

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Petition of Callabyte
Technology, LLC for Expanded Designation
as an Eligible Telecommunications Carrier
Pursuant to Section 214(e)(2) of the
Communications Act of 1934, as Amended

)
)
)
)
)

File No. DA-2021-0191

ORDER DIRECTING NOTICE, SETTING INTERVENTION DEADLINE, AND DIRECTING STAFF TO FILE A RECOMMENDATION

Issue Date: January 5, 2021

Effective Date: January 5, 2021

On January 5, 2021, Callabyte Technology, LLC filed its application for expansion of its designation as a wireless Eligible Telecommunications Carrier. The Commission will direct its Data Center to issue notice of the application, set a deadline for requests to intervene, and direct the Staff of the Commission to file a recommendation.

THE COMMISSION ORDERS THAT:

1. The Commission's Data Center shall send notice of this application to all local exchange carriers certificated to provide service in Missouri.
2. Requests to intervene shall be filed with the Commission no later than January 20, 2021.
3. The Staff of the Commission shall file a recommendation no later than February 4, 2021.

4. This order shall be effective when issued.



BY THE COMMISSION

A handwritten signature in black ink that reads "Morris L. Woodruff".

Morris L. Woodruff
Secretary

Ronald D. Pridgin, Regulatory Law Judge,
by delegation of authority pursuant
to Section 386.240, RSMo 2016.

Dated at Jefferson City, Missouri,
on this 5th day of January, 2021.

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI**

Petition of Callabyte Technology, LLC)	Case No. _____
For Expanded Designation as An Eligible)	
Telecommunications Carrier Pursuant to)	
Section 214(e)(2) of the Communications)	
Act of 1934, as Amended)	

**PETITION FOR EXPANDED DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER**

COMES NOW Callabyte Technology, LLC (“Petitioner”), pursuant to § 214(e)(2) of the Communications Act of 1934 (“Act”), as amended, and the rules and regulations of the Missouri Public Service Commission (“Commission”), including 4 CSR 240-2.060 and 4 CSR 240-31.015–.016 to respectfully request expanded Eligible Telecommunications Carrier (“ETC”) designation to participate in the federal Universal Service Fund’s (“USF”) High-Cost and Low-Income programs in the State of Missouri in all areas where Petitioner, through its participation in the Rural Electric Cooperative Consortium, has been allocated Rural Digital Opportunity (“RDOF”) Phase I support as a winner in the Federal Communications Commission’s (“FCC”) RDOF Phase I auction (“Auction 904”).¹

The Petitioner 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. These areas comprise the “Expanded ETC Designation Area” in which the Petitioner hereby requests ETC designation to participate in the federal Universal Service Fund’s High-

¹ The Commission previously designated Petitioner as a high-cost and low-income ETC in the State of Missouri in census blocks where the Petitioner was allocated federal Connect America Fund Phase II (“CAF II”) support as a winning bidder in the CAF II auction. *See Application of Callabyte Technology, LLC for Designation as an Eligible Telecommunications Carrier*, Docket No. RA-2019-0086, Order No. 8 (Nov. 15, 2018) (“Callabyte Technology ETC Designation Order”).

Cost and Low-Income program in order for Petitioner to receive the RDOF Phase I subsidies it was recently awarded in Auction 904.

Petitioner is obligated to obtain ETC designation throughout its RDOF Phase I winning areas within 180 days of the announcement by the FCC that Petitioner was a winning bidder in the RDOF Phase I auction.² As a result, Petitioner requests expeditious action by the Commission so that it may satisfy this requirement.

I. INTRODUCTION AND SUMMARY

Petitioner is a wholly owned subsidiary of Callaway Electric Cooperative, a non-profit, rural electric cooperative headquartered in Fulton, Missouri, and organized and existing under the laws of the state of Missouri. Callaway Electric Cooperative is a Chapter 394 rural electric cooperative engaged in the distribution of electric energy and service to its members within the Missouri counties of Callaway and Montgomery.

Petitioner, a Missouri Limited Liability Company, was formed to assist with the deployment and operation of a new state-of-the-art, low-latency, fiber-to-the-home (“FTTH”) network and to provide high-speed broadband Internet access and Voice over Internet Protocol (“VoIP”) services to its service area which largely lacks access to such services.

Petitioner will offer low-latency broadband service at actual speeds of at least 1 Gigabit per second downstream and 500 Mbps upstream and offer at least 2 terabytes of monthly usage and will provide its customers with voice grade access to the Public Switched Telephone Network (“PSTN”) through its provision of interconnected VoIP service.

The street and mailing address of Petitioner’s principal office is 1313 Cooperative Drive Fulton, MO 65251. Petitioner’s electronic mail address is: thoward@callawayelectric.com;

² 47 C.F.R. § 54.804(b)(5).

telephone number is: (573) 642-3326; and fax number is (573) 642-3565. Petitioner does not have any pending action, or final unsatisfied judgment or decisions against it from any state or federal agency or court, which involves customer service or rates, which action, judgment or decision has occurred within three (3) years of the date of this petition. Petitioner does not have any annual reports or assessment fees that are overdue.

Correspondence, communications, orders and decisions in regard to this Application should be directed to:

Thomas Howard
President
Callabyte Technology, LLC
1313 Cooperative Drive
Fulton, MO 65251
Telephone: (573) 642-3326
Fax: (573) 642-3565
E-mail: thoward@callawayelectric.com

and

Megan E. Ray
Andereck, Evans, Lewis, Figg & Battagler, LLC
3816 S. Greystone Ct.
Ste. B
Springfield, MO 65804
Telephone: (417) 864-6401
Fax: (417) 864-4967
E-mail: mray@lawofficemo.com

Petitioner seeks expanded High-Cost and Low-Income ETC designation status from the Commission throughout its RDOF Phase I-winning census blocks identified in **Exhibit A** hereto.

Petitioner continues to meet all of the federal and state statutory and regulatory requirements for ETC designation. Designating Petitioner as an ETC in the additional areas requested so that it is authorized to receive RDOF Phase I support in the census blocks identified

in Exhibit A will serve the public interest by enabling Petitioner to bring gigabit tier broadband and interconnected VoIP services to rural areas of Missouri currently lacking such services.

II. THE COMMISSION HAS AUTHORITY TO GRANT THE EXPANDED ETC DESIGNATION REQUESTED BY PETITIONER

Section 214(e)(2) of the Act gives authority to State commissions to designate a common carrier as an eligible telecommunications carrier for a service area designated by the State commission. Under Missouri regulations, an Eligible Telecommunications Carrier (“ETC”) is defined as “a carrier designated as such by the Missouri Public Service Commission pursuant to 47 U.S.C. 214(e) and 47 CFR Part 54 Subpart C.”³

III. PETITIONER MEETS THE STATUTORY AND REGULATORY PREREQUISITES TO BE DESIGNATED AS AN EXPANDED ETC

As demonstrated herein, Petitioner satisfies each of the state and federal statutory and regulatory requirements for Expanded ETC designation.

A. Petitioner Will Provide Service as a Common Carrier

For the customers and locations where RDOF Phase I support has been allocated, Petitioner will provide its services on a common carrier basis. As such, Petitioner certifies that it is a common carrier under §§ 214(e)(1) and(e)(6) of the Act.⁴

B. Petitioner Will Offer the Services Supported by the Federal Universal Service Support Mechanisms

As described below, Petitioner certifies that it will provide the following services that are supported by federal universal service support mechanisms:⁵

³ 4 CSR 240-31.010(5).

⁴ See Exhibit C (Affidavit of Thomas W. Howard).

⁵ See *id.*

1. Voice Grade Access to the PSTN – Petitioner will meet this requirement through the provision of IP-based voice communications service that is interconnected to the PSTN. Petitioner will be legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting universal service-related requirements. Petitioner will offer stand-alone voice telephony service throughout its proposed ETC designation area and will offer such service at rates that are reasonably comparable to urban rates. This service will include minutes of use for local service provided at no charge to end users and access to emergency service via E-911, wherever available from local government or public safety organizations.⁶ Petitioner also commits to provide toll limitation services to qualifying low-income consumers as provided in §§ 54.400-54.423 of the Rules.⁷
2. Broadband Internet Access Services – Petitioner’s broadband Internet offering will provide the capability to transmit data to and receive data by wire from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service. Petitioner will offer low-latency Internet service at actual speeds of at least 1 Gbps downstream and 500 Mbps upstream and offer at least 2 terabytes of monthly usage throughout the proposed ETC Designation Area, and will offer such service at rates that are reasonably comparable to urban rates.⁸
3. Lifeline Service – Petitioner will offer subsidized Lifeline voice and broadband services, including a standalone voice service offering, to qualifying low-income consumers in accordance with the FCC’s rules within its proposed ETC designation area.⁹

Petitioner further commits to provide these services consistent with applicable FCC’s High-Cost and Low-Income universal service support rules.¹⁰

⁶ 47 C.F.R. § 54.101(a)(1) and (b).

⁷ 47 C.F.R. § 54.101(a)(1).

⁸ 47 C.F.R. § 54.101(a)(2).

⁹ 47 C.F.R. § 54.405(a), 54.400 *et. seq.*

¹⁰ See 47 C.F.R. §§ 54.101 and 54.201.

C. Petitioner Will Provide Service Using Its Own Facilities

Petitioner will deploy and operate a state-of-the-art, low-latency, FTTH facilities-based network to provide high-speed broadband Internet access and interconnected VoIP services to those within its proposed ETC designation area who lack access to such services.¹¹

D. Petitioner Will Provide the Requisite RDOF Phase I Supported Services Throughout Its Proposed ETC Designation Area

Petitioner commits to providing the requisite RDOF Phase I supported services throughout its proposed ETC designation area, consistent with all applicable requirements.¹²

E. Petitioner Will Advertise the Availability of Its Services and Charges Using Media of General Distribution

Petitioner will advertise the availability of and charges for its supported service offerings using media of general distribution, and will undertake outreach initiatives to increase consumer awareness of its service offerings, consistent with all applicable requirements.¹³ Petitioner will offer and advertise its broadband and interconnected VoIP services through a combination of media channels, such as newspaper, magazines, and other print advertisements, outdoor advertising, direct marketing, and/or the Internet. Petitioner will advertise its universal service offerings in a manner consistent with applicable requirements.

F. Petitioner Possesses the Financial and Technical Capability to Provide the Supported Services

With the financial backing of its parent, Callaway Electric Cooperative, Petitioner possesses the financial and technical capabilities to pay for all start-up expenses (*e.g.*,

¹¹ 47 C.F.R. § 54.201(d)(1).

¹² See 47 C.F.R. §§ 54.101 and 54.201.

¹³ 47 C.F.R. § 54.201(d)(2)

construction, hardware, operations, etc.) to get its fiber optic network built and to begin the provision of voice and broadband services throughout its proposed expanded ETC designation area. Petitioner and/or Callaway Electric Cooperative will be able to obtain the requisite amount of lending under its existing lines of credit and Petitioner and/or Callaway Electric Cooperative is able to obtain additional financing, if necessary, in addition to the RDOF Phase I support being made available to Petitioner.

G. Petitioner Will Meet the Additional FCC Requirements for Designation as an Expanded ETC

Petitioner further certifies that it will meet all of the FCC's requirements for designation as an ETC under § 214(e)(1) of the Act.¹⁴

1. **Compliance with Applicable Service and Performance Quality Requirements.** Petitioner certifies that it will comply with the service requirements applicable to the support that it receives, including the requirements for RDOF Phase I support, and will provide additional information in this regard as part of its FCC Form 683 application, including a certification from a professional engineer that the fiber optic network is capable of delivering voice and broadband service that meets the requisite performance requirements and sufficient capacity to meet customer demand at or above the prescribed levels during peak usage periods.¹⁵
2. **Ability to Remain Functional in Emergency Situations.** Petitioner certifies that its fiber optic network will have the ability to remain functional in emergency situations, will have a reasonable amount of back-up power to ensure functionality without an external power source, will be able to reroute traffic around damaged facilities and will be capable of managing traffic spikes resulting from emergency situations.¹⁶ Petitioner's fiber optic network will support telephone service using Session Initiation Protocol-based VoIP technology and will support all phone features, including E-911 services.

¹⁴ See Exhibit C.

¹⁵ See 47 C.F.R. § 54.309.

¹⁶ See 47 C.F.R. § 54.202(a)(2).

IV. THE COMMISSION HAS PREVIOUSLY GRANTED THE PETITIONER DESIGNATION AS AN ETC

As referenced above, the Petitioner was designated as a high-cost and low-income ETC by the Commission on November 15, 2018. In connection with granting Petitioner's application for designation as an ETC, the Commission reviewed Petitioner's representations, certifications, and commitments regarding the services Petitioner will provide that are supported by federal universal service support mechanisms,¹⁷ and determined that "(the Petitioner) has met all federal and state requirements and that it is in the public interest to grant the ETC application."¹⁸ The Petitioner hereby reaffirms its compliance with and commitment to each of the requirements delineated in the Petitioner's ETC Application, reviewed in the Callabyte ETC Designation Order, and stated above.

Since the Commission has already determined that Petitioner meets the requirements applicable to an ETC in the State of Missouri, this petition is limited to a request by Petitioner that the Commission expand Petitioner's ETC designation area for the areas awarded in the RDOF Phase I auction, as identified in **Exhibit A**.

V. GRANT OF THIS APPLICATION WILL SERVE THE PUBLIC INTEREST

The grant of this Petition will clearly serve the public interest by enabling Petitioner to provide low-latency, gigabit-speed broadband and interconnected VoIP-based voice services to residents in its proposed ETC Designation Area, as well as to provide subsidized voice and broadband services to those households that seek and qualify for federal Lifeline benefits. Petitioner's award of RDOF Phase I support by the FCC and designation as an ETC by the

¹⁷ See Callabyte Technology ETC Application at 4-5.

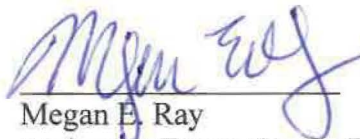
¹⁸ Callabyte Technology ETC Designation Order at 3. A discussion of public interest considerations is contained in Section IV, *infra*.

Commission in the additional areas requested will “encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to [additional] Americans”¹⁹ and will aid the Commission’s objective of ensuring that federal universal service support, including RDOF Phase I support, is used efficiently and effectively.

VI. CONCLUSION

For all of the foregoing reasons, Petitioner respectfully requests that the Commission designate it as a High-Cost and Low-Income ETC in the additional areas requested so that Petitioner will be eligible to receive the RDOF Phase I support it has been awarded in Auction 904 Expanded ETC Designation Area.

Respectfully submitted,



Megan E. Ray
Andereck, Evans, Lewis, Figg & Battagler, LLC
3816 S. Greystone Ct., Ste. B
Springfield, MO 65804
Telephone: (417) 864-6401
Facsimile: (417) 864-4967
E-mail: mray@lawofficemo.com

Attorney for Callabyte Technology, LLC

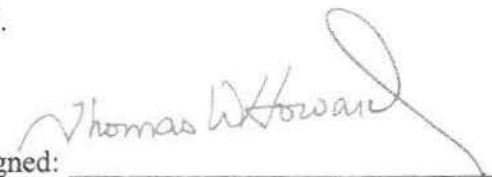
Dated: 1/5/21

¹⁹ 47 U.S.C. § 1302(a).

VERIFICATION

STATE OF MISSOURI)
)
COUNTY OF CALLAWAY) ss

I, Thomas W. Howard, state that I am the President of Callabyte Technology, LLC; that I have read the above and foregoing document; that the statements contained therein are true and correct to the best of my information, knowledge and belief; and, that I am authorized to make this statement on behalf of Callabyte Technology, LLC.


Signed: _____
Thomas W. Howard

Subscribed and sworn to before me this 30 day of December, 2020.



ROBERT E BARNES II
My Commission Expires
October 19, 2021
Callaway County
Commission #17756179



Notary Public

CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of the foregoing Petition was served by electronic mail or U.S. Mail, postage prepaid, this 5th day of January, 2021 upon the following:

Office of the Public Counsel
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, Missouri 65102
opcservice@ded.mo.gov

Missouri Public Service Commission
Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, Missouri 65102
staffcounsel@psc.mo.gov



Megan E. Ray

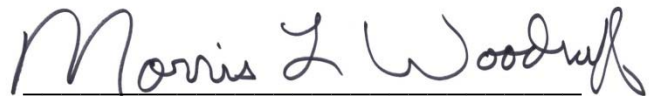
STATE OF MISSOURI

OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and I do hereby certify the same to be a true copy therefrom and the whole thereof.

**WITNESS my hand and seal of the Public Service Commission,
at Jefferson City, Missouri, this 5th day of January, 2021.**




Morris L. Woodruff
Secretary

MISSOURI PUBLIC SERVICE COMMISSION

January 5, 2021

File/Case No. DA-2021-0191

**Missouri Public Service
Commission**

Staff Counsel Department
200 Madison Street, Suite 800
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Office of the Public Counsel

Marc Poston
200 Madison Street, Suite 650
P.O. Box 2230
Jefferson City, MO 65102
opc@opc.mo.gov

Callabyte Technology, LLC

Megan E Ray
3816 S Greystone Ct., Suite B
Springfield, MO 65804
mray@lawofficemo.com

Enclosed find a certified copy of an Order or Notice issued in the above-referenced matter(s).

Sincerely,



***Morris L. Woodruff
Secretary***

Distributed to all Local Exchange Carriers Certificated to Provide Service in Missouri.

Recipients listed above with a valid e-mail address will receive electronic service. Recipients without a valid e-mail address will receive paper service.