

# BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Midwest )  
Data Center, Inc. for Designation as an )  
Eligible Telecommunications Carrier for ) **File No. TA-2021-0250**  
Purposes of Receiving Rural Digital )  
Opportunity Fund Support )

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

Issue Date: February 8, 2021

Effective Date: February 8, 2021

On February 4, 2021, Midwest Data Center, Inc. filed its application for 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 February 23, 2021.
3. The Staff of the Commission shall file a recommendation no later than March 2, 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 8<sup>th</sup> day of February, 2021.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Application of Midwest Data Center, Inc. for                    )  
Designation as an Eligible Telecommunications                )  
Carrier For Purposes of Receiving Rural                        ) Case No. \_\_\_\_\_  
Digital Opportunity Fund Support.                                )

**APPLICATION OF MIDWEST DATA CENTER, INC. FOR  
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER  
FOR PURPOSES OF RECEIVING RURAL DIGITAL OPPORTUNITY FUND  
AND MOTIONS FOR EXPEDITED TREATMENT AND WAIVER**

COMES NOW Midwest Data Center, Inc. (“MDC” or “Applicant”) pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (“Act”); 47 CFR Sections 54.201 and 54.202; 20 CSR 4240-2.060; and 20 CSR 4240-31.016, and for its Application for designation as an Eligible Telecommunications Carrier (“ETC”) for purposes of receiving Rural Digital Opportunity Fund (RDOF) support and motions for expedited treatment and waiver pursuant to 20 CSR 4240-2.080(14) and 20 CSR 4240-4.017(1)(D), states to the Missouri Public Service Commission (“Commission”) as follows:

**INTRODUCTION AND SUMMARY**

1. Applicant is a Missouri corporation in good standing with its street address and principal place of business at 214 S. Main Street, Rock Port, Missouri 64482. A copy of Applicant’s Certificate of Good Standing issued by the Missouri Secretary of State is attached as Exhibit 1. Applicant is a Competitive or Local Exchange Carrier (“CLEC”) certificated by the Commission to provide basic local exchange service telecommunications service in the State of Missouri.<sup>1</sup>

2. On January 30, 2020, the Federal Communications Commission (“FCC”) issued its Report & Order in WC Docket Nos. 19-126 and 10-90 adopting the framework for the Rural

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<sup>1</sup> Case No. CA-2014-0374.

Digital Opportunity Fund (RDOF). Through a two-phase reverse auction mechanism, the FCC will direct up to \$20.4 billion over ten years to finance up to gigabit speed broadband networks in unserved rural areas, connecting millions more American homes and businesses to digital opportunity. The first phase of the RDOF targets census blocks that are wholly unserved with fixed broadband at speeds of at least 25/3 Mbps. This first phase will make available up to \$16 billion to census blocks where existing data shows there is no such service available. On December 7, 2020, the FCC issued its Public Notice closing the auction and announcing the winning bidders.<sup>2</sup> Applicant was part of a consortium (The Rural American Broadband Consortium) that was chosen by the FCC as a winning bidder.

3. By this Application, Applicant seeks ETC designation in the census block groups for which it has been awarded RDOF support and which are set forth in Exhibit 2 to this Application.

4. All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

Michael Goins  
Midwest Data Center, Inc.  
214 S. Main Street  
Rock Port, MO 64482  
[mgoins@rptelephone.com](mailto:mgoins@rptelephone.com)

W.R. England, III/Brian T. McCartney  
Brydon, Swearngen & England P.C.  
P.O. Box 456  
312 East Capital Avenue  
Jefferson City, MO 65102-0456  
[trip@brydonlaw.com](mailto:trip@brydonlaw.com)  
[bmccartney@brydonlaw.com](mailto:bmccartney@brydonlaw.com)

5. As an RDOF Auction winning bidder, Applicant will receive \$4,525,266 of RDOF support over a ten (10) year period which will allow it to expand its network to provide voice and broadband services to approximately 1,410 customer locations in the census block groups listed in Exhibit 2.

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<sup>2</sup> Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; AU Docket No. 20-34, WC Docket 19-126, WC Docket No. 10-90.

6. Applicant plans to use its own facilities to provide voice and broadband services to the census block groups for which it is receiving RDOF support. More specifically, Applicant plans to construct a fiber-to-the-premise (FTTP) network utilizing industry standard Gigabit Passive Optical Network (GPON) technology. The GPON access technology is standardized by the International Telecommunications Union in the ITU-T G.984 standard.

7. As will also be shown below, Applicant meets all statutory and regulatory requirements for its ETC designation. A grant of this application will advance the public interest by meeting the goals of the FCC's RDOF program to deploy voice and broadband networks in areas where access to broadband at speeds of 25/3 Mbs is lacking.

8. Applicant has no pending action or final unsatisfied judgments or decisions against it from any state or federal agency or court which involve customer service or rates, which has occurred within the past three (3) years. Nor does Applicant have any Missouri annual reports or assessment fees that are overdue.

9. Applicant is not delinquent in the filing of any annual report or the payment of any assessment fees.

#### SERVICES OFFERED

10. Applicant will offer the services that are supported by federal universal support mechanisms under 47 CFR Section 54.101, including voice telephony services, access to emergency services (e.g., 911 and E911) and toll limitation services to qualifying low-income consumers. Applicant will offer voice telephony service as a standalone service throughout the area for which it seeks expanded ETC designation. In addition, the rates Applicant proposes to charge for voice telephony service will be reasonably comparable to urban rates for the same service.

### ADVERTISING SERVICES

11. Applicant will advertise the availability and prices of its voice and broadband services using media of general distribution. Applicant plans to advertise its services and prices using newspapers, its publicly available website, direct mail, and through participation in local community events. In addition, Applicant will publicize the availability of its Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.

### LIFELINE AND DISABLED SERVICE

12. Applicant will comply with all requirements associated with the Lifeline program contained in 47 CFR Part 54 Subpart E. Applicant will comply with all requirements contained in 20 CSR 4240 Chapter 31 as they relate to the provision of Lifeline and Disabled services. Applicant's terms, conditions and rates for Lifeline and Disabled services will be contained on its publicly available website: <https://residential.mwdata.net/>.

### ACCESS TO 911

13. Applicant will provide its voice subscribers located in the census blocks listed in Exhibit 2 with access to 911 and E911 emergency service.

### ABILITY TO REMAIN FUNCTIONAL IN EMERGENCY SITUATIONS

14. Applicant will have the ability to remain functional in emergency situations through the use of back-up power (i.e., fixed and mobile generators and/or batteries) to ensure functionality without an external power source. The generators and batteries are regularly checked as part of routine maintenance.

### CONSUMER PROTECTION AND PRIVACY [AND SERVICE QUALITY]

15. Applicant will satisfy all applicable consumer protection requirements, as well as protect consumer privacy. Applicant has Customer Proprietary Network Information (CPNI)

policies and procedures that are consistent with FCC regulations. Employees will be required to complete CPNI training. Applicant also has internal policies and procedures to protect sensitive customer information from improper use and disclosure. Applicant's privacy and security policies are reinforced through periodic training required of all employees.

#### FINANCIAL AND TECHNICAL ABILITY

16. Applicant has the financial and technical ability to provide voice and broadband services in the areas for which it seeks ETC designation. Applicant is an existing and established CLEC providing voice and internet services since 2014. As a CLEC, Applicant complies with Commission rules, as well as files Annual Reports with the Commission regarding its financial status. Applicant's past service and reporting to the Commission further supports its technical and financial ability to provide service in the census block groups listed in Exhibit 2.

#### OWNERSHIP INTERESTS

17. Applicant is a wholly-owned subsidiary of Rock Port Telephone Company.

#### OFFICERS AND DIRECTORS

18. The Officers and Directors of Applicant are as follows:

##### Officers

##### Directors

|                                   |                        |
|-----------------------------------|------------------------|
| William Michael Holley, President | Cecil Demott           |
| Clay Vogler, Secretary            | William Michael Holley |
| Jason Garst, Vice President       | Clay Vogler            |
| Cecil Demott, Treasurer           | Jason Garst            |

### COMMON OWNERSHIP OR MANAGEMENT

19. Rock Port Telephone Company has received funds from the federal USF and state universal service fund.

### REGISTERED NAME

20. Applicant commits to solely conduct business using its name as registered with the Commission and the Missouri Secretary of State.

### STATE OR FEDERAL REGULATORY OR LAW ENFORCEMENT MATTERS

21. No matters have been brought in the last ten (10) years by any state or federal regulatory or law enforcement agency against any of the individuals, entities, managers, officers, directors of other companies sharing common ownership or management with the Applicant involving fraud, deceit, perjury, stealing, or the omission or misstatement of material fact in connection with a commercial transaction.

### WEBSITE/TARIFF

22. Information about the Applicant's service and rates will be contained in its website <https://residential.mwdata.net/> and its tariff.

### AFFIRMATIVE STATEMENTS

23. In accordance with 20 CSR 4240-31.016(2)(B)6, Applicant makes the following affirmative statements:

- a. Applicant will comply with the ETC requirements identified in 20 CSR 4240-31.015;
- b. Applicant intends to seek support from the Missouri Universal Service Fund (MoUSF) and intends to participate in the Disabled Program administered by the MoUSF;

- c. Applicant commits to maintain a current list of Company-designed contacts with the Commission's Electronic Filing Information System (EFIS) and notify the Commission of any changes to its Company contact information;
  - d. Applicant is compliant with all reporting and assessment obligations of this Commission; and
  - e. Applicant is compliant with contribution obligations to the federal USF.
24. Applicant has not sought or obtained a waiver of any ETC requirement from the FCC.

A GRANT OF THE ETC DESIGNATION WILL  
PROMOTE THE PUBLIC INTEREST

25. As demonstrated above, Applicant meets all of the statutory and regulatory requirements for designation as an ETC in the State of Missouri. Approval of the instant Application will advance the public's interest by fulfilling the goals of the FCC's RDOF program of deploying voice and broadband networks in areas where such access is lacking. The fact that Applicant is a successful bidder in the FCC's RDOF Auction supports the fact that Applicant is in the best position to achieve the FCC's goals for the designated census block areas in a cost efficient manner using RDOF funds. These advanced communications services will provide important high speed connectivity to the Internet for citizens of rural Missouri. In addition, a grant of the instant Application is in the public interest as it will promote increased competitive choice, providing greater access to high speed broadband and voice services and improved service quality for residents of unserved communities in rural Missouri.

### MOTION FOR EXPEDITED TREATMENT

26. Applicant requests, pursuant to 20 CSR 4240-2.080(14), that the Commission expedite its consideration of the instant Application so that it will issue a decision no later than April 1, 2021.

27. The RDOF requirements provide that a winning bidder must certify within 180 days of the release of the FCC's December 7, 2020, Public Notice that it has the appropriate ETC designation. However, the RDOF requirements did not require a bidder to be an ETC in order to participate in the auction. Consequently, until Applicant was notified that it was a winning bidder, it did not know the census blocks for which it would receive RDOF support and, thus, the geographic area for which to seek ETC designation.

28. Now that the FCC has determined that Applicant is a winning bidder for the census blocks listed in Exhibit 2, Applicant is filing this Application for ETC designation as soon as reasonably possible.

29. If the Commission does not act within the indicated time to grant the instant Application, it may adversely impact Applicant's ability to timely provide voice and broadband services to the customers located in the census blocks listed in Exhibit 2.

### MOTION FOR WAIVER

30. Commission Rule 20 CSR 4240-4.4.017(1) provides that "(a)ny person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case." A notice was not filed 60 days prior to the filing of this Application. As such, and to the extent required, Applicant seeks a waiver of the 60-day notice requirement.

31. Rule 20 CSR 4240-4.017(1)(D) provides that a waiver may be granted for good cause. In this regard, Applicant declares (as verified below) that it has had no communication with the Office of the Commission (as defined by Commission Rule 20 CSR 4240-4.015(10)) within the prior 150 days regarding any substantive issue likely to be in this case. Accordingly, for good cause shown, Applicant moves for a waiver of the 60-day notice requirement of Rule 20 CSR 4240-4.017(1) and acceptance of this Application at this time.

WHEREFORE, Applicant respectfully requests the Commission to issue an Order that:

- (1) approves expeditiously its Application for designation as an ETC to receive RDOF support,
- (2) grants a waiver of the Commission notice of filing requirement in 20 CSR 4240-4.017(1);
- and (3) grants such other relief as is reasonable in the circumstances.

Respectfully submitted,

By /s/ William R. England, III  
W.R. England, III Mo. #23975  
Brian T. McCartney Mo. #47788  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 East Capitol Avenue, P.O. Box 456  
Jefferson City, MO 65102-0456  
[trip@brydonlaw.com](mailto:trip@brydonlaw.com)  
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(573) 635-7166  
(573) 634-7431 (FAX)

Attorneys for Midwest Data Center, Inc.

## **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of this document was served to the following parties on this 4<sup>th</sup> day of February, 2021:

General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

Office of the Public Counsel  
P.O. Box 2230  
Jefferson City, MO 65102

/s/ William R. England, III

February 3, 2021

**VERIFICATION**

COUNTY OF Atchison )  
 ) ss.  
STATE OF MISSOURI )

I, Michael Goins, being duly sworn upon my oath, state that I am over twenty-one, sound of mind, and am authorized to act on behalf of Midwest Data Center, Inc., regarding the foregoing document. I have read it and verify that the facts contained in it are true and correct according to the best of my knowledge, information and belief. Additionally, no representative of Midwest Data Center, Inc., has had any communication with the office of the Missouri Public Service Commission as defined in Commission Rule 20 CSR 4240-4.015(10) within the immediately preceding 150 days regarding the subject matter of this Application.

  
Michael Goins

Sworn and subscribed to before me this 4 day of February, 2021.

Carrie J. Stoner  
Notary Public - Notary Seal  
STATE OF MISSOURI  
Commissioned for Atchison County  
My Commission Expires: June 19, 2024  
ID: #12582736

  
Notary Public

**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 8<sup>th</sup> day of February, 2021.**



  
**Morris L. Woodruff**  
**Secretary**

**MISSOURI PUBLIC SERVICE COMMISSION**

**February 8, 2021**

**File/Case No. TA-2021-0250**

**Missouri Public Service  
Commission**

Staff Counsel Department  
200 Madison Street, Suite 800  
P.O. Box 360  
Jefferson City, MO 65102  
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**Office of the Public Counsel**

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200 Madison Street, Suite 650  
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**Midwest Data Center, Inc.**

W R England  
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***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.**

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