

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Docket No. _____

Petition of East Central Vermont Telecommunications District)
for designation as an Eligible Telecommunications Carrier)

**PETITION OF
EAST CENTRAL VERMONT TELECOMMUNICATIONS DISTRICT
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

East Central Vermont Telecommunications District d/b/a ECFiber (“ECFiber”) through its attorney, Montroll, Backus & Oettinger P.C., hereby petitions the Vermont Public Utility Commission, pursuant to Section 254(e) of the Telecommunications Act of 1934 (47 U.S.C. §254(e)(2)), as amended (the “Act”), and Section 54.201 of the rules of the Federal Communications Commission (“FCC”)(47 C.F.R. § 54.201), for designation as an eligible telecommunications carrier (“ETC”) in all areas where ECFiber has been allocated Rural Digital Opportunity Fund (“RDOF”) Phase I support as a winner in the FCC’s RDOF Phase I auction (“Auction 904”).

As demonstrated herein, designation of ECFiber as an ETC is consistent with the purposes and requirements of Section 254(e) and will meet the goals of the federal Universal Service program. ECFiber’s ETC designation will also serve the public interest by furthering the provision of competitive choices of wireline telephone services to low-income customers in Vermont and by making broadband services available to more homes and businesses in Vermont.

ECFiber was recently awarded RDOF Phase I subsidies in Auction 904 and plans to provide high-speed broadband and voice services in the areas where Petitioner was awarded support. ECFiber is obligated to obtain ETC designation status within 180 days

of the announcement by the FCC that ECFiber was a winning bidder in the RDOF Phase I auction. As a result, ECFiber requests expeditious action by the Commission so that it may meet this requirement.

In support of this Petition, ECFiber states as follows:

I. BACKGROUND

1. ECFiber is a Communications Union District created pursuant to Title 30: Public Services, Chapter 82: Communications Union District of Vermont statutes.

ECFiber holds a certificate of public good that was issued by the Vermont Public Service Board on July 19, 2016 to provide telecommunications services, including service to the local exchange throughout Vermont. In practice, ECFiber serves only the local exchanges within its 31-town service area.

2. ECFiber owns certain fiber-to-the-premises telecommunications facilities over which it provides facilities-based and/or resold telecommunications services on a common carrier basis to consumers, businesses and institutions. ECFiber has contracted with ValleyNet, Inc., a Vermont non-profit corporation, to manage all of the telecommunications operations over the ECFiber's network.¹

3. The services provided by ECFiber include basic exchange service with voice over IP ("VOIP") for residences and businesses; intrastate, domestic and international long distance service; various retail enterprise telecommunications services

¹ValleyNet also holds a certificate of public good that was issued by the Vermont Public Service Board on June 4, 2008 to provide telecommunications services in Vermont.

including IP-based Centrex services and point-to-point data services, as well as high speed broadband services.

4. ECFiber currently provides services to all premises of the following towns in Vermont: Barnard, Bethel, Braintree, Brooksfield, Chelsea, Granville, Hancock, Pittsfield, Pomfret, Randolph, Reading, Rochester, Royalton, Sharon, Stockbridge, Strafford, Thetford, Tunbridge, Vershire, and West Windsor. ECFiber currently provides service to some areas in Hartford, Norwich, and Woodstock and is in the process of completing the fiber network in these towns. Recently, ECFiber accepted the following towns into the District and will begin construction of a fiber-to-the-premises (FTTP) network in these towns in 2021: Bradford, Corinth, Fairlee, Newbury, Topsham, Washington, West Fairlee, and Windsor.

II. The ECFiber Request

5. Through this petition, ECFiber seeks to be designated an ETC by the Vermont Public Utility Commission for all areas where ECFiber has been allocated RDOF Phase I subsidies in Auction 904, as shown by census block groups listed in Attachment A.

III. Framework for Consideration of ETC Applications

6. ETC applications are governed by the requirements contained in 47 U.S.C. §254(e) of the Act and the FCC rules as set forth in 47 C.F.R. Part 54. Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e) of this title shall be eligible to receive Federal universal service support.” However, before a “telecommunications carrier” may receive federal universal support, it

must first be designated as an ETC. Pursuant to Section 214(e)(2) of the Act, a state commission may, upon request, designate a common carrier to be an “eligible telecommunications carrier” for the purpose of receiving universal support under the Act.

7. To designate a carrier as an ETC, the state commission, in this case, the Public Utility Commission, must make the following findings:

- a. That the carrier offer “voice telephony services” as defined in 47 C.F.R. §54.101(b).
- b. That the ETC offers Lifeline services and advertises the availability of Lifeline program. Petition of Vtel Wireless, Inc. for unconditional designation as an Eligible Telecommunications Carrier under the Telecommunications Act of 1996, Docket No. 7966, Order of 11/21/13 (“Vtel Petition Order”) at 15; *see also* 47 C.F.R. §54.405.
- c. That the carrier’s voice telephony services is “offered throughout the service area for which the designation is received, either using the ETC’s own facilities or a combination of its own facilities and resale of another carrier’s services.” Vtel Petition Order at 5; *see also* 47 U.S.C. § 214(e)(1)(A); 47 C.F.R. §54.201(d)(1).
- d. That the carrier “advertise the availability of these services and the charges therefor using media of general distribution.” Vtel Petition Order at 5; *see also* 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. §54.201(d)(2).
- e. That the carrier meets certain additional minimum eligibility requirements. Vtel Petition Order at 18-19; *see also* 47 C.F.R. §54.202(a)(1)-(3).

f. That the carrier offers eligible broadband Internet access service, including “the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.” 47 C.F.R. §54.101(a)(2); *see also* Petition of ten Vermont incumbent local exchange carriers for redesignation of each as Eligible telecommunications Carriers in its respective Vermont service area under the Telecommunications Act of 1996, Case No. 18-0470-PET, Order of 8/6/2018 (“Ten Incumbents Petition Order”) at 3.

g. That the ETC designation is “consistent with the public interest, convenience and necessity.” Vtel Petition Order at 6; *see also* 47 U.S.C. §214(e)(2); 47 C.F.R. §54.201(c).

IV. ECFiber Provides the Required “Voice Telephony Services” as Needed to be Designated an ETC

8. As stated above, a carrier seeking designation as an ETC must offer “voice telephony services.” 47 C.F.R. §54.101(b). Voice telephony service includes four supported services: (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”; and (4) toll limitation services to qualifying low-income consumers. 47 C.F.R. §54.101(a). As shown below, in the present case, ECFiber provides each of these four required supported services.

9. ECFiber meets the requirement that it provides voice grade access to the public switched network or its functional equivalent as follows:

- a. ECFiber provides Session Initiation Protocol (“SIP”) enabled telephony devices and network equipment.
- b. ECFiber provides SIP software to customers for computers and mobile devices.

10. ECFiber meets the requirement that it provides minutes of use for local service provided at no additional charge to end users because it offers phone service that includes unlimited local and North American long distance minutes for \$25/month for residential customers (prior to lifeline discounts) and \$35 per month for business customers.

11. ECFiber meets the requirement that it provides access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced users because the ECFiber e911 service provides access to the appropriate public safety answering point (“PSAP”) based on the service location address. All numbers associated with a service address in the portal will send the location address to the PSAP when 911 is dialed.

12. ECFiber meets the requirement that it provides toll limitation services to qualifying low-income consumers as follows:

- a. ECFiber provides unlimited local and North American long-distance minutes.

b. ECFiber can restrict international and other metered toll and long distance service upon request.

c. For its Lifeline Service, ECFiber would automatically restrict international and other metered toll and long distance service.

V. ECFiber will Provide and Advertise Lifeline Services

13. FCC rules require ETCs to offer Lifeline services and to advertise the availability of the program. Vtel Petition Order at 15; *see also* 47 C.F.R. §54.405.

14. Upon designation as an ETC, ECFiber will participate in and offer Lifeline services to qualifying low-income consumers and will publicize the availability of the Lifeline program in a manner reasonably designed to reach to likely to qualify for such services, as required by FCC rules, 47 C.F.R. §§54.400-54.422. Likely means of advertising will include web advertising, newspaper advertising, and the use of town “listservs” (email-based community discussion bulletin boards). A template of sample advertising is attached as Attachment B.

VI. ECFiber will Offer the Supported Services Throughout the Service Area

15. The FCC rules require that a telecommunications company designated as an ETC must offer the four supported services as specified in 47 C.F.R. §54.101(a) throughout the service area for which the ETC designation is received. Vtel Petition Order at 17; *see also* 47 C.F.R. §54.201(d). This can be accomplished by the ETC using its own facilities or a combination of its own facilities and resale of another carrier’s services. 47 C.F.R. §54.201(d)(1).

16. ECFiber is committed to ensuring that the supported services will be available throughout the service area for which it seeks designation to all customers who make a reasonable request for service.

17. ECFiber provides its services primarily over a FTTP network that it constructed and owns. However, for those areas within the requested service territory where it has not yet constructed its fiber to the home network, ECFiber provides telephone service through the resale of other carriers' services.

VII. ECFiber will Advertise the Availability of the Supported Services

18. A carrier seeking designation as an ETC must “advertise the availability of [the four supported] services and the charges therefor using media of general distribution.” Vtel Petition Order at 5; *see also* 47 U.S.C. § 214(e)(1)(B); 47 C.F.R. §54.201(d)(2). The FCC rules also require that an ETC “publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.” 47 C.F.R. 54.405(b). Such advertising should be done through the use of media of general distribution.

19. In the present case, ECFiber is committed to advertising the availability of its servicing offerings using media of general distribution and will undertake outreach initiatives to increase consumer awareness of its service offerings.

20. ECFiber will also prepare and engage in a marketing plan for its Lifeline services.

VIII. ECFiber Provides Broadband Internet Access Services

21. FCC rules require ETCs to offer broadband Internet access services, including “the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.” 47 C.F.R. §54.101(a)(2); *see also* Ten Incumbents Petition Order at 3.

22. ECFiber meets the requirement that it broadband Internet access services as it currently provides such services to its customers through its FTTP network and will continue to provide such services upon its designation as an ETC.

XI ECFiber Meets and/or is Committed to Meeting Additional Minimum Eligibility Requirements

23. The FCC has created four additional minimum eligibility requirements that applications must meet before receiving ETC designation. These requirements include: (a) certification that the carrier will comply with the service requirements applicable to the support that it receives, (b) submission of a five-year plan that describes with specificity proposed improvements or upgrades to the carrier’s network throughout its proposed service area, (c) a demonstration of the carrier’s ability to remain functional in emergency situations, and (d) a demonstration that the carrier will satisfy applicable consumer protection and service quality standards. Vtel Petition Order at 18-19; *see also* 47 C.F.R. §54.202(a)(1)-(3). In the present case, ECFiber meets each of these minimum requirements.

24. As shown in Attachment C hereto, ECFiber has certified that it will comply with all of the service requirements applicable to the support that it receives.

25. ECFiber also agrees that upon ETC designation, it will submit a five-year plan that describes its proposed improvements and upgrades to its network throughout the designated ETC service area.

26. ECFiber has the ability to remain functional in emergency situations. For example, all customer premises have 8-hour backup batteries, the network operating center has backup batteries and a generator, and all hub locations have backup batteries and can be powered by a portable generator if outages last more than 8 hours. Redundant routing is also possible in certain circumstances.

27. ECFiber is also committed to satisfying all applicable consumer protection and service quality standards. For example, ECFiber is voluntarily complying with PSB Rule 3.2, PSB Rule 7.6 and Docket 5902 attachment 2.

X. Designating ECFiber as an ETC is in the Public Interest

28. Before designating a competitive telecommunications carrier as an ETC, the Public Service Board must first determine that such designation is “consistent with the public interest, convenience and necessity.” 47 C.F.R. §54.201(c); *see also Vtel Petition Order* at 20.

29. As stated by the Public Service Board:

[T]he FCC interpreted this requirement to mean that designation must serve the public interest, and established an analytical framework it would use in reviewing ETC applications to ensure designations were in fact in the public interest and encouraged states to implement the same requirements and analytical framework in determining whether to designate a carrier as an ETC when applications are reviewed by state commissions. . . . [T]he FCC stated that in examining whether an ETC designation would serve the public interest, it engages in a fact-specific analysis that examines a variety of factors, including potential benefits from increased consumer choice, and the unique advantages and disadvantages of the

applications service offerings. In making its public-interest determination, the FCC also considers any impacts that a designation would high-cost support fund.

Vtel Petition Order at 20 – 21.

30. In the present case, the designation of ECFiber is in the public interest, convenience and necessity.

31. For example, ECFiber's network offers increased consumer choice and competition for many customers with regard to voice services. Moreover, ECFiber's FTTP network also provides high-speed broadband services to many of its customers who do not otherwise have access to any such broadband services. Accordingly, in addition to providing increased consumer choice and competition for voice services, ECFiber also provides to many consumers their sole access to high-speed broadband services. Because the state has established as a goal that all residents and businesses in the state have access to affordable broadband services (*see* Vtel Petition Order at 22), designation of ECFiber as an ETC will assist the State in meeting these policy goals.

32. Moreover, the ECFiber network is designed to be an open-access network. As such, other telecommunications carriers may have access to ECFiber's network.

33. For all of these reasons, the Board should find that the designation of ECFiber as an ETC is consistent with the public interest, convenience and necessity.

Conclusion

WHEREFORE, for all of the foregoing reasons, ECFiber respectfully requests that the Vermont Public Utility Commission grant this petition and designate East Central Vermont Telecommunications District d/b/a ECFiber as an ETC for the service territory specified herein.²

DATED at Burlington, Vermont, this 6th day of January, 2021.

East Central Vermont Telecommunications District

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² See also the Certification (Attachment C hereto) by Carole Monroe, the Chair of the Board of ValleyNet (the company that manages and operates all of the telecommunications operations over the ECFiber network) as to the truth and accuracy of the statements contained in this petition.

Attachment A

List of Census Blocks Groups in Which ECFiber Seeks ETC Designation

500179594003	500179594002
500279659004	500279652002
500279652001	500179591011
500293555001	500179591022
500239555002	500179594001
500179591021	500179595002
500179593002	500179595003
500279651003	500179595004
500279659001	500179597001
500179593001	500179597002
500279658002	500179598002
500239554003	500279654001
500279650001	500279655013
500279650002	500279655021
500279651002	500279656003
500279658001	500279659003
500179595001	500279660004
500179590002	
500179590001	

Attachment B

Sample Advertising

ECFiber intends to include language substantially as follows on its website upon obtaining the ETC designation:

East Central Vermont Telecommunications District

Lifeline Assistance Program

Federal Lifeline

ECFiber offers a Lifeline Program for eligible low income residential subscribers at their primary residence. The Lifeline Program is a government benefit program.

Eligible subscribers can apply a monthly federal Lifeline Program discount to a voice service or a qualifying internet service. If applicable, there is a Federal Tribal Lifeline Program which provides additional discounts on local voice service.

Eligible subscribers who apply the Federal Lifeline Program discount to the ECFiber voice service may also receive unlimited local and national long distance calling. Only one Lifeline Program discount is available per household on either a wireless or wireline service.

Under the Lifeline Program, a household is defined as any individual or group of individuals who live together at the same address and share income and expenses. The Lifeline Program benefit is non-transferrable. Visit www.lifelinesupport.org for more information.

Eligibility requirements are explained in detail at www.lifelinesupport.org/do-i-qualify/.

If you meet the requirements, complete and sign the application form located at www.lifelinesupport.org/how-to-get-lifeline/ attach proof of eligibility, and mail directly to USAC or apply online at www.checklifeline.org.

After your application is approved, call ECFiber Support at 802-763-2262 to add the Lifeline Program discount to your ECFiber account.

Attachment C

Certification

Now comes Carole Monroe, who certifies under oath as follows:

1. My name is Carole Monroe. I am the Chair of the Board of ValleyNet, Inc., the operating company for ECFiber.
2. In my present capacity, I have personal knowledge and experience regarding ECFiber's organization and the operation of the ECFiber network.
3. I have reviewed the ECFiber Petition for ETC Designation and hereby declare that the statements made in the foregoing Petition are true and accurate to the best of my knowledge and belief.
4. In addition, I hereby certify that ECFiber, through ValleyNet as the operator of ECFiber network, will comply with all applicable service requirements with respect to ECFiber's designation as an ETC.

Dated at Dublin, NH, ~~Vermont~~ this 6th day of January, 2021

Carole Monroe
Carole Monroe

State of NH
County of Cheshire

On this 6th day of January, 2021, personally appeared Carole Monroe, signer of the foregoing instrument, and made oath that the information contained herein is true and accurate to the best of her knowledge and belief.

Subscribed and sworn to before me this 6th day of January, 2021

JEANNINE R. DUNNE, Notary Public
My Commission Expires 12/11/2023

J. Dunne
Notary Public
My Commission Expires: _____