

**Before the  
Federal Communications Commission  
Washington, DC 20554**

Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Rural Broadband Experiments	)	WC Docket No. 14-259
	)	
Petition of Declaration Networks Group, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Virginia	)	
	)	

**PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS  
CARRIER IN THE STATE OF VIRGINIA**

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January 20, 2015

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**PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS  
CARRIER IN THE STATE OF VIRGINIA**

Declaration Networks Group, Inc. (“DNG”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (“Act”) and Section 54.201 of the rules of the Federal Communications Commission (“FCC” or “Commission”), hereby requests designation as an eligible telecommunications carrier (“ETC”) in the Commonwealth of Virginia.

**I. INTRODUCTION**

DNG seeks an ETC designation in connection with the Wireline Competition Bureau’s provisional grant of funding to DNG for Rural Broadband Experiments to be provided in the Commonwealth of Virginia in WC Docket No. 10-90 (“Provisional Grant”). DNG seeks ETC status in the service areas where it has received the Provisional Grant within the Commonwealth of Virginia in order to fulfill the Bureau’s mandate and to allow DNG to operate in a manner consistent with the Bureau’s expectations in making the Provisional Grant. Although applicants

for the Rural Broadband Experiment are not required to hold ETC status,<sup>1</sup> winning bidders are required to provide appropriate documentation of their ETC designation in the areas for which the bidder will receive support.<sup>2</sup>

Upon obtaining the Provisional Grant, DNG sought designation as an ETC from the Virginia State Corporation Commission (“VCC”). The VCC has advised DNG that the VCC lacks jurisdiction to designate DNG as an ETC in the Commonwealth of Virginia. As set forth below, pursuant to Section 214(e)(6) of the Act, 47 U.S.C. § 214(e)(6), the Commission has authority to grant ETC status where the relevant state authority does not have jurisdiction to grant such status. Therefore, because the VCC does not hold jurisdiction to grant ETC status, the FCC has authority to consider and grant this Petition.

## **II. DESCRIPTION OF DECLARATION NETWORKS GROUP, INC.**

DNG is a broadband wireless access company that designs, deploys and operates reliable, affordable and sustainable residential and commercial broadband services for targeted service areas. Through its planned wireless broadband access network in Virginia, DNG will extend broadband services to fixed and portable locations from a newly constructed middle mile fiber network on the eastern shore of Virginia. Unlicensed spectrum has been allocated by the FCC for use in rural areas to support the deployment of wireless networks to address the market and economic needs for consumers, first responders, local governments and retail service providers located in those areas. By utilizing the growing allotment of unlicensed frequencies (i.e. 2.4 GHz, 5GHz and TV White Spaces), DNG will create an efficient local broadband distribution

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<sup>1</sup> *Technology Transitions et al.*, GN Docket No. 13-5 et al., Order et al., 29 FCC Rcd 1433, 1474, para. 118 (2014) (*Tech Transitions Order*).

<sup>2</sup> *Connect America Fund; ETC Annual Reports and Certifications*, WC Nos. 10-90. 14-58, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8769, ¶ 22 (2014) (*Rural Broadband Experiments Order*).

network capable of delivering high quality broadband services. DNG will design, deploy and operate the local access network that will extend the reach of the existing fiber networks to fixed locations and provide portable access to the existing fiber network at a fraction of the cost of a traditional fiber connection. This local network will be supported by a local service and maintenance workforce; will provide residential and commercial broadband access enabling high speed internet, video and voice services; and will expand portable wireless access for vehicles, cell phones, smart phones, tablets, cameras and other Wi-Fi enabled devices.

### **III. THE COMMISSION HAS THE AUTHORITY TO AWARD AN ETC DESIGNATION**

Section 214(e)(6) of the Act grants the FCC authority to designate a carrier as an ETC when such carrier is “not subject to the jurisdiction of a state commission.”<sup>3</sup> On December 30, 2014, DNG filed a request with the VCC for an ETC designation in Virginia or in the alternative, if the VCC found that it does not have jurisdiction to award such status, for the VCC to issue a decision that it does not have jurisdiction to grant DNG’s request. On January 15, 2015, in Case No. PUC-2014-00063, the VCC issued a decision that stated “as the Commission [VCC] has not asserted jurisdiction over service providers such as Declaration, 47 U.S.C § 214 (e)(6) is applicable to Declaration’s request for ETC designation, and the Company should make its request to the FCC to be designated as an ETC.”<sup>4</sup> A copy of the VCC decision has been attached as Exhibit A. In short, the VCC has found that it does not hold authority to grant DNG the requested ETC status. In accordance with the VCC’s decision, DNG therefore requests that the

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<sup>3</sup> 47 U.S.C. § 214(e)(6).

<sup>4</sup> Order in Petition of Declaration Networks Group, Inc., In re: designation as an Eligible Telecommunications Carrier pursuant to 47 U.S.C. § 214 (e), Case No. PUC-2014-00063 (Issued January 15, 2015).

Commission exercise its statutory authority under Section 214(e)(6) of the Act to grant DNG an ETC designation for the requested areas in the Commonwealth of Virginia.

#### **IV. DNG SATISFIES THE REQUIREMENTS FOR DESIGNATION AS AN ETC**

As demonstrated herein, DNG satisfies the requirements established under 47 U.S.C. §214 (e) and the FCC rules for designation as an ETC.<sup>5</sup> Specifically, DNG agrees to:

- 1) Offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services;<sup>6</sup>
- 2) Advertise the availability of such services and the charges therefor using media of general distribution;<sup>7</sup>
- 3) Certify that it will comply with the service requirements applicable to the support that it receives;<sup>8</sup>
- 4) Provide information that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area;<sup>9</sup>
- 5) Demonstrate its ability to remain functional in emergency situations;<sup>10</sup> and,
- 6) Demonstrate that it will satisfy applicable consumer protection and service quality standards.<sup>11</sup>

DNG's compliance with each of the applicable requirements to obtain designation as an ETC is discussed in further detail below.

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<sup>5</sup> 47 C.F.R. §§ 54.201(d) and 54.202.

<sup>6</sup> 47 C.F.R. § 54.201(d)(1).

<sup>7</sup> 47 C.F.R. § 54.201(d)(2).

<sup>8</sup> 47 C.F.R. § 54.202(a)(1)(i).

<sup>9</sup> 47 C.F.R. § 54.202(a)(1)(ii).

<sup>10</sup> 47 C.F.R. § 54.202(a)(2).

<sup>11</sup> 47 C.F.R. § 54.202(a)(3).

- 1) DNG will offer services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services.

Upon final confirmation of receiving funding through the FCC's Rural Broadband Experiment program, DNG will deploy and operate a broadband wireless access network utilizing its own facilities throughout the area within which DNG seeks ETC designation. DNG's wireless access network is designed to provide broadband and voice over the internet services to residential and small business customers on that area of the eastern shore of Virginia covering the designated census blocks in the DNG Rural Broadband Experiment application. The network will use available unlicensed spectrum in the industrial, scientific and medical (ISM) radio bands of 2.4 GHz and 5.8 GHz to provide "last mile" broadband access to targeted application designated Census Blocks. DNG's broadband access network will extend broadband connectivity from the existing Eastern Shore of Virginia Broadband Authority middle mile fiber network to the local service areas. The DNG wireless access network will provide dedicated access to DNG's customer's home, business premise or other service locations in the service area. DNG will also offer residential and small business voice services reselling a white label wholesale voice service. Initially, DNG will offer Lifeline voice services to any customer that qualifies for such services in the area where DNG is granted an ETC designation. DNG is also exploring the possibility of offering a portable wireless service that would bundle broadband and voice services to Lifeline customers. As such, DNG satisfies the requirement that it will offer the services supported by the Federal universal service support mechanisms by utilizing its own facilities in conjunction with reselling other carrier's offering. Such offerings will be available throughout the service area where DNG has received an ETC designation.

- 2) DNG will advertise the availability of its services and the charges therefor using media of general distribution.

DNG will support its service offering, including Lifeline services, with a local sales, service and technical support staff that will actively sell services to the local communities within which the network is deployed. The company is actively engaging homeowners and businesses at community meetings and home association meetings, as well as targeted meetings with county officials and other local and community organizations within the identified service area. DNG's products will be promoted and advertised online at the company website, where interested consumers will be able to review the product line, product features and pricing. The website will also provide service coverage information as the network is expanded over the targeted service areas and will contain information on DNG's Lifeline service offering. The company's marketing strategy incorporates neighborhood marketing campaigns using door hangers, inserts into community newsletters, general media advertising, direct mail, as well as public relations efforts with local news outlets.

- 3) DNG certifies that it will comply with the service requirements applicable to the support that DNG receives.

DNG has proven its compliance with the FCC's service requirements as those requirements were set out within the Rural Broadband Experiment program with the technical information contained in its initial bid and with the Form 5620 Technical Review Document submitted as part of the post-selection review process. DNG will provide supplemental service requirements information if requested by the Commission.

- 4) DNG has provided information that describes with specificity proposed improvements or upgrades to DNG’s network throughout its proposed service area.

DNG has submitted detailed information and timeframes of proposed improvement and upgrades that will be associated with the network build out in connection with the FCC’s Rural Broadband Experiment. The requirement to submit a five year plan has been waived in connection to grants connected with the Rural Broadband Experiment program. In the Rural Broadband Experiments Order, the FCC reasoned that stated “[b]ecause we adopt other requirements for the rural broadband experiments recipients that will ensure that we will be kept apprised of their build-out progress, we find that it is unnecessary to require these entities to file a five-year service quality plan.”<sup>12</sup> If requested, DNG will provide the Commission with supplemental information concerning DNG’s network and its design plans for all services within the ETC designation area.

- 5) DNG’s services will have the ability to remain functional in emergency situations.

Declaration Networks will design and operate its network in manner which allows the company to maintain its service levels and operate during emergency situations. This includes, but is not limited, to the following considerations and plans, each of which is designed to mitigate any issues relating to power outages and other emergency situations:

- **Back-Up Power:** All DNG network locations will be provided with on-site battery backup systems capable of providing full operation for a minimum of 24 hours during a loss of commercial utility service. Each location will also be equipped to accommodate a portable power generator that can be dispatched and maintained in the event a

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<sup>12</sup> *Rural Broadband Experiments Order* ¶ 77.

commercial utility outage is expected to last longer than 24 hours. The portable generators will be pre-staged and staffed locally to reduce the required dispatch time. All portable generators will be periodically tested to ensure readiness. Fuel sources and fuel storage will be pre-arranged to address extended outages.

- **Network Robustness.** All wireless facilities in the DNG network will be engineered and built to meet the TIA /EIA-222--Rev G structural standards for 130 MPH 3 Second wind gusts. Many of the company's wireless facilities will be collocated with public and utility infrastructure including water tanks, power poles, and government communication facilities in order to provide study structural support. It is anticipated that these locations will receive priority restoration during a major emergency. DNG's backbone network providers employ fiber ring architecture to allow for increased uptime and fast restoration during network events. The DNG network is based on an Internet Protocol (IP) transport technology. The network will be engineered to take advantage of the automatic re-routing capability of IP to allow automatic recovery during fiber outages.
- **Support Personnel.** DNG will employ local personnel equipped with emergency training and equipment to respond as needed to network locations during an emergency event. Each network region will be equipped with adequate spares to restore service promptly during an outage.
- **Coordination.** DNG will utilize other competitive network providers and incumbent Local Exchange Carriers to complete voice calls. These carriers employ industry standard practices to deliver emergency 911 and operator traffic during network emergency events. In the event of 911 or Operator call failures, DNG's Network Operations Center

(NOC) will be automatically alerted and will take steps to resolve the failures via remote rerouting of the traffic.

- **Traffic Spikes During Emergency Situations.** DNG's network will be engineered to transport IP traffic to a minimum of two major Internet Peering locations. In the event of network congestion for any reason, traffic will automatically flow in and out of DNG's network under this arrangement. In catastrophic situations, DNG's NOC will be alerted to blocked traffic situations and will have the ability to remotely configure alternate IP traffic routes to relieve any outage.

6) DNG will satisfy consumer protection and service quality standards.

DNG commits to satisfying all applicable state and federal requirements relating to consumer protection and service quality standards. DNG will utilize a wireless access network designed to provide broadband and voice equivalent services to residential and small business customers on the eastern shore of Virginia covering the designated Census Blocks in the DNG Rural Broadband Experiment application. DNG agrees to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Services. DNG will offer residential and small business voice services through a leading wholesale white label voice provider that has more than 25 years industry experience, currently supports approximately 400 cable operators, broadband providers and reseller partners, and manages more than one million high-speed data modems and powers over 130,000 voice lines.

V. **GRANTING DNG STATUS AS AN ETC IS IN THE PUBLIC INTEREST**

In establishing the Rural Broadband Experiment program, the FCC stated that it was in the public interest to advance the deployment of voice and broadband-capable networks in rural,

high-cost areas. In relation to that program, the FCC determined that the Commission “would encourage participation in the rural broadband experiments from a wide range of entities”<sup>13</sup> and that entities “need not be ETCs at the time they initially submit their formal proposals for funding through the rural broadband experiments”<sup>14</sup>. In order to best utilize the existing Connect America budget and to extend broadband to as many households as possible, the Commission awarded a Provisional Grant to DNG, concluding that DNG’s proposal was among the most cost effective proposals submitted and that DNG network was compliant with the program’s technical requirements.

Granting an ETC designation to DNG serves the public interest because it will result in the expansion of rural broadband deployment by allowing DNG access to the funds allocated through the Provisional Grant. DNG has already undergone an intense review by the FCC of its technical and financial qualification to provide services as part the vetting process in the Rural Broadband Experiment program. By granting DNG the Provisional Grant, the FCC has therefore found DNG qualified and identified DNG’s planned network as a cost effective way to expand broadband and voice services in rural areas. Deployment of DNG’s network would therefore further the public interest.

Without ETC status however, DNG cannot proceed with the deployment of its network through the Rural Broadband Experiments program. As the Commission is aware, ETC designation is a required component of the Rural Broadband Experiments program. Therefore if ETC status is not granted to DNG, the cost efficiencies identified by the FCC to be realized through DNG’s planned network in Virginia would be jeopardized. Granting DNG status as an

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<sup>13</sup> *Rural Broadband Experiments Order* ¶ 21 (referencing the *Tech Transitions Order*).

<sup>14</sup> *Rural Broadband Experiments Order* ¶ 22.

ETC therefore would advance the public interest goals as stated by the FCC and foster the expansion of broadband deployment in rural Virginia.

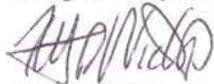
**VI. ANTI-DRUG ABUSE CERTIFICATION**

DNG 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.

**VII. CONCLUSION**

As discussed above, the FCC has the authority to designate DNG as an ETC in Virginia. DNG meets all of the requirements set forth in statute and in the rules of the FCC for designation as an ETC. Such designation serves the public interest by expanding the availability of communications services in rural Virginia. Therefore, DNG respectfully requests that the Commission designate DNG as an ETC in Virginia in the areas specified herein.

Respectfully submitted,



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Dated: January 20, 2015

**Exhibit A**

**Order of the Virginia Corporation Commission**

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, JANUARY 15, 2015

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CASE NO. PUC-2014-00063

PETITION OF  
DECLARATION NETWORKS GROUP, INC.

In re: designation as an Eligible Telecommunications  
Carrier pursuant to 47 U.S.C. § 214(e).

ORDER

On December 30, 2014, Declaration Networks Group, Inc. ("Declaration" or "Company"), filed with the State Corporation Commission ("Commission") a request ("Request") for a determination as to whether the Commission will assert jurisdiction over Declaration to designate it as an Eligible Telecommunications Carrier ("ETC") pursuant to 47 U.S.C. § 214(e).

In its Request, Declaration states that the Federal Communications Commission ("FCC") has provisionally awarded funds to the Company for the expansion of broadband services under the FCC's Rural Broadband Experiments program.<sup>1</sup> Declaration states that it must obtain ETC status within ninety days as part of the provisional award. 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.<sup>2</sup> Declaration asserts that it provides services through a combination of wireless and Voice-over-Internet Protocol ("VoIP") technology and, therefore, believes that the Commission may decline to exercise jurisdiction over it for purposes of making an ETC designation. In its

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<sup>1</sup> *Wireline Competition Bureau Announces Entities Provisionally Selected for Rural Broadband Experiments; Sets Deadlines for Submission of Additional Information*, WC Docket No. 10-90, Public Notice, DA 14-1772 (Dec. 5, 2014).

<sup>2</sup> See 47 U.S.C. § 214(e)(2) and (6).

Request, Declaration cites a Commission case in which a provider of wireless service requested designation as an ETC.<sup>3</sup> In its Order, the Commission found that this service provider should request the FCC to grant ETC designation pursuant to 47 U.S.C. § 214(e)(6). Declaration also notes that the Commission's authority over VoIP is limited by state statute.<sup>4</sup>

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

Accordingly, IT IS ORDERED THAT, there appearing nothing further to come before the Commission in this matter, this case is hereby dismissed from the Commission's active docket, and the papers filed herein shall be placed in the file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:  
Brian McDermott, Esquire, and Edward S. Quill, Jr., Esquire, Strategies Law Group, PLLC,  
1002 Parker Street, Falls Church, Virginia 22046. A copy also shall be delivered to the  
Commission's Office of General Counsel and Division of Communications.

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<sup>3</sup> See *Commonwealth of Virginia, ex rel. At the relation of the State Corporation Commission, Ex Parte, in re: Implementation of Requirements of § 214(e) of the Telecommunications Act of 1996*, Case No. PUC-1997-00135; *In re: Application of Virginia Cellular LLC, For designation as an eligible telecommunications provider under 47 U.S.C. § 214(e)(2)*, Case No. PUC-2001-00263, 2002 S.C.C. Ann. Rept. 208, Order (Apr. 9, 2002), a copy of which is attached to the Company's Request as Exhibit A.

<sup>4</sup> Section 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."