

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

In the Matter of)	
)	
Petition of Standing Rock)	WC Docket No. 09-197
Telecommunications, Inc.,)	
to Redefine Rural Service Areas)	

REPLY COMMENTS

West River Telecommunications Cooperative (WRTC), by its attorneys, hereby replies to various comments submitted in response to the Commission’s Public Notice requesting comment on whether Standing Rock Telecommunications, Inc. (Standing Rock) should be designated an eligible telecommunications carrier (ETC) in partial rural wire centers served by rural carriers and whether WRTC's study area should be redefined below the wire center.¹

In their comments, CenturyLink and Windstream Communications, Inc. suggest the Commission should balance its important policy against designating ETCs below the wire center and the important policies related to Tribal self-sufficiency, economic development, and access to communications services.² WRTC contends that the specific facts in this case require the Commission to find that granting an ETC designation to Standing Rock to serve only part of the St. Anthony and Mobridge wire centers of WRTC is not in the public interest and should be denied.

The Commission's important policy against designating ETCs below the wire center has been well established. The Commission determined that an ETC in a rural

¹ Public Notice, DA 10-1602, rel. August 24, 2010.

² See, Comments of CenturyLink at 2; Comments of Windstream Communications, Inc. at 3-4.

telephone company's service area should provide service throughout the minimum geographic area of the wire center to protect the consumers in the wire center. The Commission reasoned that the wire center corresponded to the "community" and that requiring a competitive ETC to serve the entire community would make it less likely that the competitor would relinquish its ETC designation. Further, in examining redefinition requests, the Commission has considered the impact on the incumbent local exchange carrier (ILEC) namely, whether the redefinition would lead to creamskimming and/or impose administrative burdens on the ILEC or undermine its ability to continue to serve its rural customers.

In this case, granting ETC designation below the wire center to Standing Rock, or any other ETC, will adversely impact the consumers in those areas. As demonstrated in the joint comments in which WRTC participated, the reservation boundary is not a good indication of the community in the case at hand because many of the people living within the affected wire centers are not members of the Tribe. Upon further review, WRTC has determined that it has 64 subscribers (all of whom are members of its cooperative) in the affected portion of the St. Anthony wire center and, it believes, the majority of these members are not members of the Standing Rock Sioux Tribe. In the affected portion of the Mobridge wire center, WRTC has 208 subscribers (all of whom are members of its cooperative) and, it believes a substantial number are not members of the Standing Rock Sioux Tribe.

In addition, WRTC believes that granting ETC designation and redefinition for a partial wire center to a competitive carrier to serve a Tribal reservation would have the unintended consequence of making it less likely for competitive carriers to provide

service on the reservation. The Commission has found that there is a lack of competitive service providers in Tribal areas³ and ETC status has been granted to carriers serving Tribal areas, in part, to provide competitive options to residents of the reservation. Granting a redefinition for a partial wire center based on the boundaries of a reservation would allow other competitive carriers to seek ETC designation and provide the supported services only to the non-reservation part of the wire center. Thus, redefinition based on a reservation boundary could actually have the effect of reducing competitive options on the reservation.

Granting ETC designation below the wire center to Standing Rock also would adversely impact WRTC. When authorizing redefinition to the wire center level, the Commission has found that the ILEC's ability to disaggregate high cost support should minimize the impact of such redefinition. Although WRTC has disaggregated its high costs support, disaggregation below the wire center level is not a realistic option for WRTC, an extremely small carrier with limited staff, due to the administrative burden of such a calculation, even if it were possible.

In addition to the administrative burden associated with a designation below the wire center, such designation would affect the ability of WRTC to continue to serve all of its rural customers. WRTC provides the supported services throughout its service areas,

³ *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscriberhip in Unserved and Underserved Areas, Including Tribal and Insular Areas; Smith Bagley, Inc., Cheyenne River Sioux Tribe Telephone Authority, Western Wireless Corporation, Wyoming, Cellco Partnership d/b/a Bell Atlantic Mobile, Inc.. Petitions for Designation as an Eligible Telecommunications Carrier and for Related Waivers to Provide Universal Service*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12220 (2000) (*Twelfth Report and Order*), recon. by *Promoting Deployment and Subscriberhsip in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twenty-Fifth Order on Reconsideration, Report and Order, Order, and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10958 (2003).

including all parts of the St. Anthony and Mobridge wire centers. WRTC also provides broadband service at speeds up to 10 megabits per second to 99% of its service area, including the affected portion of the St. Anthony and Mobridge wire centers. This was made possible by extensive investments by WRTC in recent years,

As the carrier of last resort, WRTC has built its network to be able to provide service to all parts of its service area, without regard to the reservation boundaries, and the high cost support available to WRTC and, pursuant to the identical support rule, competitive ETCs (CETCs), is based on the cost of serving the entire area. The identical support rule already confers a competitive advantage to CETCs, as the amount of support they receive is unrelated to their cost. Redefining WRTC's service area below the wire center would further remove the amount of support available to a CETC from the reality of the cost of providing service and confer an even greater economic advantage. This could result in stranded investment for WRTC, which would affect its ability to continue to serve all of its rural customers.

On the other hand, the need to grant ETC designation to Standing Rock to serve only part of the St. Anthony and Mobridge wire centers has not been established in this case. On the contrary, Standing Rock is not prevented from extending its services to the entire Reservation, even if its ETC and redefinition requests are not granted for the St. Anthony and Mobridge wire centers. In addition, WRTC believes there are substantial numbers of subscribers who are not tribal members residing in the part of the St. Anthony and Mobridge wire centers located on the Standing Rock Reservation. Further, as demonstrated, WRTC serves all consumers in the affected wire centers equally.

Certificate of Service

I hereby certify that on October 25, 2010, a copy of the forgoing Reply Comments of the West River Telecommunications Cooperative was served on each of the following via United States Post, pre-paid, or electronic mail, as indicated:

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