Commission rules and precedent, and is in the public interest. Red Spectrum respectfully requests that the Commission expeditiously approve its Petition, as amended by this Supplement, so that CAF Phase II high cost support and Tribal Lands Lifeline and Link Up funding will flow as soon as possible to support buildout of broadband infrastructure and related services Tribal residents within Red Spectrum's service area.

Respectfully Submitted,

**RED SPECTRUM, LLC**

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*Counsel to Red Spectrum, LLC*

Dated: November 7, 2019

### **Certificate of Service**

I hereby certify that I, James E. Dunstan, have caused the Supplement to the Petition of Red Spectrum LLC For Designation as an Eligible Telecommunications Carrier, Pursuant to Section 214(e)(6) of the Act served via regular mail on November 7, 2019 to the following persons:

Hon. Ernie Stensgar  
Chairman  
Coeur d'Alene Tribe  
850 A Street  
PO Box 408  
Plummer, ID 83851

Diane Hanian - Commission Secretary  
Idaho Public Utilities Commission\*  
472 West Washington Street  
P.O. Box 83720  
Boise, Idaho 83720-0074

\_\_\_\_\_/s/\_\_\_\_\_  
James E. Dunstan

\*Copies of Red Spectrum's original Petition and supporting materials are also being sent with this Supplement.