

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Shari Feist Albrecht, Chair
 Jay Scott Emler
 Pat Apple

In the Matter of the Application of the City of)
Chanute, Kansas for Designation as an Eligible)
Telecommunications Carrier for Purposes of) Docket No. 15-CHNE-413-ETC
Receiving Federal Universal Service Support)
and Participation in the FCC Rural Broadband)
Experiment Program.)

**ORDER GRANTING ELIGIBLE TELECOMMUNICATIONS CARRIER
DESIGNATION IN 37 KANSAS CENSUS BLOCKS**

NOW, the above-captioned matter comes before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having reviewed its files and records and being duly advised in the premises, the Commission makes the following findings:

1. On March 13, 2015, The City of Chanute, Kansas (Chanute) filed an Application with the Commission requesting Eligible Telecommunications Carrier (ETC) status in thirty-seven (37) census blocks in Kansas. Chanute requested ETC status in order to receive Rural Broadband Experiment (RBE) grant funds from the Federal Communications Commission (FCC).¹ Chanute was provisionally selected by the FCC on March 4, 2014, to receive \$508,467 in RBE funds. ETC designation is a requirement of receiving RBE funding, and Chanute must be an approved ETC by June 2, 2015, to receive funding.

2. All thirty-seven (37) requested census blocks are located in exchanges where Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T) is the incumbent local exchange carrier.

¹The purpose of the FCC's RBE is to "advance deployment of voice and broadband-capable networks in rural, high-cost areas, including extremely high-cost areas..." Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 10-90, WC Docket No. 14-58 (July 14, 2014).

3. In order to receive ETC designation from the Commission, the requesting carrier must make showings required under federal law. Pursuant to 47 U.S.C. § 214(e)(1)-(2), § 254(c), and 47 C.F.R. § 54.101(a), the carrier must make the following showings:

- a. The carrier will offer the services supported by federal universal service support mechanisms under 47 U.S.C. § 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another ETC) throughout the service area for which designation is received.²
 - b. The carrier will advertise the availability of such service and the charges therefor using media of general distribution.
 - c. Designation would be consistent with the public interest, convenience, and necessity.³
4. Pursuant to FCC orders, Commission orders, and Kansas law, the carrier

requesting ETC designation must also show (when applicable):

²The supported services are codified in 47 C.F.R. § 54.101(a), which reads as follows:

Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

47 C.F.R. § 54.101(a). Carriers who receive forbearance from the "own-facilities" requirement for federally-supported universal service still need to meet the "own facilities" requirement in order to be eligible for Kansas Universal Service Fund (KUSF) support. "Service area" is defined in 47 U.S.C. § 214(e)(5). In determining whether "minutes of use for local service is provided at no additional charge to end users," the Commission will consider the comparability of a competitive Eligible Telecommunications Carrier's (ETC's) offering to the incumbent local exchange carrier's offering. *See* Docket No. 06-GIMT-446-GIT, Order Addressing Comments Regarding Revisions to Eligible Telecommunications Carrier Certification Forms, October 2, 2007. The Commission will evaluate the total service package, "including the local calling scope, included features, and usage that might otherwise be considered long distance." *Id.* The Commission will also consider whether an ETC applicant offers unlimited calling to government, social service, health facilities, educational institutions and emergency numbers when considering comparability. *Id.*

³The Commission will weigh certain factors to determine whether it is in the public interest to grant another carrier ETC status. Those factors include a) benefits of increased competitive choice; b) the impact of multiple ETC designations on the KUSF; c) the unique advantages and disadvantages of the carrier's service offering; d) commitments made regarding quality of telephone service provided by competing providers; and e) the carrier's ability to provide the supported services throughout the designated service area within a reasonable time frame. *See* Docket No. 04-RCCT-338-ETC, Order No. 14 Order Granting ETC Designation and Addressing Additional Issues, September 30, 2004. The Commission will also take into account any other relevant factors in determining whether ETC designation is in the public interest.

- a. Lifeline customers will be able to apply the Lifeline discount to any calling plan offered by the carrier.⁴ Additionally, the entirety of the Kansas Lifeline Service Program (KLSP) discount will be passed along to the end user consumer.⁵ If the carrier offers the same service plans in other states that do not have additional support on top of federal Lifeline subsidies, the carrier will offer a plan in Kansas that justifies the additional Lifeline funds from the KLSP.⁶
- b. The carrier will use the Kansas Lifeline Credit Application to enroll eligible customers in the KLSP or their own Credit Form which must contain all the data found in the Kansas Lifeline Credit Application.⁷
- c. The carrier is financially and technically capable of providing the supported Lifeline service in compliance with all of the low-income program rules.⁸
- d. The carrier has received approval of its Compliance Plan with the FCC.
- e. The carrier undertakes efforts to eliminate waste, fraud, and abuse in the Lifeline program.
- f. The carrier, in its advertising, will use “meaningful language so that consumers will understand what they can expect from an ETC,” and include contact information for the Commission’s Office of Public Affairs and Consumer Protection (PACP), the Kansas Corporation Commission, and the Kansas Relay Center for the hearing or speech impaired.
- g. The carrier has sufficient back-up power to remain functional without external power in emergency situations, is able to reroute traffic around damaged facilities, and can manage emergency traffic spikes.⁹
- h. The carrier is properly registered with the Kansas Secretary of State’s Office.

⁴See Docket No. 06-GIMT-446-GIT, Order Adopting Requirements for Designations of Eligible Telecommunications Carrier, October 2, 2006.

⁵See Docket No. 10-GIMT-658-GIT, Order Addressing Issues Concerning The Kansas Lifeline Service Program, August 17, 2011.

⁶This only applies if the carrier is seeking Kansas Lifeline Service Program (KLSP) funds.

⁷See Docket No. 10-GIMT-658-GIT, Order Requiring Eligible Telecommunications Carriers to Comply With New Lifeline Requirements and Requesting Comments, March 27, 2012; 47 C.F.R. § 54.410(d).

⁸See 47 § C.F.R. 54.201, 54.202; Docket No. 10-GIMT-658-GIT, Order Requiring Lifeline-Only ETC Applicants to Provide Kansas-Specific Information and Requesting Comments on AT&T Refund Issue, June 21, 2012. The FCC has stated that relevant considerations for such a showing include: a) Whether the Applicant previously offered services to non-Lifeline consumers; b) How long the Company has been in business; c) Whether the Applicant intends to rely exclusively on USF disbursements to operate; d) Whether the Applicant receives or will receive revenue from other sources; and e) Whether the Company has been subject to enforcement action or an ETC revocation proceeding in any state. In Docket No. 10-GIMT-658-GIT, the Commission also stated that lifeline-only ETC applicants should provide Kansas-specific information regarding technical and financial capacity similar to the information provided in the carrier’s FCC Compliance Plan.

⁹See Docket No. 06-GIMT-446-GIT, Order Adopting Requirements for Designations of Eligible Telecommunications Carrier, October 2, 2006.

- i. The carrier will provide service throughout its designated service areas to all customers making a reasonable request for service.
- j. The carrier will comply with all applicable federal and state laws, rules, regulations, and orders. The carrier will inform the Commission of any changes in service made to comply with updated laws, rules, regulations, and orders.

5. Commission Staff (Staff) submitted a Report and Recommendation to the Commissioners regarding the Application for ETC designation dated April 28, 2015, attached hereto and made a part hereof by reference. The Report and Recommendation contains Exhibit B, which lists the requested thirty-seven (37) census blocks. Staff thoroughly examined Chanute's Application and made detailed findings in the Report and Recommendation. A summary of those findings will be noted in this order. For a detailed account of Chanute's evidentiary showings, refer to the Report and Recommendation.

6. Staff found that Chanute demonstrated its ability to provide the services and functionalities supported by the federal universal service support mechanisms, including the RBE requirements, throughout its requested service areas. Staff found that Chanute will properly advertise its services with meaningful language and include required contact information. Finally, Staff found that designating Chanute as an ETC in Kansas would be consistent with the public interest, convenience, and necessity.

7. Staff, satisfied with Chanute's showings, recommended approval of Chanute's Application for ETC designation.

8. The Commission finds Staff's analysis, findings, and recommendations to be reasonable and hereby adopts the same.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

A. Chanute's Application for ETC designation is approved. ETC designation is granted in the thirty-seven (37) census blocks identified in Exhibit B attached to Staff's Report and Recommendation.

B. Chanute shall utilize federal support for its intended purpose and certify that it uses such support as intended each year. Future decisions made by the Commission regarding additional ETC requirements must also be followed in order to maintain ETC designation in Kansas.

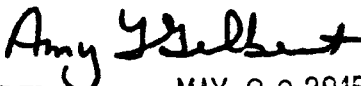
C. The parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date this Order was served in which to petition the Commission for reconsideration of any issue or issues decided herein. K.S.A. 66-118b; K.S.A. 77-529(a)(1).

D. The Commission retains jurisdiction over the subject matter and parties for the purpose of issuing such further order, or orders, as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Albrecht, Chair; Emler, Commissioner; Apple, Commissioner

Dated: MAY 07 2015


 ORDER MAILED MAY 08 2015
Amy L. Gilbert
Secretary

MRN

**REPORT AND RECOMMENDATION
UTILITIES DIVISION**

TO: Chair Shari Feist Albrecht
Commissioner Jay Scott Emler
Commissioner Pat Apple

FROM: Christine Aarnes, Chief of Telecommunications
Jeff McClanahan, Director of Utilities

DATE: April 28, 2015

SUBJECT: Docket No. 15-CHNE-413-ETC
In the Matter of the Application of the City of Chanute, Kansas for Designation as an Eligible Telecommunications Carrier For Purposes of Receiving Federal Universal Service Support and Participation in the FCC Rural Broadband Experiment Program.

EXECUTIVE SUMMARY:

The City of Chanute, Kansas (Chanute) has filed an Application for designation as an Eligible Telecommunications Carrier (ETC) in order to receive federal universal service funding pursuant to the Federal Communications Commission's (FCC) Rural Broadband Experiment program.¹ Chanute was provisionally selected by the FCC as a winning bidder for Category 1 funding, comprising 37 census blocks in Kansas.

Among other things, the FCC's *Rural Broadband Experiments Order* requires Chanute to become an ETC within 90 days of the FCC's Public Notice announcing the provisional bidders as a condition of receiving the funding.² Staff recommends approval of Chanute's request to be designated an ETC in the requested census blocks listed on the document identified as Confidential Exhibit B by the Applicant, which is attached to this Report and Recommendation.³ All of the census blocks are served by Southwestern Bell Telephone Company d/b/a AT&T Kansas (AT&T).

¹ *Connect America Fund* et al, WC Docket Nos. 10-90, 14-58, Report and Order and Further Notice of Proposed Rulemaking, rel. July 11, 2014 ("*Rural Broadband Experiments Order*").

² *Id.* at 54. The FCC's Public Notice was issued on March 4, 2015; therefore, Chanute must be designated an ETC by June 2, 2015.

³ Once the FCC's WC Bureau announces the winning bidders, the proposals submitted by the winning bidders will be made publicly available. However, in order to prevent these proposals from affecting another potential bidder's behavior in the CAF Phase II competitive bidding process, all other proposals are to remain confidential, pending the completion of the Phase II competitive bidding process. Thus, the bid

BACKGROUND:

On March 13, 2015, Chanute filed this Application to request designation as an ETC in 37 census blocks in the state of Kansas for the purpose of receiving FCC Rural Broadband Experiment funding.

Chanute is a municipality in the state of Kansas with a population of approximately 9,200 citizens. Chanute has operated municipal electric and natural gas utilities for over a century and also provides water and waste water services within the community. Chanute first installed a fiber optic network in 1984 to support its electric operation and has been an Internet Service Provider since 2005, providing Gigabit broadband services to community anchor institutions, key business partners, and governmental and public safety entities in the community. Chanute has deployed approximately 40 miles of fiber optic cable to support the needs of the community.⁴

Rural Broadband Experiments (RBE)

In its *Rural Broadband Experiments Order*, the FCC took further steps to implement the Connect America Fund (CAF) to advance the deployment of voice and broadband-capable networks in rural, high-cost areas, including extremely high-cost areas. The FCC determined it will use the Rural Broadband Experiments to explore how to structure the CAF Phase II competitive bidding process in price cap areas and to gather information about interest in deploying next generation networks in high-cost areas.

The FCC adopted a \$100 million budget for the Rural Broadband Experiments and established an objective methodology for selecting among formal applications. The \$100 million available for the experiments is divided into the following three categories:

- Category 1: \$75 Million for projects meeting very high performance standards capable of delivering 100 Megabits per second (Mbps) downstream / 25 Mbps upstream, while requiring at least one service plan that provides 25 Mbps downstream / 5 Mbps upstream to all locations within the selected census blocks.
- Category 2: \$15 million for projects meeting specified minimum performance standards that exceed the FCC's current standard and capable of delivering 10 Mbps downstream / 1 Mbps upstream to all locations within the selected census blocks. This service plan also must offer at least a 100 Gigabit (GB) usage allowance.

and census block locations must remain confidential until the bid is selected as a winning bidder or until the completion of the Phase II competitive bidding process. See *Connect America Fund et al*, WC Docket Nos. 10-90, 14-1203, Public Notice, Rel. August 19, 2014, ¶ 12.

⁴ Application, ¶¶ 1-2.

- Category 3: \$10 million for projects dedicated to serving extremely high-cost locations capable of delivering 10 Mbps downstream / 1 Mbps upstream, with 100 GB of usage.

Chanute was selected as a provisional winning bidder in Category 1.

The FCC requires all recipients of funding in the Rural Broadband Experiments program to offer, at a minimum, at least one standalone broadband service plan more robust than the Commission's current standard of 4 Mbps downstream / 1 Mbps upstream to all locations within the selected census blocks, with a specific amount of usage at a price no higher than the reasonable comparability benchmarks for voice service and broadband service.⁵ The FCC also requires, as a condition of receiving high-cost support, ETCs to offer voice and broadband services in supported areas at rates that are reasonably comparable to rates for similar services in urban areas.

The FCC advised the bidders that the carriers need not be an ETC at the time initial submission of their formal proposals for funding through the Rural Broadband Experiment, but must obtain ETC designation after being identified as a winning bidder for the funding award. Therefore, the FCC expects entities to confirm their ETC status within 90 days of the public notice announcing the winning bidders, which in this case is June 2, 2015.⁶

ANALYSIS:

Federal ETC Requirements

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier designated as an eligible telecommunications carrier shall be eligible to receive universal service support in accordance with section 254 of the Federal Act and shall, throughout the service area for which the designation is received – (A) offer the services that are supported by Federal universal service support mechanism under section 254(c) of the Federal Act, either using its own facilities or a combination of its own facilities and resale of another carrier's service (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such service and the charges therefore using media of general distribution.⁷

Congress empowers the states to designate a common carrier as an ETC. Federal law, 47 U.S.C. § 241(e)(2), states that “Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and *shall*, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission.” (emphasis added).

⁵ The Bureau has proposed a methodology for a reasonable comparability benchmark for standalone fixed broadband services that deliver 10 Mbps downstream / 1 Mbps upstream at a price range from \$74.63 to \$77.99, depending on usage.

⁶ See Public Notice DA 15-288, released March 4, 2015, on Wireline Competition Bureau announcement.

⁷ 47 U.S.C. § 254.

In order to be designated as an ETC, a company must be a “common carrier” as defined in 47 U.S.C. § 153(11). The term “common carrier” or “carrier” means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier.

In response to Data Request (DR) 1, Chanute states that, in its *Open Internet Order* released on March 12, 2015, the FCC classified retail, mass-market broadband Internet access service (BIAS) as a common-carrier telecommunications service.⁸ Chanute contends it is a common carrier because it will provide Internet access service for a fee; therefore, it is a common carrier. Staff believes Chanute meets the common carrier criteria.

Service or Functionalities

The FCC identifies the services or functionalities that shall be supported by the federal universal service support mechanisms, pursuant to 47 U.S.C. § 254 (c). The supported services are codified in 47 C.F.R. § 54.101(a),

Voice Telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.

In its Application, Chanute provided the following explanations of how it proposes to provide Voice Telephony services.

Voice-grade access to the public switched network – All locations within each census block for Chanute’s project will meet or exceed the data and voice requirements set forth within the Rural Broadband Experiment guidelines while providing quality of service and latency of no more than 100ms. Chanute will initially offer ultra-high-speed Internet access and data services and the Connect America Fund required voice services. The Optical Network Terminals (ONTs) deployed on every premise in Chanute’s utility service area include the interfaces required to deliver these voice services over the City’s fiber infrastructure. Voice services will be provided through the use of a soft switch owned and

⁸ See *In the Matter of Protecting and Promoting the Open Internet*, GN Docket No. 14-28, Report and Order on Remand, Declaratory Ruling, and Order, rel. March 12, 2015 (“*Open Internet Order*”).

operated by a third-party provider that delivers these services over the City's expanded fiber infrastructure. Voice services offered through the use of the soft switch will support all necessary PSTN, toll and 911 trunks.

Local usage – The FCC has not specified a minimum amount of local usage that an ETC must offer. The City of Chanute will meet the local usage requirements by including local usage in its rate plans, and will comply with any and all minimum local usage requirements adopted by the KCC or the FCC.

Access to emergency services – ETCs are required to provide access to emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an ETC's service area has implemented 911 or enhanced 911 systems. The City will satisfy this requirement by providing 911 and E911 for all of its customers.

Toll limitations for qualifying low-income consumers – The City of Chanute currently provides service to less than 50 customers. The majority of the service provided is symmetrical 1 gigabit service over city-owned and operated fiber facilities. The bulk of these customers are anchor institutions or other City facilities, leaving the rest of the community without access to this service. The total estimated homes passed currently equates to roughly 5% of the total 5,000 residents and businesses.

A large portion of Neosho County is considered below the poverty line and on some type of financial assistance program. Once designated an ETC, the City recognizes that it must participate in Lifeline, as required by the KCC and FCC rules, and will provide toll blocking service in accordance with 47 C.F.R. § 54.400 *et seq.* In addition, the City of Chanute proposes to offer a Lifeline Broadband program for low-income households that is similar to the FCC's program for Lifeline Voice services.⁹

With regard to the local usage component, the Commission determined in its October 2, 2006, Order in Docket No. 06-GIMT-446-GIT [446 Docket] (October 2nd Order) that it would follow the FCC's guidance and evaluate local usage by considering the comparability of a Competitive Eligible Telecommunications Carrier's (CETC) offering on a case-by-case basis "by evaluating the total service package, including the local calling scope, included features and usage that might otherwise be considered long distance." The Commission further stated that it would consider whether an ETC Applicant offers unlimited calling to government, social service, health facilities, educational institutions and emergency numbers when considering comparability.¶¶7-8.

⁹ Application, ¶¶ 21-26.

In response to Staff DRs 4, 8 and 9, Chanute provided its proposed Kansas service plans and pricing. Chanute plans to charge \$40 per month for residential subscribers within the Chanute corporate limit, \$50 per month for residential subscribers outside of the Chanute corporate limit, and \$75 for small business subscribers. Chanute will share the full bandwidth of 2.5 Gigabit per second (Gbps) download / 1.25 Gbps upload between “splitter groups” of 16 households or businesses. Chanute indicates it is capable of upgrading its network to provide up to 10 Gbps to an individual customer, if requested.

Chanute further indicates it does not have a voice calling plan in place, but intends to provide Internet Protocol (IP)-based voice telephony services to its customers through a combination of its own facilities and the use of component services of other entities, including some resale.¹⁰ Chanute is currently considering available local calling plans from two potential vendors. One vendor’s calling plan offers unlimited calling for \$44.99 per month, which includes: the local line, Caller ID Name and Number, Call Waiting, Call Forwarding, Caller ID Blocking, Voicemail, Call Return and Three-Way Calling. The plan also includes unlimited local and domestic U.S. calling, including Alaska, Hawaii, Canada, Dominican Republic, Puerto Rico, Bahamas, Guam and the U.S. Virgin Islands. The second vendor’s plan under consideration by Chanute offers VoIP calling with free unlimited long distance within the continental U.S. for \$18.95 per month.

AT&T’s monthly rate for a residential access line is \$24.00 and its single-line business rate is \$91.00 in the requested AT&T service areas.¹¹ The local calling scope is the exchange, but local calls are unlimited. Vertical services, such as Caller ID and Call Waiting, are available for an additional charge.

Both of Chanute’s proposed voice calling plans include unlimited local calling; therefore, Staff believes Chanute’s local usage offering is comparable to the local usage offered by the incumbent.

Staff is satisfied that Chanute has demonstrated an ability to provide the service or functionalities supported by the Federal universal service support systems and RBE and that Chanute’s local usage component is comparable to that of the incumbent carrier.

Types of Facilities Used to Provide Service

The City of Chanute has operated municipal electric and natural gas utilities for over a century and also provides water and wastewater services within the City of Chanute and three miles thereof.¹²

¹⁰ Chanute states, in response to DR 8, that although its network will enable Chanute and third parties to offer traditional voice services, Chanute does not intend, either presently or in the future, to offer traditional voice services. All voice services offered by Chanute will be exclusively VoIP-based. As such, pursuant to K.S.A. 66-2017, Chanute is not required, at this time, to obtain a Certificate of Convenience.

¹¹ AT&T Service Guidebook, <http://cpr.att.com/pdf/ks/0004-0002.pdf>.

¹² Application, ¶ 1.

Chanute first installed a fiber optic network in 1984 to support its electric operations. It plans a fiber-to-the-premise expansion of its fiber network to provide Gigabit broadband services to every business and resident within its rural territory that desires services.¹³

The access network equipment to be deployed includes ports and interfaces to support traditional and VoIP telephone. Chanute intends to partner with third-party providers for the delivery of telephony services, and its network design includes provisions for the delivery of these services. The network will also support video services.¹⁴

Chanute's fiber distribution network is equipped with existing optical transport terminals capable of 10 Gbps transport. The existing fiber facilities will be extended to reach five proposed Alcatel-Lucent (ALU) 7360 FX¹⁵ or equivalent Gigabit Passive Optical Network (GPON) Optical Line Terminal shelves. The ALU equipment shelves will provide GPON broadband capabilities with data speeds of 2.5 Gbps downstream and 1.25 Gbps upstream shared among 16 household and business locations. The 1 X 16 splitter ratios can be adjusted as needed to increase bandwidth as demand increases. Chanute currently offers 1 Gbps performance and will be capable of offering 1 Gbps speeds throughout the expanded network from day one.¹⁶

Service Areas

In its *Rural Broadband Experiments Order*, the FCC adopted a census block methodology for designating a service area for the Rural Broadband Experiments program:

Based on our review of the expressions of interest, we now conclude that these objectives will best be realized by accepting rural broadband experiment proposals in price cap areas at both the census tract level and the census block level. We recognize that some parties may be able to submit cost-effective proposals that would encompass all of the eligible census blocks within a tract, and we continue to encourage these parties to file such proposals. For entities whose current operations do not allow them to design projects on this scale that make business sense, we waive the requirement to file proposals at the census tract level... Finally, allowing rural broadband experiment proposals on the census block level will help us determine whether the census block approach that the Commission proposed to use for the Phase II competitive bidding process is administratively feasible and straightforward for both Commission staff and applicants.¹⁷

¹³ Application, ¶¶ 1, 3, and 6.

¹⁴ Application, ¶ 13.

¹⁵ Alcatel-Lucent 7360 ISAM FX shelves are high-capacity access shelves in the Alcatel-Lucent ISAM family of IP access products. The shelves address the need for mass-market, high-capacity fiber deployments.

¹⁶ Application, ¶ 15.

¹⁷ *Rural Broadband Experiments Order*, ¶ 14.

The FCC further required successful bidders to provide the FCC with appropriate documentation of their ETC designation in each census block for which they are provisionally selected to receive support and certify that the information is accurate. The information must be provided to the FCC no later than Tuesday, June 2, 2015.¹⁸

Chanute requests ETC designation for the purpose of receiving rural broadband experiment support in the 37 Kansas census blocks listed in Confidential Exhibit B. All 37 census blocks are served by AT&T.

Advertising

Eligibility for Federal universal service support is addressed by Section 214(e) of the Federal Act. Section 214(e) (1) of the Federal Act states as follows:

- (1) ELIGIBLE TELECOMMUNICATIONS CARRIERS – A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received – (A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the services offered by another eligible telecommunications carrier); and (B) advertise the availability of such services and the charges therefore using media of general distribution.

Chanute states it will advertise the availability of the supported services throughout its designated service area using media of general distribution, including post cards, direct mailings, radio and television commercials, and the City’s website. Chanute believes the medium used will be designed to reach those likely to qualify for such services; however, Chanute agrees to comply with all form and content requirements, if any, promulgated by the FCC and this Commission.¹⁹

Staff notes that the Commission required CETCs to develop “meaningful language so that consumers will understand what they can expect from an ETC” and provide it to Staff to review within 90 days from the date of the October 2nd Order ¶12. In addition, the Commission determined that all CETCs shall include contact information for the Commission’s Office of Public Affairs and Consumer Protection (PACP) in its advertisements to make sure that customers know where to turn with questions and complaints.

Accordingly, in its Application, Chanute provided the following language it agrees to provide in its advertising in its Kansas ETC areas:

¹⁸ Public Notice DA 15-288, released March 4, 2015.

¹⁹ Application, ¶ 27.

As a designated telecommunications carrier eligible to receive universal service support, the City of Chanute is proud to offer the Lifeline programs in the state of Kansas. We will provide discounts on service activation and on basic monthly service for residential customers who qualify for income-assisted programs. To determine if you qualify for Kansas Lifeline service, customers may call the City of Chanute at 620-431-5200. For unresolved questions or complaints, you may contact the Kansas Corporation Commission, Office of Public Affairs and Consumer Protection, 1500 Arrowhead Road, Topeka, KS 66604 or toll-free 1-800-662-0027 or in Topeka 785-271-3140. Hearing or speech impaired TDD Kansas Relay Center 1-800-766-3777.²⁰

Public Interest

The FCC, in its *Virginia Cellular Order*,²¹ made new findings regarding determination of the public interest. While the FCC's decision is not binding on this Commission, the Commission found in its ALLTEL and RCC Minnesota Orders that examination of the additional factors enumerated in the FCC's Order is reasonable.

In Chanute's Application and in response to DR 6, the Company provided the following explanation of how it meets the guidelines that the *Virginia Cellular Order* suggested for evaluation:

- **Benefits of Increased Competitive Choice** – Designation of the City of Chanute as an ETC is in the public interest because it will promote increased competitive choice, thereby increasing innovation and incenting other carriers to improve their existing networks in order to remain competitive. This will result in greater access to high-speed broadband and voice services, as well as improved service quality for residents of underserved communities in rural Kansas. The City's services will provide consumers with additional choices in communications service providers, as well as a variety of service offerings at competitive rates.²²
- **Impact of Multiple Designations on the Universal Service Fund** – Once the City receives an ETC designation it will be eligible to receive universal service cost support from the Federal Communications Commission through a provisional award from the FCC's rural broadband experiment. Chanute is already a registered service provider through the Universal Service Administrative Company (USAC), SPIN number 143028718, and participates in the federal program for schools and libraries to support these eligible entities in Chanute.

²⁰ Application, ¶ 29.

²¹ See *In the Matter of Federal State Joint Board on Universal Service: Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, Released: January 22, 2004 ("Virginia Cellular Order"), FCC Docket No. DA 03-338.

²² Application, p. 12.

- **Unique Advantages and Disadvantages of the Competitor's Service Offering** – The City of Chanute will expand its existing fiber network to offer prospective customers throughout its utility service area the choice of modern, ultra-high-speed broadband services. These broadband services will be available at extremely low prices to every business and resident in its service area.

Chanute is willing to expand its network with a very low ROI, requiring sufficient revenues to pay its bond financing over the 20 year amortization of the revenue bonds issued to finance the expansion of the network.

The City of Chanute is not currently eligible to receive Connect America Fund federal cost supports for high-cost areas of service. Chanute is optimistic that alternative broadband providers, such as itself, will be allowed to receive the cost supports made available to incumbent carriers as the FCC rules evolve.²³

- **Commitments Made Regarding High-Quality Telecommunications Services By Company** – The City of Chanute has successfully operated municipal utilities in and around the City for the benefit of the community for over a century. It has operated a highly reliable fiber network to support its own internal utility purposes since 1984. Since the City became an Internet Service Provider in 2005, it has never had an Internet customer choose to leave the City's network in favor of an alternative provider. No other entity has more accountability to its customers than the local government of that community.²⁴
- **Does Chanute Have the Ability to Provide the Supported Services Throughout the Designated Service Area Within a Reasonable Time Frame** – The City of Chanute already owns and operates approximately 40 miles of fiber infrastructure. Its network expansion plans currently have an 18-24 month construction schedule. The proposed service area includes all of the U.S. Census Blocks in which the City currently provides electric utility services and represents a contiguous service area to the City of Chanute. Chanute currently provides highly reliable electric utility services in the proposed service area.²⁵

With regard to the impact this Application will have on the federal Universal Service Fund, Staff notes that the FCC has determined that participation in the broadband experiment will not burden the Universal Service Fund. In its *Rural Experiments Order*, the FCC stated:

²³ Chanute Response to DR 6(b).

²⁴ Chanute Response to DR 6(c).

²⁵ Chanute Response to DR 6(d).

Source of Funds. As we proposed in the *Tech Transitions FNPRM*, the funding for the rural broadband experiments will be drawn from the Connect America reserve account, which is projected to have approximately \$200 million in funding as of the third quarter 2014 that has not already been allocated to a specific program. We find that using the reserve account to fund the experiments will help achieve the goals the Commission set for the Connect America Fund. Not only are the experiments themselves designed to encourage the deployment of robust networks capable of offering voice and broadband services to consumers in high-cost areas, the experiments will also help us design the Phase II competitive bidding process and the Remote Areas Fund to efficiently achieve this goal throughout the country. Using unallocated support from the reserve account will also ensure that we will not increase the size of the Universal Service Fund or Connect America budget, that we will not increase the contribution burden on consumers, and that we will not divert resources from other universal service programs. We will consider the appropriate treatment of any unallocated funds in the future.²⁶

After reviewing Chanute's Application and its responses to Staff DRs, Staff believes that Chanute has demonstrated that it is in the public interest to designate it as an ETC in the 37 requested census blocks for the purpose of participating in the Rural Broadband Experiments program.

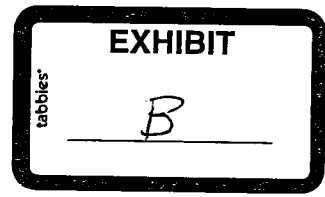
RECOMMENDATION:

Staff is satisfied that Chanute has demonstrated an ability to meet the federal requirements for being designated an ETC in the 37 census blocks listed in Confidential Exhibit B and recommends approval of Chanute's Application. Furthermore, no party has opposed Chanute's Application and being designated as an ETC will serve the public interest by allowing Chanute to participate in the FCC's rural broadband experiment program improving voice and broadband services in the requested designated areas.

Chanute should be advised that rural broadband experiment funds received must be used for its intended purpose, and Chanute will be required to certify each year that it uses the support as intended.

Additionally, Chanute should be aware that it is required to abide by all ETC requirements adopted by this Commission and Chanute may be required to follow these to continue to receive support.

²⁶ See *Rural Broadband Experiments Order*, ¶ 11.



CONFIDENTIAL

PLEASE FORWARD THE ATTACHED DOCUMENT (S) ISSUED IN THE ABOVE-REFERENCED DOCKET TO THE FOLLOWING:

NAME AND ADDRESS	NO. CERT. COPIES	NO. PLAIN COPIES
JEFF CANTRELL, CITY MANAGER CITY OF CHANUTE 101 SOUTH LINCOLN MEMORIAL BLDG, PO BOX 907 CHANUTE, KS 66720		
LARRY GATES, UTILITIES DIRECTOR CITY OF CHANUTE 101 SOUTH LINCOLN MEMORIAL BLDG, PO BOX 907 CHANUTE, KS 66720		
MICHAEL NEELEY, LITIGATION COUNSEL KANSAS CORPORATION COMMISSION 1500 SW ARROWHEAD RD TOPEKA, KS 66604-4027 ***Hand Delivered***		
OTTO NEWTON, LITIGATION COUNSEL 1500 SW ARROWHEAD ROAD TOPEKA, KS 66604 ***Hand Delivered***		
FRANK A. CARO, JR., ATTORNEY POLSINELLI PC 900 W 48TH PLACE STE 900 KANSAS CITY, MO 64112		

ORDER MAILED **MAY 08 2015**

The Docket Room hereby certified that on this _____ day of _____, 20_____, it caused a true and correct copy of the attached ORDER to be deposited in the United States Mail, postage prepaid, and addressed to the above persons.