

ORIGINAL

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

**FILED/ACCEPTED**

**DEC 18 2009**

**In the Matter of )  
 )  
Petition of Standing Rock )  
Telecommunications, Inc., )  
For Designation as an Eligible )  
Telecommunications Carrier )  
Pursuant to Section 214(e)(6) )  
of the Telecommunications Act of 1996 )**

**CC Docket No.** 09-197

Federal Communications Commission  
Office of the Secretary

**PETITION OF  
STANDING ROCK TELECOMMUNICATIONS, INC.  
FOR DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER**

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## EXECUTIVE SUMMARY

Standing Rock Telecommunications, Inc., a Tribal-government owned wireless carrier, hereby applies for designation as an Eligible Telecommunications Carrier for a service area coterminous with the existing rural study areas within the external boundaries of the Standing Rock Sioux Reservation (coinciding with the boundaries of Sioux County, North Dakota and Corson County, South Dakota). Simultaneous with the filing of this ETC application, SRTI is working with the states of North Dakota and South Dakota on redefining these study areas within the Standing Rock Sioux Reservation to conform to the boundaries of the reservation.

The Commission has jurisdiction over this application pursuant to Section 214(e)(6) of the Communications Act since neither the states of North Dakota nor South Dakota have jurisdiction over a tribally owned wireless carrier providing services within reservation boundaries. The Commission has previously recognized this lack of state jurisdiction by designating several other tribally owned carriers as ETCs.

Standing Rock Telecommunications, Inc. will offer all of the services supported by the universal service fund over its own wireless network facilities. The application details an extensive outreach program to ensure that all subscribers are aware of the Lifeline program for low income customers.

Standing Rock Telecommunications, Inc. ("SRTI") will also meet the additional eligibility criteria for ETC designation adopted by the Commission. The petition includes specific details of the company's five year buildout plan (detailed in a confidential Exhibit XI), to include upgrades that will provide wireless broadband services and expansion of network infrastructure. SRTI will be able to remain functional in emergency situations, will provide

consumer protection in accordance with wireless industry standards and will provide local usage and equal access. The company certifies that it will use support for the provision, maintenance, and upgrading of facilities and services for which it is intended.

Grant of this application will serve the public interest because it will result in improved and ubiquitous wireless telecommunications service for residents of the Standing Rock Sioux Reservation, will promote local economic development, and will also support a viable, high technology enterprise owned and controlled by the Standing Rock Sioux Tribe.

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**PETITION OF  
STANDING ROCK TELECOMMUNICATIONS  
FOR DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER**

**I. INTRODUCTION**

Standing Rock Telecommunications, Inc. (SRTI), a 100% Tribal-government owned wireless carrier of the Standing Rock Sioux Tribe (SRST), respectfully petitions the Commission for designation as an Eligible Telecommunications Carrier (“ETC”) pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended,<sup>1</sup> within the exterior boundaries of the Standing Rock Sioux Reservation (“Reservation”). SRTI is owned and chartered by the government of the Standing Rock Sioux Tribe and is licensed to provide personal communication services (PCS) service within the exterior boundaries of the Reservation (which

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<sup>1</sup> See 47 U.S.C. § 214(e) (“Provision of Universal Service”); as amended (Pub. L. No. 105-125, 1997).

coincide with the boundaries of Sioux County, North Dakota; and Corson County, South Dakota).<sup>2</sup>

The *Twelfth Report and Order*<sup>3</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>4</sup> The Standing Rock Sioux Tribe is a federally recognized Indian tribe. The Reservation boundaries define SRTI's service area. SRTI is subject to the regulatory authority and jurisdiction of the Standing Rock Sioux Tribe. SRTI is not subject to the jurisdiction of the States of South Dakota or North Dakota. SRTI requests that it be designated as eligible to receive all available support from the federal Universal Service Fund (USF) including, but not limited to, support for service to rural, insular and high cost service areas and to low-income customers.

SRTI serves the public interest by promoting competition and the provision of new technologies to the Standing Rock Sioux Reservation which suffers from significant impediments to affordable, competitive telecommunications services. Ubiquitous service penetration is critical to providing high quality of service essential to securing customers to support the SRTI wireless infrastructure investment. Prior to the construction of SRTI's sixteen (16) wireless towers, only one cellular tower operated within the exterior boundaries of the

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<sup>2</sup> See Exhibit I.

<sup>3</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>4</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.

2.3 million acres of land on the Standing Rock Sioux Tribe Reservation. Prior to the investment of SRTI's wireless infrastructure, little to no wireless services existed within SRTI's service area. SRTI offers a larger local calling area on the Standing Rock Sioux Reservation than is available from any one of several existing incumbent service providers, and SRTI will offer supported service to any requesting customer within its service area.

As demonstrated herein, expeditious action in granting this Petition will allow the Company to receive uncapped cost recovery support while assuring that the subscribers they serve receive the benefits of quality mobile telecommunications services at reasonable rates.<sup>5</sup> The Petitioner operates in a rural and remote area and is eligible to receive cost recovery from mechanisms established to foster universal service.

**II. STANDING ROCK TELECOMMUNICATIONS SATISFIES ALL OF THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ETC.**

SRTI satisfies each of the elements required for ETC designation by the FCC pursuant to section 214(e)(6) set forth in the FCC's Section 214(e)(6) public Notice.<sup>6</sup> SRTI's wireless "Carrier-Class" system is designed based on state-of-the-art wireless industry standards. SRTI has agreements in place for inter-exchange roaming outside of its service area, transport services, interconnection, and traffic termination with local exchange carriers operating within SRTI's service area. The supported services are designed to meet all Universal Service Funding requirements. SRTI is a full service wireless carrier that offers all Universal Service supported services; and satisfies all of the statutory and regulatory requirements for designation as an ETC.

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<sup>5</sup> *Federal-State Joint Board on Universal Service, High Cost Universal Service Support*, WC Docket No. 05-337, CC Docket No. 96-45 (May 31, 2007) ("Tribal Lands Exception").

<sup>6</sup> *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act, Public Notice*, 12 FCC Rcd 22947 (1997) ("Section 214(e)(6) Public Notice")

- (1) **Because SRTI is a Tribal Government Owned Company, and is regulated by the Standing Rock Sioux Tribe, it is not subject to the jurisdiction of the commissions of the States of South Dakota and North Dakota.**

Non-tribally owned telecommunications carriers are typically subject to state commission jurisdiction, and state responsibility for designating eligible telecommunications carriers and service areas for such carriers. 47 U.S.C. Section 214(e)(6), however, provides that in the case of a common carrier that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of Section 214(e)(1) as an eligible telecommunications carrier for a service area designated by the Commission.

In the *Twelfth Report and Order*, the Commission established a framework for the ETC designation process under Section 214(e)(6)<sup>7</sup> for carriers serving Tribal lands. The Commission specifically concluded that a carrier seeking ETC designation on Tribal lands may petition the Commission directly without first seeking designation from the state commission.<sup>8</sup> The first line of inquiry set out for the Commission is whether the applicant is “subject to the jurisdiction of a state commission.” For the numerous reasons set forth below, Standing Rock Telecommunications, Inc. (SRTI) is clearly not subject to the jurisdiction of the states of North and South Dakota. Once making the determination that the Commission has jurisdiction, the FCC is then tasked with evaluating the merits of the ETC application.

The Commission has recognized that the legislative history of section 214(e)(6) is clear that one of the primary classes of carriers Congress sought to ensure were covered and protected

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<sup>7</sup> “[A] common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State Commission” may apply directly to the Commission for ETC status. *Twelfth Report and Order*, 15 FCC Red at 12265 (2000).

<sup>8</sup> *Id.* ¶ 115.

by this provision were tribally-owned carriers servicing tribal lands.<sup>9</sup> Additionally, the Commission has observed that the “determination of jurisdiction over a carrier serving tribal lands is an inquiry that will extend beyond questions of state law, and will be informed by principles of tribal sovereignty, federal law, and treaties.”<sup>10</sup> Therefore, this Petition first discusses relevant Tribal law and Treaties.

First, under the Standing Rock Sioux Tribe’s own Constitution, the SRST has jurisdiction over “all territory within the boundaries of the Standing Rock Reservation,”<sup>11</sup> and has the right “to engage in any business that will further the economic development of the Tribe.”<sup>12</sup> Standing Rock has never consented to state jurisdiction, and has always recognized its inherent legal status as that of one nation to another nation, directly with the U.S. federal government. Therefore under Standing Rock’s own Constitution, codes, and common law neither the Tribe nor its subsidiaries are “subject to the jurisdiction of a state.”

Second, federal treaties are the “supreme law of the land” for the U.S. federal government, as established by Article VI in the United States Constitution, a fact acknowledged by the Commission in the *Twelfth Report and Order*.<sup>13</sup> In the treaty between the U.S. government and the Standing Rock Sioux Tribe (The Fort Laramie Treaty of 1868 or “Treaty”), it is clear that issues involving utilities and infrastructure (“works of utility or necessity”) were

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<sup>9</sup> *Id.* ¶ 12261.

<sup>10</sup> *Id.* ¶ 125.

<sup>11</sup> *Constitution of the Standing Rock Sioux Tribe*. Article I – Territory. (with Amendments through June 11, 2008) Attached hereto as Exhibit II.

<sup>12</sup> *Id.* at Article IV – Powers of the Standing Rock Sioux Tribal Council, §1(m).

<sup>13</sup> “[T]he determination of jurisdiction over a carrier serving tribal lands...will be informed by principles of tribal sovereignty, federal law, and treaties.” *Twelfth Report and Order*, ¶ 125 at 5.

negotiated, and were intended to be negotiated in the future, directly between the Tribal government and the federal government.<sup>14</sup> In addition to the specific agreements outlined in the Treaty, future utility and infrastructure agreements were to be addressed by a commission of federal and tribal officials to “pay the tribe whatever amount of damage may be assessed” for access for utilities and rights of ways.<sup>15</sup> Therefore, under the Treaty, utility and infrastructure issues related to the Standing Rock Tribe and its Tribal lands were negotiated between the Tribe and the federal government, and not “subject to the jurisdiction of a state.”

And finally, the Commission’s own precedent is very clear with regard to Tribally owned carriers serving Tribal lands. Tribally owned carriers serving Tribal lands are eligible to apply to the Commission for evaluation of their ETC status. The FCC has made this decision in each case in which a fully Tribally owned carrier has applied to the FCC to have their ETC applications considered, such as Hopi Telecommunications, Fort Mojave Telecommunications, Gila River Telecommunications, San Carlos Telecommunications, and Tohono O’Odham Utility Authority.<sup>16</sup> In each instance listed, the ETC application was approved.

In summary, under the U.S. Constitution, the Standing Rock Constitution, the Treaty of Fort Laramie, the basic principles of federal Indian law, Section 214(e)(6) of the Communications Act of 1934, as amended, and the Commission’s own precedent, SRTI, as a

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<sup>14</sup> *The Treaty of Fort of Laramie of 1868*, 15 Stat. 635 (Apr. 29, 1868).

<sup>15</sup> See also 25 U.S.C. § 325.

<sup>16</sup> *Designation of Hopi Telecommunications, Inc., as an Eligible Telecommunications Carrier for the Hopi Reservation, Memorandum and Order*, CC Docket No. 96-45 (2007). *Designation of Fort Mojave Telecommunications, Inc., Gila River Telecommunications, Inc., San Carlos Telecommunications, Inc., and Tohono O’Odham Utility Authority as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Memorandum Opinion and Order, 13 FCC Rcd 4547 (1998).

wireless company operating as a “tribally-owned carrier operating only on tribal lands,”<sup>17</sup> is not “subject to the jurisdiction” of the state commissions of South Dakota and North Dakota and may apply directly to the Commission for a determination of its eligibility as an Eligible Telecommunications Carrier.<sup>18</sup>

**(2) South Dakota and North Dakota’s authority over wireless carriers is also limited.**

In addition, under 47 U.S.C. § 332(c)(3)(A), state jurisdiction to regulate commercial mobile service is limited in any case. Under the Communications Act of 1934, as amended by the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, commercial mobile service providers are exempt from state authority to regulate entry or rates charged.<sup>19</sup>

**(3) SRTI Offers All of the Services Supported by the Federal High-Cost Universal Service Program.**

The FCC has identified the following services and functionalities as the core services to be offered by an ETC and supported by federal universal service support mechanisms. See 47 C.F.R §54.101(a):<sup>20</sup>

- (a) Voice grade access to the public switched network;
- (b) Local usage;
- (c) Dual tone multi-frequency signaling or its functional equivalent;
- (d) Single-party service or its functional equivalent;
- (e) Access to emergency services;

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<sup>17</sup> *Hopi Decision on ETC*, ¶ 11, DA 07-459.

<sup>18</sup> Additionally, ETC designations are for an entire “service area,” which by statute “means a geographic area,” (47 U.S.C. § 241(e)(5)) and therefore the ETC status for the Tribe’s telecommunications company should be granted for the Tribe and SRTI’s entire service area of the Tribe’s reserved homelands, which are the boundaries of the Standing Rock Sioux Reservation.

<sup>19</sup> Most importantly, however, as a government owned corporation of a federally recognized Tribe operating exclusively on tribal lands, Standing Rock Telecommunications, Inc. is not subject to any state jurisdiction under 47 U.S.C. § 214(e)(6).

<sup>20</sup> *Section 214(e)(6) Public Notice*, at 22948.

- (f) Access to operator services;
- (g) Access to interexchange service;
- (h) Access to directory assistance;
- (i) Toll limitation for qualifying low-income consumers.

(a) Voice-grade access to the public switched telephone network. The FCC has concluded that voice-grade access means the bandwidth to make and receive phone calls of a minimum of 300 to 3000 Hertz. SRTI meets this requirement by providing voice-grade access to the public switched telephone network ("PSTN"). Through its interconnection arrangements with Local Exchange Carriers ("LECs"), all customers of SRTI are able to make and receive calls on the PSTN within the specified bandwidth.

(b) Local Usage. Beyond providing access to the PSTN, an ETC must include local usage as part of a universal service offering. To date, the FCC has not quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate proceeding to address this issue.<sup>21</sup> As it relates to local usage, the NPRM sought comments on a definition of the public service package that must be offered by all ETCs. Specifically, the FCC sought comments on how much, *if any*, local usage should be required to be provided to customers as part of a universal service offering.<sup>22</sup> In the *First Report and Order*, the FCC deferred a determination on the amount of local usage that a carrier would be required to provide.<sup>23</sup> Any minimum local usage requirement established by the FCC as a result of the *October 1998 NPRM* will be applicable to all designated ETCs, not simply wireless service

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<sup>21</sup> See *Federal and State Joint Board on Universal Service, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 13 FCC Rcd 21252 (1998) ("*October 1998 NPRM*").

<sup>22</sup> *October 1998 NPRM*, at 21277- 81.

<sup>23</sup> *First Report and Order*, at 8812. See also, *Western Wireless Corp.*, 16 FCC Rcd 48, 52-53 (2000), *aff'd*, FCC 01-311 (October 19, 2001); *Cellco Partnership*, 16 FCC Rcd 29, 42 (2000).

providers. SRTI will comply with any and all minimum local usage requirements adopted by the FCC. SRTI will expand the current local usage range in order to cover the entire service area, the exterior boundaries of the Standing Rock reservation. SRTI will also include local usage plans among its universal service offerings.

(c) Dual tone multi-frequency (“DTMF”) signaling, or its functional equivalent. DTMF is a method of signaling that facilitates the transportation of call set-up and call detail information. Consistent with the principles of competitive and technological neutrality, the FCC permits carriers to provide signaling that is functionally equivalent to DTMF in satisfaction of this service requirement. See 47 C.F.R. § 54.101(a)(3). SRTI currently uses SS7 out-of-band digital signaling, which meets the requirement to provide DTMF signaling or its functional equivalent.

(d) Single-party service or its functional equivalent. “Single-party service” means that only one party will be served by a subscriber loop or access line in contrast to a multi-party line.<sup>24</sup> The FCC has concluded that a wireless provider offers the equivalent of single-party service when it offers a dedicated message path for the length of a user’s particular transmission.<sup>25</sup>

(e) Access to emergency services. The ability to reach a public emergency service provider by dialing 911 is a required service in any universal service offering. Phase I E-911, which includes the capability of providing both automatic numbering information (“ANI”) and automatic location information (“ALI”), is only required if a public emergency service provider

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<sup>24</sup> *First Report and Order*, 12 FCC Rcd at 8810.

<sup>25</sup> *Id.*

makes arrangements with the local provider for the delivery of such information. SRTI will provide all of its customers with access to emergency service by dialing 911 in satisfaction of the basic 911 requirement, and either provides or will provide subscribers with Phase I and Phase II E-911 services in accord with the deployment schedules agreed to by SRTI and local or other governmental emergency service provider agencies.

(f) Access to operator services. Access to operator services is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.<sup>26</sup> SRTI has Service Agreements in place with other entities (i.e. LECs; IXC) to meet this requirement to provide Operator Services.

(g) Access to interexchange service. A universal service provider must offer consumers access to interexchange service to make and receive toll or interexchange calls. Equal access, however, is not required. “The FCC do[es] not include equal access to interexchange service among the services supported by universal service mechanisms.”<sup>27</sup> SRTI presently meets this requirement by providing all of its customers with the ability to make and receive interexchange or toll calls through direct interconnection arrangements the Company has with certain IXCs.

(h) Access to directory assistance. The ability to place a call to directory assistance is a required service offering.<sup>28</sup> SRTI will meet this requirement by providing all of its customers with access to directory assistance.

(i) Toll limitation for qualifying low-income consumers. An ETC must offer either “toll control” or “toll blocking” services to qualifying Lifeline customers at no charge. The FCC no

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<sup>26</sup> *Id.* at 8817-18.

<sup>27</sup> *Id.* at 8819.

<sup>28</sup> *Id.*, at 8821.

longer requires an ETC to provide both services as part of the toll limitation service required under 47 C.F.R §54.101(a)(9).<sup>29</sup> In particular, all ETCs must provide toll blocking, which allows customers to block the completion of outgoing toll calls.<sup>30</sup> SRTI currently has no Lifeline customers because only carriers designated as an ETC can participate in Lifeline. See 47 C.F.R. §§ 54.400-415. Once designated as an ETC, SRTI will participate in Lifeline as required, and will provide toll blocking capability in satisfaction of the FCC's requirement. SRTI currently has the technology and capability to provide toll blocking and will use this technology to provide the service to its Lifeline customers, at no charge, as part of its universal service offerings.

**(4) SRTI Will Offer Supported Services through its Own Facilities.**

The Commission's *Section 214(e)(6) Public Notice* requires that a carrier requesting designation must certify that it offers the supported services "either using its own facilities or a combination of its own facilities and resale of another carrier's services."<sup>31</sup> SRTI will provide the supported services through its own existing network infrastructure, which includes the same antennas, cell sites, towers, trunking, mobile switching, and interconnection facilities that it has deployed to serve its future conventional mobile cellular service customers. See Declaration of Bill Condon, attached as Exhibit III hereto.

**(5) SRTI Will Advertise its Universal Service Offering.**

SRTI 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

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<sup>29</sup> See *Universal Service Fourth Order on Reconsideration* in CC Docket No. 96-45, *Report and Order* in CC Docket Nos. 96-45, 96-262, 94-1, 91-213, 95-72, 13 FCC Rcd 5318 (1997).

<sup>30</sup> *First Report and Order*, at 8821-22.

<sup>31</sup> *Section 214 Public Notice*, at 22949.

214(e)(1). The methods of advertising may include local and tribal newspapers, on the SRTI website via the Internet, tribal offices, public benefits offices, electronic newsletters, billing inserts, and public exhibits. SRTI 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.

**III. SRTI REQUESTS DESIGNATION THROUGHOUT ITS LICENSED SERVICE AREA ON THE STANDING ROCK SIOUX RESERVATION (SIOUX COUNTY, NORTH DAKOTA; AND CORSON COUNTY, SOUTH DAKOTA)**

SRTI is a 100% tribal government-owned telecommunications carrier, owned by the Standing Rock Sioux Tribe headquartered in Fort Yates, North Dakota. SRTI is owned and chartered by the government of the Standing Rock Sioux Tribe and is licensed to provide personal communication services (PCS) service throughout the boundaries of the Standing Rock Sioux Tribe’s reservation (which coincides with the boundaries of Sioux County, North Dakota; and Corson County, South Dakota). A map of SRTI’s proposed ETC service area is attached hereto as Exhibit VIII.

ETC designations are for an entire “service area,” which by statute “means a geographic area,”<sup>32</sup> and therefore the ETC status for the Tribe’s telecommunications company should be granted for the Tribe and SRTI’s entire service area, the Tribe’s reserved homelands,<sup>33</sup> which are the boundaries of the Standing Rock Sioux Reservation.<sup>34</sup>

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<sup>32</sup> 47 U.S.C. § 241(e)(5).

<sup>33</sup> *The Treaty of Fort of Laramie of 1868*, 15 Stat. 635 (Apr. 29, 1868).

<sup>34</sup> The Commission has a previous decision over Tribal lands in South Dakota (*Western Wireless*), however, the applicant was a non-tribally-owned telecommunications provider. Therefore the FCC conducted a different analysis of state jurisdiction over a non-tribal provider’s application for ETC designation, and concluded that the state had partial jurisdiction. That analysis is not relevant here, as the applicant here, SRTI, is a Tribal provider, operating exclusively on Tribal lands and should received ETC designation throughout its service area. *Cf., Western Wireless*

SRTI requests ETC designation for all rural study areas (or portions thereof) which correspond to SRTI's authorized service area within the boundaries of the Standing Rock Sioux Tribe Reservation. Therefore, simultaneous to this ETC application submission, SRTI is working with North and South Dakota on redefining the study areas to conform to the boundaries of the reservation of the Standing Rock Sioux Tribe.

SRTI's authorized service area covers the following rural telephone companies operating within the boundaries of the Standing Rock Sioux Tribe's reservation (See Exhibit VIII for additional details):

Cheyenne River Telephone Authority	SAC # 391647
Qwest Communications/SD	SAC # 395145
West River Cooperative Telephone Company	SAC # 391689
West River Telecommunications/Mobridge	SAC # 391671
West River Telecommunications/ND	SAC # 381637

**IV. GRANTING SRTI'S APPLICATION WILL SERVE THE PUBLIC INTEREST**

SRTI's ETC designation will serve the public interest by increasing consumer choice, improving service quality, enhancing health and safety benefits, and enhancing competition. Because STRI is seeking designation in areas served by rural LECs, the Commission must consider public interest factors prior to designating Standing Rock as an ETC. See 47 U.S.C. §214(e)(6). Designating STRI as an ETC will further the public interest by bringing the benefits of competition to underserved marketplace in rural and tribal areas located in North Dakota and South Dakota.

The FCC has recognized the advantages wireless carriers can bring to the universal service program. In particular, the FCC has found that "imposing additional burdens on wireless

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*Corporation Petition for Designation as an Eligible Telecommunications Carrier for the Pine Ridge Reservation in South Dakota*, CC Docket No. 96-45, Memorandum and Order, 16 FCC 18145, ¶ 9 (2001).

entrants would be particularly harmful to competition in rural areas, where wireless carriers could potentially offer service at much lower costs than traditional wireline service.”<sup>35</sup> One of the principal goals of the Telecommunications Act of 1996 was to “promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies.”<sup>36</sup> Competition drives down prices and promotes the development of advanced communications as carriers vie for a consumer’s business.

Increased Consumer Choice. ETC designation of SRTI will advance universal service, promote competition and facilitate the provision of advanced communications services to customers within SRTI’s service area. Current wireless services are limited throughout the SRTI’s service area, with large sections of the Standing Rock Sioux Reservation having no coverage at all. SRTI is scheduled to launch its operations in January 2010 and will provide supported services throughout the Standing Rock Sioux Reservation.

Improved Service Quality. Ubiquitous service penetration is critical to providing high quality of service essential to securing customers to support the SRTI wireless infrastructure investment. Prior to the construction of Standing Rock Telecommunication’s sixteen (16) wireless towers, only one (1) cellular tower operated within the exterior boundaries of the Standing Rock Sioux Tribe Reservation which consist of 2.3 million acres. Prior to the investment of SRTI’s wireless infrastructure, limited to no wireless services existed within SRTI’s service area. Even today, as of the filing of this Petition, there is only one (1) non-SRTI

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<sup>35</sup> *First Report and Order*, 12 FCC Rcd. 8776, 8881-82.

<sup>36</sup> Telecommunications Act of 1996, Public Law, 104-104, 100 Stat. 56 (1996).

cell tower on the entire Standing Rock reservation. The sixteen (16) new SRTI tower sites are located in the following exchanges within its service area:

<b>Ft. Yates Exchange:</b>	Two SRTI towers	<i>West River Telecom</i>
<b>Lemon Exchange:</b>	One SRTI tower	<i>West River Cooperative</i>
<b>McIntosh Exchange:</b>	Two SRTI towers	<i>Qwest Communications (SD)</i>
<b>McLaughlin Exchange:</b>	Five SRTI towers	<i>West River Telecom</i>
<b>Mobridge Exchange:</b>	Two SRTI towers	<i>West River Telecom</i>
<b>Selfridge Exchange:</b>	Two SRTI towers	<i>West River Telecom</i>
<b>Solen Exchange:</b>	Two SRTI towers	<i>West River Telecom</i>

Of the sixteen (16) towers constructed today, thirteen (13) wireless towers are dedicated and serving thirteen (13) of the fourteen (14) populated communities within the boundaries of the SRST Reservation. Three (3) additional towers provide wireless coverage for scattered homes and highways. The CDMA Radio Access Network (RAN) is designed to provide for ubiquitous coverage for business and residents throughout SRTI's service area. All cell sites have been designed with either two or three sectors and optimized for maximum coverage to accommodate mobile and fixed wireless for voice and broadband data traffic levels utilizing directional panel antennas.

Plans are underway to expand the wireless service penetration and to upgrade the network to provide higher bandwidth throughout the SRTI service area to further advance and improve the service quality. SRTI's will use the high cost support to provide wireless services to customers at an affordable rate that may otherwise not have access to these services on the reservation.

SRTI offers a larger local calling area on the Standing Rock Sioux Reservation than is available from any one of the incumbent service providers, and will offer supported service to any requesting customer within its service area.

Enhanced Health and Safety Benefits. With ETC designation, SRTI will mitigate the health and safety risks associated with living and working in a remote and rural location. The availability of wireless universal service provides access to emergency services that otherwise would not be accessible. SRTI will provide all of its customers with access to emergency service by dialing 911.

Enhanced Competition. One of the principal goals of the Telecommunications Act of 1996 was to promote competition. SRTI is a facilities-based mobile communications provider that has incorporated pricing plans and service offerings that offer consumers a choice of service providers. Competition in this rural and tribal area will spur the development of advanced communications. Granting SRTI ETC designation will provide support that is essential to the company's service objectives.

## V. FIVE YEAR PLAN

Granting ETC designation to SRTI will provide universal service support for its existing facilities and enable the company to complete its five year build out plan.<sup>37</sup> The five year plan includes EVDO Rev A upgrades to the existing sixteen (16) tower sites, and the expansion of nine (9) additional sites that consists of the construction of nine new towers. Once constructed, SRTI will provide mobile broadband for small and home based businesses, educational institutions, healthcare facilities, and government. SRTI will provide high quality handsets, headsets, and other accessories to its customers. Detailed information on the Five Year plan can be found in Exhibit XI (**Confidential, Not For Public Distribution**).

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<sup>37</sup> See Exhibit XI (**Confidential, Not for Public Distribution**)

**VI. SRTI SATISFIES THE ADDITIONAL REQUIREMENTS OF AN ETC APPLICANT REQUIRED BY THE ETC DESIGNATION ORDER.**

In the ETC Designation Order,<sup>38</sup> the Commission adopted additional requirements for ETC designation proceedings in which the Commission acts under section 214(e)(6) of the Act. The Commission found that an ETC applicant must demonstrate:

- (1) a commitment and ability to provide services, including providing services to all customers within its proposed service area;
  - (2) how it will remain functional in emergency situations;
  - (3) that it will satisfy consumer protection and service quality standards;
  - (4) that it offers local usage comparable to that offered by the incumbent LEC; and
  - (5) an understanding that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations pursuant to Section 214(e)(4) of the Act.
- (1) **SRTI Will Be Able To Provide Services To All Customers Within Its Service Area.**

Current wireless services are limited throughout SRTI's service area, with large sections of the Standing Rock Sioux Reservation having no coverage at all. SRTI is scheduled to launch its operations in January 2010 and through its network design, will provide supported services to all customers living within its service area. See Exhibit VIII.

SRTI certifies that it will provide service, on a timely basis, to customers within its service area. With ETC designation, SRTI will implement Enhanced Lifeline and Link-up programs, which will offer service to the lowest income customers that may otherwise not have the ability to afford wireless telecommunication services.

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<sup>38</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371 (2005) ("ETC Designation Order")

The Tribe has issued a Corporate Charter,<sup>39</sup> Certificate of Good Standing,<sup>40</sup> and a Certificate of Public Convenience and Necessity<sup>41</sup> to SRTI to provide telecommunication services throughout its tribal land area.

**(2) SRTI Will Remain Functional In Emergency Situations.**

SRTI's network architecture provides for a fully redundant system. An active and standby MSC, HLR, SSVR, and PDSN provides for a fully redundant voice and data system as part of the CORE CDMA network. The Value-Added Service platform which includes pre-paid, SMSC, MMSC, OTAF and Voicemail functionality consists of an active and cold-standby and physical chassis that have redundant power supplies and mirrored disks to provide a high degree of survivability. SRTI's carrier class IP based microwave backhaul transport system consists of a 10 hop ring system. An emergency failure of any link within the ring will allow the system to reroute traffic to the adjacent microwave hop.

In the event of an electrical outage at the MTSO or tower sites, each site has been designed for 8 hours of battery back-up. For those sites that have been identified as remote and critical, a 16 hour battery back-up has been installed. The MTSO has been designed with a diesel back-up in addition to the 8 hour battery back-up. For those tower sites that may require battery back-up during major electrical outages beyond what has been designed, SRTI has portable generators that can be moved to cell sites to supplement back-up batteries to maintain services. Cell sites are equipped with alarming equipment to alert SRTI technicians of system irregularities. Also, the sites are monitored remotely at the SRTI Network Operation Center.

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<sup>39</sup> See Exhibit IV.

<sup>40</sup> See Exhibit V.

<sup>41</sup> See Exhibit VII.

SRTI Customer Service Representatives may be reached by an 800 toll free number and free airtime. Company representatives may also be contacted at the company headquarters located in Ft. Yates, North Dakota, or by an email address provided on SRTI's website.

**(3) SRTI Will Meet All Consumer Protection And Service Quality Standards.**

SRTI will adhere to the CTIA Consumer Code for Wireless Service.

**(4) SRTI Will Offer Comparable Local Usage To That Of The Incumbent LEC.**

SRTI's service rate plans will be comparable to plans offered by existing incumbent local exchange carriers. The incumbent LECs operating on the Standing Rock Sioux Tribe Reservation are Cheyenne River Telephone Authority, West River Telecommunications, West River Cooperative Telephone Company, and Qwest Communications.

**(5) SRTI Will Provide Equal Access.**

SRTI understands that it may be required to provide consumers with equal access to long distance carriers if other eligible telecommunications carriers relinquish their ETC designation pursuant to section 214(e)(4) and no longer provide equal access to areas within the SRTI service area.

**VII. ANTI-DRUG ABUSE ACT CERTIFICATION**

SRTI certifies that no party to this petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. §862. See Exhibit IX hereto.

**VIII. CONCLUSION**

Standing Rock Telecommunications, Inc., meets the requirements set forth by the Commission to be designated as an Eligible Telecommunications Carrier pursuant to Section 214(e)(6) of the Communications Act. Accordingly, Standing Rock Telecommunications, Inc.,

respectfully requests that the Commission confirm Standing Rock Telecommunications, Inc., as an ETC for the service area described herein.

Respectfully submitted,

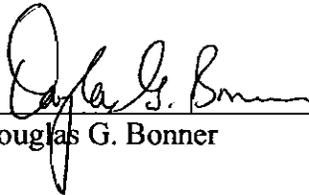


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Telecommunications, Inc.*

Certificate of Service

I hereby certify that on December 18, 2009 a copy of the foregoing Petition of Standing Rock Telecommunications, Inc. for Designation as an Eligible Telecommunications Carrier was served on the following parties by First-Class Mail, postage prepaid:

  
\_\_\_\_\_  
Douglas G. Bonner

South Dakota Public Utilities Commission  
Capitol Building, 1st Floor  
500 E. Capitol Ave.  
Pierre, SD 57501-5070

North Dakota Public Service Commission  
600 E. Boulevard, Dept. 408  
Bismarck, ND 58505-0480

Charles W. Murphy, Chairman  
Tribal Council of Standing Rock Sioux Tribe  
P.O. Box D  
Fort Yates, ND 58538

Sharon Gillett\*  
Chief, Wireline Competition Bureau  
Federal Communications Commission  
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Vickie Robinson\*  
Wireline Competition Bureau  
Federal Communications Commission  
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Nicholas Degani\*  
Wireline Competition Bureau  
Federal Communications Commission  
Washington, DC 20554

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\* by electronic mail

**EXHIBIT****DESCRIPTION**

Exhibit - I	PCS Broadband License
Exhibit - II	Amended Constitution (amended June 11, 2008)
Exhibit - III	Declaration of Bill Condon
Exhibit - IV	Corporate Charter
Exhibit - V	Certificate of Good Standing
Exhibit - VI	Standing Rock Resolution No. 664-09
Exhibit - VI I	Certificate of Public Convenience and Necessity
Exhibit - VIII	Service Area Maps
Exhibit - IX	Anti-Drug Abuse Act Certification
Exhibit - X	Management Team Resume
Exhibit - XI	Five Year Plan (CONFIDENTIAL)