Gary Hanson, Chairperson
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South Dakota

PUBLIC UTILITIES COMMISSION

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October 30, 2014

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Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
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Washington, DC 20554

DOCKET FILE COPY ORIGINAL

USAC
Vice President, High Cost and Low Income Division
2000 L Street, NW, Suite 200
Washington, DC 20036

Re: CC Docket No. 96-45/WC Docket No. 14-58, Designation of Eligible Telecommunications Carrier; Relinquishment of Eligible Telecommunications Carrier; and State Certification of Support for New Eligible Telecommunications Carrier Pursuant to 47 C.F.R. §§ 54.201, 54.205, and 54.314

Pursuant to section 214(e)(2) of the Communications Act of 1934, as amended, the South Dakota Public Utilities Commission (SDPUC) designated Clarity Telecom, LLC (Clarity) as an eligible telecommunications carrier (ETC) for the service areas served by Knology Community Telephone, Inc. and Knology of the Black Hills. The list of exchanges is attached to the enclosed SDPUC Order. As set forth in the SDPUC Order, Clarity agreed to purchase the assets of Knology Community Telephone, Inc. (study area code 391652) and Knology of the Black Hills, Inc. (study area code 399006). Knology Community Telephone, Inc. is a rural incumbent local exchange carrier designated as an ETC in rural service areas. Knology of the Black Hills, LLC is a competitive ETC designated as an ETC in non-rural service areas. No service areas were redefined. The designation is effective upon closing of the transaction. On October 28, 2014, Clarity informed the SDPUC that the transaction was closed on September 30, 2014.

The SDPUC also granted the relinquishment of the ETC designations of Knology Community Telephone and Knology of the Black Hills, effective upon the closing of the sale. In addition, pursuant to the requirements of 47 C.F.R. § 54.314, the SDPUC hereby certifies to the Federal Communications Commission and the Universal Service Administrative Company that Clarity is eligible to receive federal high-cost support for the program years cited. The SDPUC certifies that all federal high-cost support provided to Clarity will be used this year and in the coming calendar year (2015) only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

Enclosed is the SDPUC's Order granting ETC designation and certification to Clarity and granting relinquishment of ETC designation for Knology of the Black Hills and Knology Community Telephone. If you have any questions, please do not hesitate to contact us for further information.

Sincerely,

Rolayne Ailts Wiest

ROLAYNE AILTS WIEST
Commission Attorney

Enclosure

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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE JOINT APPLICATION OF KITE PARENT CORP. (A SUBSIDIARY OF WIDEOPENWEST FINANCE, LLC) AND ITS SUBSIDIARIES KNOLOGY OF THE PLAINS, INC., KNOLOGY OF THE BLACK HILLS, LLC, KNOLOGY COMMUNITY TELEPHONE, INC., KNOLOGY OF SOUTH DAKOTA, INC., AND BLACK HILLS FIBER SYSTEMS, INC. AND CLARITY TELECOM, LLC REGARDING THE SALE OF TELEPHONE EXCHANGES TO CLARITY TELECOM, LLC, TRANSFER OF CERTIFICATES OF AUTHORITY, ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION, AND RELINQUISHMENT OF ELIGIBLE TELECOMMUNICATIONS CARRIER	)	ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS DESIGNATION; ORDER GRANTING RELINQUISHMENT OF ELIGIBLE TELECOMMUNICATIONS DESIGNATIONS; ORDER GRANTING CERTIFICATION TC14-073

On July 15, 2014, the South Dakota Public Utilities Commission (Commission) received a joint application to approve the sale of certain local telephone exchanges from Kite Parent Corp. (a subsidiary of WideOpenWest Finance, LLC, (WOW!)), on behalf of itself and its subsidiaries Knology of the Plains, Inc. (Knology Plains); Knology of the Black Hills, LLC (Knology Black Hills); Knology Community Telephone, Inc. (Knology CT); Knology of South Dakota, Inc.; and Black Hills Fiber Systems, Inc. (collectively referred to as WOW! South Dakota) and Clarity Telecom, LLC (Clarity).[1] WOW! South Dakota proposes to sell its local telephone exchanges to Clarity. WOW! South Dakota is owned by WOW!, a communications service provider with its corporate headquarters located in Englewood, Colorado. Kite Parent Corp., WOW!'s wholly-owned subsidiary, is the parent company of the WOW! South Dakota companies. Knology CT is a rural incumbent local exchange company that provides telephone services in communities in southeastern South Dakota. Knology Plains is a competitive local exchange company (CLEC) that provides facilities-based voice, cable, and broadband Internet access services in Sioux Falls, South Dakota and other communities in eastern South Dakota, southwestern Minnesota, and Storm Lake, Iowa. Knology Black Hills is a CLEC that provides facilities-based voice, cable and broadband Internet access services in Rapid City, South Dakota and other communities in the Black Hills. Clarity is a newly formed telecommunications provider headquartered in Sikeston, Missouri. The Applicants expect to complete the purchase by September 30, 2014.

In its joint application, WOW! South Dakota and Clarity stated that they have entered into a purchase agreement that "provides that, contingent upon the receipt of certain regulatory and third party approvals, Clarity will purchase substantially all of the assets of Knology Plains, Knology Black Hills, Knology CT, and Knology SD used in the business of providing residential and commercial cable television series, local exchange services and interexchange services and high speed Internet services in South Dakota, Minnesota, and Iowa." The proposed sale affects a number of local telephone exchanges and includes the following communities: Alsen, Belle Fourche, rural Beresford, Black Hawk, Box Elder, Canton, Centerville, Central City, Chancellor, Colman, Davis, Deadwood, Elk Point, Flandreau, Flyger, Gayville, Harrisburg,

[1] The companies that filed the joint application are collectively referred to as the "Applicants."

Hurley, Irene, Lead, Lennox, Madison, Monroe, North Sioux City, Parker, Piedmont, Rapid City, Sioux Falls, Spearfish, St. Onge, Sturgis, Summerset, Tea, Vermillion, Viborg, Volin, Wakonda, Watertown, Whitewood, Worthing, and Yankton.

In addition to approval of the sale of the local telephone exchanges, Clarity requested that the certificates of authority held by the current WOW! South Dakota telephone companies be transferred to Clarity. Clarity further requested that it be designated as an eligible telecommunications carrier (ETC) in the exchanges in which Knology CT and Knology Black Hills are currently designated. Knology CT and Knology Black Hills requested that the Commission approve the relinquishment of their ETC designations. The Applicants also requested approval of amendments to the access tariffs of Knology CT, Knology Black Hills, and Knology Plans to reflect that Clarity will be operating under the tariffs. The Applicants stated that they would submit revised tariff pages following approval of the transaction.

Pursuant to SDCL 49-31-59, notice of the proposed sale was given to the public by publication in newspapers in the counties in which exchanges to be sold provide service. One comment was received in response to the newspaper notices. The Applicants filed responses to Staff's data requests on August 21 and 29, 2014.

At its September 2, 2014, meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL chapter 49-31, including SDCL 49-31-3, 49-31-59, 49-31-69, 49-31-70, 49-31-71, and 49-31-78, and 47 U.S.C. § 214. The Commission voted unanimously to approve the sale of the local telephone exchanges to Clarity. The Commission also voted unanimously to approve the transfer of the local exchange and interexchange certificate of authorities currently held by Knology CT, Knology Plains, and Knology Black Hills to Clarity, subject to the filing of a bond by Clarity. At its September 2, 2014, meeting, the Commission also considered Clarity's request for designation as an ETC in the exchanges in which Knology CT and Knology Black Hills are currently designated, and Knology CT's and Knology Black Hills' requests that the Commission approve the relinquishment of their ETC designations. The Commission unanimously voted to defer action on those requests as the Applicants had not fully complied with the Commission's rules regarding those requests.

On September 10, 2014, Clarity submitted a Supplemental Filing to address the Commission's rules. In the Supplemental Filing, Clarity adopted Knology Black Hills' two-year plan for the Knology Black Hills network. On September 12, 2014, Clarity submitted its two-year plan that described its proposed improvements to the Knology CT network. In addition, in the Supplemental Filing, Clarity requested certification "to the FCC that Clarity will use the support for its intended purpose."

At its September 16, 2014, meeting, the Commission considered the requests for ETC relinquishment, designation, and certification. The Commission voted unanimously to approve the relinquishment of Knology CT's and Knology Black Hill's ETC designations upon closing of the sale to Clarity. The Commission further voted unanimously to designate Clarity as an ETC in the exchanges in which Knology CT and Knology Black Hills are currently designated upon closing of the sale to Clarity. *See* attached Revised Exhibit E for the list of exchanges. The Commission further voted unanimously to provide certification to the Federal Communications Commission (FCC) and to the Universal Service Administration Company (USAC) regarding the use of federal universal service support.

The Commission first notes that the ETC designation and relinquishments being requested in this docket differ from most of the Commission's prior designations and relinquishments in

that this case involves the purchase of substantially all of the assets of existing telephone companies. The result is that the facilities currently being used by WOW! South Dakota will be used by Clarity to provide services. WOW! South Dakota and Clarity have stated that the transition will be seamless and there will be no discontinuance, reduction, or impairment of any of the services presently offered in the exchanges following the purchase by Clarity.

In order to be designated an ETC, a carrier must offer the supported services throughout the service area for which the designation is received and advertise the availability of, and the charges for, those services throughout the service area. 47 U.S.C. § 214(e). The FCC has designated the following services for support by federal universal service support mechanisms: (1) voice grade access to the public switched network or its functional equivalent; (2) minutes of use for local service provided at no additional charge to end users; (3) 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; and (4) toll limitation services to qualifying low-income consumers. 47 C.F.R. § 54.101(a). In its filing, Clarity stated that it will offer all of the supported services through the assets purchased from WOW! South Dakota. The Commission finds that Clarity is able to offer the supported services.

A carrier must offer the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services...." 47 U.S.C. § 214(e)(1)(A). Clarity will provide the supported services using the assets purchased from the two current ETCs, Knology CT and Knology Black Hills. Knology CT and Knology Black Hills are facilities-based carriers.

The carrier must also advertise the availability of such services and the rates for the services using media of general distribution. 47 U.S.C. § 214(e)(1)(B). Clarity stated that it will advertise the availability of the supported services with methods that may include website, radio, television, and newspapers. Clarity also stated it will advertise the availability of Lifeline and Link-Up benefits throughout the service areas in the same manner as Knology CT and Knology Black Hills. These methods include newspapers, bill notices, user guide notices, and public television advertisements.

Pursuant to ARSD 20:10:32:43.01, an applicant for ETC status must commit to providing service to customers making a reasonable request for service in the service area. Clarity has made that commitment in its filing. Clarity certified that it will:

> A. Provide service on a timely basis to requesting customers within its proposed designated service area where its network already provides coverage to the potential customer's premises (Jt. App. Pg. 6); and
>
> B. If the potential customer is within Clarity's proposed designated service area but outside its existing network, it will provide service within a reasonable period of time, if the service does not impose excessive or unreasonable cost, by
>
> 1. Modifying or replacing the requesting customer's equipment;
> 2. Extending facilities, such as constructing or expanding its facilities;
> 3. Adjusting network or customer facilities;
> 4. Reselling services of another carrier's facilities to provide service; or
> 5. Employing, leasing, or constructing additional network facilities.

Pursuant to ARSD 20:10:32:43.02, an applicant must provide a two-year plan that explains upgrades or improvements the applicant will make in each wire center. Clarity provided a two-year plan setting forth the upgrades and improvements it plans on making in that two-year period for the Knology CT exchanges. For the Knology Black Hills wire centers, Clarity adopted Knology Black Hills' previously filed two-year plan and filed the plan in this docket. As stated in its filing, Clarity plans to "upgrade the network infrastructure to improve Internet speeds and enhance the quality of voice services for residential and commercial customers."

Pursuant to ARSD 20:10:32:43.03, an applicant must demonstrate its ability to remain functional in emergency situations. Clarity stated that the current "voice and broadband network is designed to remain functional in emergency situations without an external power source, and is able to reroute traffic around damaged facilities." Clarity further stated that "[e]ach central office building is supplied with standby generators and battery back-up that enable the central office to keep running until power is restored so long as fuel is available, or until system changes are made to reroute traffic. Clarity's central offices will be able to maintain 8 hours (plus or minus 15%) of battery reserve rated for peak traffic load requirements," and a permanent auxiliary or mobile power unit "can be delivered and connected within four hours."

Pursuant to ARSD 20:10:32:43.04, an applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards. Clarity stated that it will comply with all applicable regulations for services, "including consumer protection and service quality standards" and will be "subject to consumer protection obligations under both federal and South Dakota law...."

Pursuant to ARSD 20:10:32:43.05, an applicant must demonstrate that it offers a local usage plan comparable to the one offered by the incumbent carrier. Clarity stated that the rate plan in the service areas of Knology Black Hills are comparable to the incumbent local exchange carrier plans.

Pursuant to ARSD 20:10:32:43.06, an applicant must certify that it will be able to provide equal access to long distance carriers if no other ETC is providing equal access within the service area. Clarity stated that it will be able to provide equal access within its service areas.

The Commission finds that Clarity has met the requirements of ARSD 20:10:32:43.01 through 20:10:32:43.06.

In order to designate an applicant as an ETC, the Commission must also determine whether such designation is in the public interest. When making this determination, the Commission must consider the following:

> Prior to designating an eligible telecommunications carrier, the commission shall determine that such designation is in the public interest. The commission shall consider the benefits of increased consumer choice, the impact of multiple designations on the universal service fund, the unique advantages and disadvantages of the applicant's service offering, commitments made regarding the quality of the telephone service provided by the applicant, and the applicant's ability to provide the supported services throughout the designated service area within a reasonable time frame. In addition, the commission shall consider whether the designation of the applicant will have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier. If an applicant seeks designation below the study area level of a rural telephone

company, the commission shall also conduct a creamskimming analysis that compares the population density of each wire center in which the applicant seeks designation against that of the wire centers in the study area in which the applicant does not seek designation. In its creamskimming analysis, the commission shall consider other factors, such as disaggregation of support pursuant to 47 C.F.R. § 54.315 (January 1, 2006) by the incumbent local exchange carrier.

ARSD 20:10:32:43.07.

The Commission will first consider the benefits of increased consumer choice, the unique advantages and disadvantages of the service offerings, commitments regarding telephone service quality, and ability to provide the supported services throughout the designated service area within a reasonable time frame. The Commission notes that, unlike other ETC designation dockets, this case does not involve the designation of an additional ETC in the applicable service area; instead, it involves the substitution of ownership of the current ETCs. Thus, when evaluating these public interest considerations, the Commission will focus on the improvements that have been promised by Clarity to improve the current services and provide new services. Clarity stated that it is committed to improving and expanding services currently offered and expanding the availability of certain services, including broadband services. Clarity stated that the service quality, coverage and capacity will improve due to its capital investment plan. Clarity stated that the public interest will be enhanced because "Clarity plans to upgrade the network infrastructure to improve Internet speeds and enhance the quality of voice services for residential and commercial customers."

Regarding the impact of multiple designations on the universal service fund, the Commission again notes that this designation does not result in additional ETCs. This case involves the purchase of existing companies operating as ETCs, with the new owner using the assets to provide services to the inhabitants of the exchanges. The final consideration is whether the designation of Clarity will have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier. This consideration applies to the Knology Black Hills exchanges. For the Knology Black Hills exchanges, the incumbent local exchange carrier is CenturyLink. CenturyLink did not intervene or submit comments in this docket. The Commission finds that no evidence was presented to show that the designation of Clarity as an ETC would have a detrimental effect on the provisioning of universal service by the incumbent local exchange carrier.

After evaluating the public interest considerations, the Commission finds that the designation of Clarity in the exchanges currently served by Knology CT and Knology Black Hills is in the public interest. Clarity will use the assets it is purchasing from WOW! South Dakota to provide the supported services in the service areas and will upgrade the network infrastructure and improve and expand on the services currently being offered.

In conjunction with Clarity's request for ETC designation is Knology CT's and Knology Black Hills' requests to relinquish their ETC designations. The Commission "may permit a telecommunications company to relinquish its eligible telecommunications carrier designation if at least one other eligible telecommunications carrier serves the area for which the relinquishment is sought." ARSD 20:10:32:48. In addition, the carrier requesting relinquishment "shall continue to meet its eligible telecommunications carrier obligations for the entire area for which it seeks to relinquish those obligations until the date specified in the commission's order approving the relinquishment." The Commission finds relinquishment is warranted under these

circumstances and will be allowed upon closing of the sale to Clarity. When the sale is closed, Clarity will serve the entire service areas of both Knology CT and Knology Black Hills and Clarity will serve the areas as an ETC. Therefore, the areas will continue to be served by an ETC and the parties have stated that the transition will be seamless.

Clarity also requested that the Commission "[c]ertify to the FCC that Clarity will use the support for its intended purpose." Pursuant to 47 C.F.R. § 54.314(a), in order for an ETC to receive support pursuant to the FCC's high-cost program, a state must file certification with USAC and the FCC stating that all federal high-cost support provided to the ETC will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission finds that Clarity has met the requirements to receive certification and finds that it has shown that it is eligible to receive federal support as all federal high-cost support will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

It is therefore

ORDERED, Clarity is designated as an ETC in the exchanges in which Knology CT and Knology Black Hills are currently designated upon closing of the sale to Clarity; and it is further

ORDERED, Knology CT's and Knology Black Hill's requests to relinquish their ETC designations upon closing of the sale to Clarity is granted; and it is further

ORDERED, Clarity's request for certification is approved.

Dated at Pierre, South Dakota, this 24th day of September, 2014.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.

By: Joy Lashley

Date: 9-24-14

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson

GARY HANSON, Chairman

Chi Nelson

CHRIS NELSON, Commissioner

Kristie Fiegen

KRISTIE FIEGEN, Commissioner

Revised
Exhibit E

Knology CT has designation as an ETC in the following combined exchange areas:

Alsen

Beresford (Rural)

Chancellor

Davis

Flyger

Gayville

Hurley

Irene

Lennox

Monroe

Parker

Volin

Wakonda

Worthing

Knology Black Hills has designation as an ETC in the following combined exchange areas:

Belle Fourche

Black Hawk

Lead/Deadwood

Spearfish

Sturgis

Whitewood

See Exhibit C for service area map showing the location of the above exchange areas.