

STATE OF MICHIGAN  
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter of the application of	)	
<b>CHARTER FIBERLINK – MICHIGAN, LLC,</b>	)	
for designation as an eligible telecommunications	)	Case No. U-20958
carrier in the state of Michigan.	)	
_____	)	

At the May 26, 2021 meeting of the Michigan Public Service Commission in Lansing,  
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair  
Hon. Tremaine L. Phillips, Commissioner  
Hon. Katherine L. Peretick, Commissioner

**ORDER**

On January 6, 2021, Charter Fiberlink-Michigan, LLC (Charter) filed an application (January 6 application) pursuant to Section 214(e)(2) of the federal Communications Act of 1934, 47 USC 214(e)(2), for designation as an eligible telecommunications carrier (ETC) for access to universal service fund (USF) support for the purpose of expanding and enhancing its rural broadband network. Charter filed supplemental documents on April 28, 2021 (April 28 supplemental filing). Charter requests that the Commission enter an order designating it as a High Cost and Lifeline ETC throughout the census blocks listed in Exhibit A-1 of the January 6 application. The census blocks listed in Exhibit A-1 include the areas for which Charter was assigned the winning bid in the Rural Digital Opportunity Fund (RDOF) auction. Charter is seeking designation as an ETC in several census blocks that include Tribal Lands of the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. The census

blocks that include these Tribal Lands are denoted in bold in Exhibit A-1. Charter states that it will comply with all applicable Federal Communications Commission (FCC) requirements in connection with providing RDOF supported services in these Tribal Lands.

On February 7, 2020, the FCC released FCC 20-5 Report and Order in which it authorized and established the framework for the RDOF auction.<sup>1</sup> The RDOF will provide up to \$20.4 billion towards the expansion of broadband into unserved and underserved areas, with a focus on improving network speeds.

On December 7, 2020, the FCC announced the winning bidders of the RDOF auction.<sup>2</sup> CCO Holdings, LLC, an affiliate of Charter, was awarded \$21,663,643.40 to be used in the state of Michigan in 35,944 locations over a period of 10 years. Pursuant to the FCC bidding rules, CCO Holdings, LLC, subsequently assigned its winning bids in Michigan to Charter. The auction winners are required to use money awarded in the auction to expand broadband and meet various broadband milestones throughout the assigned locations; and the award is contingent upon Charter's designation as an ETC in the assigned locations, as well as meeting and adhering to all ETC requirements. The award winners have been given a deadline of June 7, 2021, to provide evidence of ETC designation in the locations they have been assigned as winning bidders.

In the April 28 supplemental filing, Charter expresses concern that the census blocks it was awarded in the RDOF auction may change with a potential update from the FCC because the FCC's list of unserved census blocks was based on 2019 compiled data,<sup>3</sup> and, since 2019, there

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<sup>1</sup> FCC 20-5 Report and Order, <https://docs.fcc.gov/public/attachments/FCC-20-5A1.pdf> (accessed May 20, 2021).

<sup>2</sup> FCC December 7, 2020 Public Notice of RDOF Awards, <https://docs.fcc.gov/public/attachments/DOC-368588A1.pdf> (accessed May 20, 2021).

<sup>3</sup> See, Charter's April 28 Supplemental Filing, filing #U-20958-0004, p. 4.

have been both federal and state broadband funding programs dedicated to the expansion of broadband in rural and unserved areas, including Michigan's own state-funded broadband program. Charter explains that, as data becomes available and is analyzed by the FCC, the requirement of including unserved census blocks in the RDOF auction could potentially change the status of those census blocks awarded to Charter, thus making some of the census blocks unavailable for inclusion in the RDOF auction. Charter further explains that, if the FCC modifies Charter's RDOF census blocks for any reason, then Charter's buildout requirements could change. In the January 6 application, as supplemented, Charter seeks an ETC designation in only the areas that it specifically won in the RDOF auction. If census block changes occur due to the FCC obtaining updated information regarding unserved and underserved areas, Charter requests that the Commission consider the possibility of a future change in the awarded census blocks listed in Exhibit A-1 and provide a mechanism in the order which may provide it some relief if a change to these census blocks is necessary.

Charter also states that it is a facilities-based broadband internet access and voice service provider, with its own network, gateways, switching facilities, and other associated facilities. Charter was granted a permanent competitive local exchange carrier license throughout the state of Michigan on February 24, 2005.<sup>4</sup>

Charter states that it will comply with all applicable state and federal consumer protection and service quality standards in connection with its provision of RDOF supported services. Charter further states that it will be responsible, managerially and legally, for handling and responding to customer issues with respect to Charter's provision of service in the RDOF census blocks. Charter states that its network has contingency plans in place to respond to emergency situations for each

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<sup>4</sup> Charter's permanent license order may be found in Case No. U-14355.

of its major network hubs, including equipping all switching facilities with independent power generators and sufficient fuel to operate for several days to mitigate commercial power outages. Charter certifies that it meets all applicable requirements for designation as an ETC.

The Commission notes that the FCC has held that an ETC may satisfy voice obligations through Voice-over Internet Protocol (VoIP) technology if it meets the functional requirements specified in the rules and the service is provided on a common carrier basis.<sup>5</sup> The FCC has stated that “[w]e recognize that we have not generally classified VoIP as a telecommunications service or information service, but we nonetheless have recognized that providers might elect to offer interconnected VoIP as a telecommunications service.”<sup>6</sup> The FCC has also recognized that an interconnected VoIP provider can obtain access to the rights available to a telecommunications carrier if it “holds itself out as a telecommunications carrier and complies with appropriate federal and state requirements.”<sup>7</sup>

Charter states that it provides voice communications services to over 9.3 million residential customers throughout its footprint using interconnected VoIP technology and that it will extend and maintain its voice services to and within the RDOF census blocks. The FCC has confirmed

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<sup>5</sup> *Connect America Fund et al.*, WC Docket No. 10-90 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, Order No. FCC 11-161, ¶¶ 62-71, *rel'd* November 18, 2011 (*USF/ICC Transformation Order*). See, <https://www.fcc.gov/document/fcc-releases-connect-america-fund-order-reforms-usficc-broadband> (accessed May 20, 2021).

<sup>6</sup> *Lifeline & Link Up Reform & Modernization et al.*, WC Docket No. 11-42 *et al.*, Third Report and Order, Order No. FCC 16-38, note 709, *rel'd* April 27, 2016. See, <https://www.fcc.gov/document/fcc-modernizes-lifeline-program-low-income-consumers> (accessed May 20, 2021).

<sup>7</sup> *IP-Enabled Services; E911 Requirements For IP-Enabled Service Providers et al.*, WC Docket No. 04-36 *et al.*, First Report and Order and Notice of Proposed Rulemaking, Order No. FCC 05-116, note 128, *rel'd* June 3, 2005. See, <https://www.fcc.gov/document/ip-enabled-services-e911-requirements-ip-enabled-service-providers> (accessed May 20, 2021).

that a broadband provider may satisfy its voice obligation by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor. The Commission Staff recommends that the January 6 application and supplemental filing be granted.

After reviewing Charter's application, the Commission finds that the ETC designation, limited to High Cost and Lifeline throughout the census block areas listed in Exhibit A-1 of the January 6 application should be conditionally granted. The Commission is persuaded that ETC designation for Charter promotes the availability of universal service and is in the public interest. The Commission finds that the application and supplemental filing demonstrates that Charter meets the requirements for designation as an ETC. *See*, 47 USC 214(e)(1). The January 6 application, as supplemented, for ETC designation is granted on condition that Charter: (1) comply with the service requirements contained in the *USF/ICC Transformation Order* and subsequent related federal and state rulings, the *Lifeline Reform Order*,<sup>8</sup> and the December 20, 2012 and January 17, 2013 orders in Case Nos. U-14535 and U-16959; (2) advertise its Lifeline product in media of general distribution including newspaper, radio, its own website, and other direct advertising methods; and (3) include the Commission's customer complaint telephone number on its public web page. Furthermore, the Commission understands the concerns of Charter regarding potential changes to its RDOF awarded census blocks. Therefore, if the FCC issues any future changes to Charter's awarded RDOF census blocks or qualified service area listed in Exhibit A-1, Charter shall file an application in this docket within 30 days of that FCC notice, to amend its census block

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<sup>8</sup> *In the Matter of Lifeline and Link Up Reform and Modernization et al.*, WC Docket No.11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, Order No. FCC 12-11, *rel'd* February 6, 2012 (*Lifeline Reform Order*). *See*, <https://www.fcc.gov/document/fcc-reforms-modernizes-lifeline-program-low-income-americans> (accessed May 20, 2021).

list and qualified service area to be consistent with the RDOF census block area awarded by the FCC.

Charter shall be required to file all annual forms with the Commission in accordance with Commission and FCC requirements to retain its ETC designation.

THEREFORE, IT IS ORDERED that the January 6, 2021 application, as supplemented, filed by Charter Fiberlink – Michigan, LLC, for designation as an eligible telecommunications carrier for purposes of universal service fund support for High Cost and Lifeline in the areas listed in Exhibit A-1 of the January 6, 2021 application is approved, as modified by this order.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party aggrieved by this order may file an action in the appropriate federal District Court pursuant to 28 USC 1331. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at [mpscedockets@michigan.gov](mailto:mpscedockets@michigan.gov) and to the Michigan Department of Attorney General - Public Service Division at [pungpl@michigan.gov](mailto:pungpl@michigan.gov). In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

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Daniel C. Scripps, Chair

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Tremaine L. Phillips, Commissioner

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Katherine L. Peretick, Commissioner

By its action of May 26, 2021.

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Lisa Felice, Executive Secretary


# PROOF OF SERVICE

STATE OF MICHIGAN )

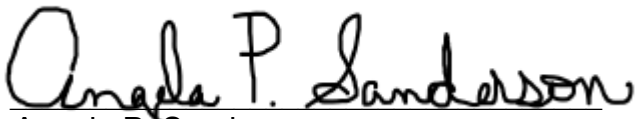
Case No. U-20958

County of Ingham )

Brianna Brown being duly sworn, deposes and says that on May 26, 2021 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).

  
Brianna Brown

Subscribed and sworn to before me  
this 26<sup>th</sup> day of May 2021.



Angela P. Sanderson  
Notary Public, Shiawassee County, Michigan  
As acting in Eaton County  
My Commission Expires: May 21, 2024

**Service List for Case: U-20958**

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**Name**

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**Email Address**

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Charter Fiberlink - Michigan LLC  
Michael S. Ashton

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mashton@fraserlawfirm.com