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August 28, 2007

RECEIVED
AUG 29 2007
PUBLIC SERVICE
COMMISSION

via Federal Express
Ms. Beth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
P. O. Box 615
Frankfort, KY 40601

Case No. 2007-00388

Re: *Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky*

Dear Ms. O'Donnell:

Enclosed for filing in the above-styled case is one original and ten (10) copies of TVD Broadband Services, LLC's Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky.

Please also note the enclosed additional copy of the document to be file-stamped. Please file-stamp the additional copy and return it to me in the enclosed, self-addressed, pre-paid envelope.

Thank you, and if you have any questions with regard to this matter, please call me.

Very truly yours,

DINSMORE & SHOHL LLP



Holly C. Wallace

HCW/rk
Enclosures

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AUG 29 2007
COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION
PUBLIC SERVICE
COMMISSION

In the matter of:

**TVD BROADBAND SERVICES LLC'S PETITION)
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER)
IN THE COMMONWEALTH OF KENTUCKY)**

Case No. 2007-00388

**PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER IN THE COMMONWEALTH OF KENTUCKY**

1. TVD Broadband Services, LLC ("TVD Broadband"), by counsel, and pursuant to the Communications Act of 1934, as amended (the "Act"), hereby submits to the Public Service Commission of Kentucky (the "Commission") its request for Eligible Telecommunications Carrier ("ETC") status in the Commonwealth of Kentucky in the exchanges served by AT&T of Kentucky (f/k/a BellSouth), Windstream Kentucky East, and Gearheart Communications d/b/a Coalfields Telephone Company. (See Declaration of Paul D. Gearheart attached as Exhibit A.) AT&T and Windstream are non-rural carriers. Coalfields Telephone Company operates as a rural carrier and TVD Broadband seeks designation to serve as an ETC in the entire operating area of that company. Grant of this Petition is in the public interest because it will allow TVD Broadband to bring high quality competitive services to the community in which it seeks ETC designation.

2. TVD Broadband will provide service pursuant to its Tariff PSC No. 1 on file with the Commission and additional tariffs to be filed as warranted.

3. TVD Broadband is a wholly-owned subsidiary of Gearheart Communications and has its business address at 20 Laynesville Road, Harold, Kentucky 41635.

4. TVD Broadband is currently deploying its own facilities to allow it to provide voice and other services on a facilities basis in the exchanges in which it now seeks ETC designation and will begin selling its facilities-based services near the end of the third quarter of this year.

5. Upon completion of deployment of its facilities, TVD Broadband will provide facilities-based service throughout its service area as indicated in the map attached as Exhibit B.

6. TVD Broadband will have sufficient facilities and capacity to provide supported services throughout its service area in Kentucky. Additionally, TVD Broadband may provide supported services using a combination of its own facilities and resale of another carrier's facilities as necessary to fill in potential gaps in its network.

I. TVD BROADBAND QUALIFIES FOR DESIGNATION AS AN ETC.

TVD Broadband satisfies each of the elements required for ETC designation, as shown below.

- a. TVD Broadband will provide each of the services supported by the Federal High Cost Universal Service Program, as set forth in Section 214(e) of the Act and Section 54.101(a) of the Federal Communications Commission's rules. 47 C.F.R. §54.101(a). In order to be designated as an ETC, a carrier must be a common carrier and both offer and advertise the supported services throughout the designated service area.¹ The Federal Communications Commission has identified the following services as the core services to be offered by an ETC and supported by federal USF mechanisms. TVD Broadband will advertise and make available a "universal service" offering that includes all of the supported services for consumers in the designated service areas in Kentucky.

¹ The areas in which TVD Broadband seeks designation as an ETC are identified in Exhibit C.

1. Voice-Grade Access to the Public Switched Network – TVD Broadband will provide voice-grade access to the public switched network. TVD Broadband will have the capability to originate and terminate local and long distance telephone service for all of its subscribers.
2. Local Usage – TVD Broadband will offer several service options that include varying amounts of local usage in monthly service plans. TVD Broadband will also offer a rate plan that includes unlimited local usage. TVD Broadband will satisfy the local usage criterion for ETC designation based upon its offering of unlimited local usage calling plans.
3. Functional Equivalent of Touch-Tone (“DTMF”) Signaling – TVD Broadband’s switch will utilize DTMF signaling.
4. Single Party Service – TVD Broadband will meet the requirement of single-party service by providing a dedicated message path for the length of all customer calls.²
5. Access to Emergency Service – TVD Broadband will offer access to emergency service throughout its service area by dialing 911. Enhanced 911 (“E911”), which includes the capability of providing both automatic numbering information (“ANI”) and automatic location information (“ALI”), is required if a public emergency service provider makes arrangements for the delivery of such information.³ TVD Broadband will provide access to E911 services consistent with FCC rules and orders and local public service access point requests.
6. Access to Operator Services – TVD Broadband will offer its subscribers access to operator services and will make such services available throughout its designated service area.
7. Access to Interexchange Service – TVD Broadband will provide all of its customers with the ability to make and receive interexchange or toll calls through arrangements with an interexchange carrier (“IXC”).
8. Access to Directory Assistance – TVD Broadband will provide all of its customers with access to directory assistance by dialing “411” or “555-1212.”
9. Services for Qualifying Low-Income Customers – Once designated as an ETC, TVD Broadband will participate in Lifeline and Linkup programs for low-income subscribers as required, and will offer toll blocking to meet the FCC’s requirement.

² *Universal Service First Report and Order*, 12 FCC Rcd. at 8810, ¶ 62 (1997).

³ *Id.* at 8826-27, ¶ 90.

- b. TVD Broadband will provide the supported services under Section 214(e)(1)(A) of the Act and Section 54.101(a) of the Federal Communications Commission's rules using TVD Broadband's network infrastructure, consisting of switching, trunking, and network equipment, together with any expansions and enhancements to that network. TVD Broadband will have the ability and willingness to provide universal service throughout its service area and commits to using alternative methods, such as resale, to provide service to any customer that cannot be easily reached by TVD Broadband's facilities-based service.

II. TVD BROADBAND WILL ADVERTISE ITS UNIVERSAL SERVICE OFFERING.

TVD Broadband will advertise the availability of its universal service offering, and the associated charges, using media of general distribution once it is fully operational. The Company will use these media, as necessary, to insure that consumers within its designated service area are fully informed of its universal service offering.⁴ As a locally owned provider of services in the very communities it serves, TVD Broadband is financially vested in its market and is uniquely capable of meeting the needs of that market.

III. DESIGNATING TVD BROADBAND AS AN ETC WILL ADVANCE THE PUBLIC INTEREST.

TVD Broadband seeks designation in areas served by non-rural ILECs as well as in the rural area served by Coalfields Telephone Company. In areas served by non-rural ILECs a finding of advancing the public interest is not required. 47 USC § 214(e)(2). In areas served by rural telephone companies, however, the Commission must find that TVD Broadband's designation as an ETC would serve the public interest. *Id.*

⁴ TVD Broadband is developing its Internet site www.tvdbroadband.com to keep its customers and potential customers informed about its products and services including those required pursuant to its designation as an eligible carrier.

The FCC has determined that “[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies.”⁵ Designation of TVD Broadband as an ETC would promote competition and facilitate the provision of advanced communications services and the use of innovative technologies to residents of rural Kentucky. Moreover, TVD Broadband’s designation as an ETC will provide incentive to the ILECs to improve existing networks to remain competitive, resulting in improved services to consumers. Therefore, designation of TVD Broadband as an ETC will serve the public interest.

IV. ADDITIONAL INFORMATION SUPPLIED BY TVD BROADBAND.

- 1) Identify areas in which designation is sought where there is more than one ETC and explain the additional benefits to customers by allowing an additional ETC to be designated in these areas.

Several applicants, primarily wireless, have sought and received ETC status in the areas in which TVD Broadband seeks to serve. The Company is not a wireless provider, however, and is one of the few to bring a landline-based service to the areas in which it proposes to receive ETC designation. Despite the Windstream and BellSouth areas being designated “non-rural,” the eastern portions of the state in which TVD Broadband seeks ETC designation are geographically and economically rural. Few if any competitive service options exist for the customers in the communities in which the company seeks its designation.

- 2) Identify those facilities that will be used that are leased from other carriers, if any.

⁵ *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, Memorandum Opinion and Order, CC Docket No. 94-45, 16 FCC Red 48, 55 (2000).

TVD Broadband will lease facilities from wireline carriers to connect its switch in Harold, Kentucky with the access tandems with which it is connected for the exchange of LATA and interexchange traffic.

- 3) Provide a list and description of service offerings including number of minutes of use, rates and calling scope.

Attached as Exhibit D is a listing of the calling plans TVD Broadband will offer.

The company will also make available plans that mirror the offerings of both BellSouth and Windstream in the areas in which the company provides services.

- 4) Identify any gaps (areas where phone service is unavailable) in any of the areas in which ETC designation is sought.

TVD Broadband will not have any significant gaps in its Kentucky coverage area.

The company anticipates that it will readily serve any customers it cannot serve on its own facilities via resale arrangements.

- 5) How will Lifeline and Link-up services be provided? How will toll limitation service for Lifeline customers be provided?

TVD Broadband will participate in Lifeline and Link-up programs for low-income subscribers as required, and will offer toll blocking to meet the FCC's requirement. In addition, TVD Broadband will have a toll budget capability that will allow its customers access to long distance calling while maintaining a budget.

- 6) Describe the steps in place to provide service when a customer requests service and the request cannot be served by existing network facilities.

If a customer resides in an area where TVD Broadband is designated as an ETC and the customer cannot be served by TVD Broadband, the Company will provide the service via resale.

- 7) Describe and estimate the amount of USF support that the applicant expects to receive on an annual basis. Also, describe how these funds will be used to maintain or upgrade the applicant's network.

TVD Broadband estimates that it will receive approximately \$2.12 per month per access line in USF support if designated as an ETC in the requested areas of Kentucky. This is only an estimate and the annual total will vary based on the number of subscribers and the funding by wire center or zone established by the Universal Service Administration Company (USAC). TVD Broadband will use the funds to improve coverage in the existing TVD Broadband market in Kentucky.

- 8) TVD Broadband is capable of remaining functional in an emergency.

TVD Broadband shares its ownership with Coalfields Telephone Company an incumbent local service provider in the general area in which it provides service. It utilizes the same disaster recovery plan for its competitive network as it does for its incumbent provider. Its equipment operates on a redundant basis and its network is and will be deployed on as diverse a route as financially practical. In addition, the company also has an affiliate interest in Appalachian Wireless that gives it access to wireless services to further its ability to respond to network emergencies.

- 9) TVD Broadband will satisfy consumer protection and service quality standards.

TVD Broadband anticipates that its service quality will be its primary sales advantage in its market. Accordingly, the company intends to meet or exceed service quality standards. TVD Broadband will adhere to all applicable state and federal laws regarding, but not limited to, consumer protection.

- 10) TVD Broadband will offer local usage plans comparable to those offered by the incumbent local exchange carrier (ILEC) in the areas for which it seeks designation.

TVD Broadband will offer calling plans that are competitive with the ILECs in the exchanges it seeks to serve. The Company will provide *at a minimum* the same calling area as the ILEC while making available to its subscribers optional plans that expand the calling scope available to subscribers. As a full facilities-based service provider, the Company anticipates that its ability to offer more options to its subscribers will result in a superior grade of service as compared to that available from the ILECs.

- 11) TVD Broadband acknowledges that it may be required to provide equal access if all other ETCs in the designated service area relinquish their designations.

TVD Broadband will also provide any other required information that is requested by the Kentucky Public Service Commission or Federal Communications Commission as a part of any current or future rulings.

V. TVD BROADBAND CERTIFICATION OF THE DISPOSITION OF FEDERAL UNIVERSAL SERVICE FUNDING.

TVD Broadband certifies that it will use federal universal support “only for the provision, maintenance and upgrading of facilities and service for which the support is necessary” consistent with Section 254(e) of the Telecommunications Act of 1996. The Declaration

(attached hereto as Exhibit A) from Paul D. Gearheart, Vice President of TVD Broadband, certifies such and fully describes the telecommunications services TVD Broadband will offer.

VI. ANTI-DRUG ABUSE CERTIFICATION.

TVD Broadband certifies that no party to this Petition is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, and Sections 1.2001-1.2003 of the Federal Communications Commission's rules, 47 C.F.R. §§ 1.2001-1.2003. *See* Exhibit A.

VII. CONCLUSION.

WHEREFORE, for the reasons set forth above, TVD Broadband respectfully requests that the Commission issue an order as soon as is practicable designating TVD Broadband as an Eligible Telecommunications Carrier throughout the service areas identified in Exhibit C.

Respectfully submitted,



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(502) 585-2207 Facsimile
Counsel to TVD Broadband Services, LLC

Certificate of Service

I hereby certify that a true and accurate copy of the above was served upon the following via U.S. first-class mail, postage pre-paid, this 28th day of August, 2007.

Mary K. Keyer
General Counsel
AT&T-Kentucky
601 W. Chestnut Street, Room 407
Louisville, KY 40203

Daniel Logsdon
Vice President External Affairs
Windstream Kentucky East
130 West New Circle Road
Suite 170
Lexington, Kentucky 40505

Paul D. Gearheart
President
Coalfields Telephone Company, Inc.
P.O. Box 160
Harold, Kentucky 41635



Counsel to TVD Broadband Services, LLC

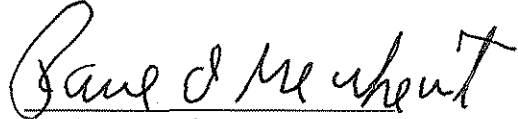
EXHIBIT A

Declaration of Paul D. Gearheart

Pursuant to 47 C.F.R. § 1.16, I, Paul D. Gearheart, do declare under penalty of perjury the following is true and correct.

1. I am Paul D. Gearheart, Vice President of TVD Broadband Services, LLC (“TVD Broadband”). The foregoing Petition For Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky has been prepared under my direction, supervision and control. The factual statements and representations contained therein are true and accurate to the best of my knowledge and belief.
2. TVD Broadband is a certified provider of resold and facilities-based telecommunications services in Kentucky.
3. TVD Broadband intends to obtain universal service support funding in certain high-cost areas served by non-rural Kentucky incumbent local exchange carriers (“ILECs”), specifically AT&T of Kentucky (f/k/a BellSouth), Windstream Kentucky East, and Gearheart Communications d/b/a Coalfields Telephone Company. TVD Broadband will use federal universal support “only for the provision, maintenance and upgrading of facilities and services for which the support is necessary” consistent with Section 254 (e) of the Telecommunications Act of 1996. As an ETC, TVD Broadband will offer a reduced-rate universal service package to subscribers who are eligible for Lifeline support. TVD Broadband’s service offerings will be competitive with the ILECs.
4. TVD Broadband will be capable of providing all of the service offerings required by and set forth in Section 214 (e) of the Communications Act of 1934, as amended, for “eligible telecommunications carriers.”
5. TVD Broadband will market the availability of its local services throughout its service area in the Commonwealth of Kentucky. In this regard, TVD Broadband’s marketing efforts will include printed, radio, television and billboard advertising. TVD Broadband will continue to expand upon these marketing efforts on a prospective basis as it expands its telecommunications services and products in Kentucky.
6. TVD Broadband certifies that it will offer the supported services using its existing network facilities and interconnection facilities owned or leased by TVD Broadband as well as leased facilities on a resale basis from the ILECs.
7. TVD Broadband requests ETC designation for the service areas identified in Exhibit C to the Petition.
8. High Cost Certification: TVD Broadband certifies that all high-cost universal service support received in Kentucky will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended.

9. Anti-Drug Abuse Certification: To the best of my knowledge, the applicant referred to in the foregoing Petition, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant as specified by Section 1.2002 (b) of the Federal Communications Commission's rules, are not subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.



Paul D. Gearheart
Vice President
TVD Broadband

COUNTY OF Floyd)
STATE OF KENTUCKY)

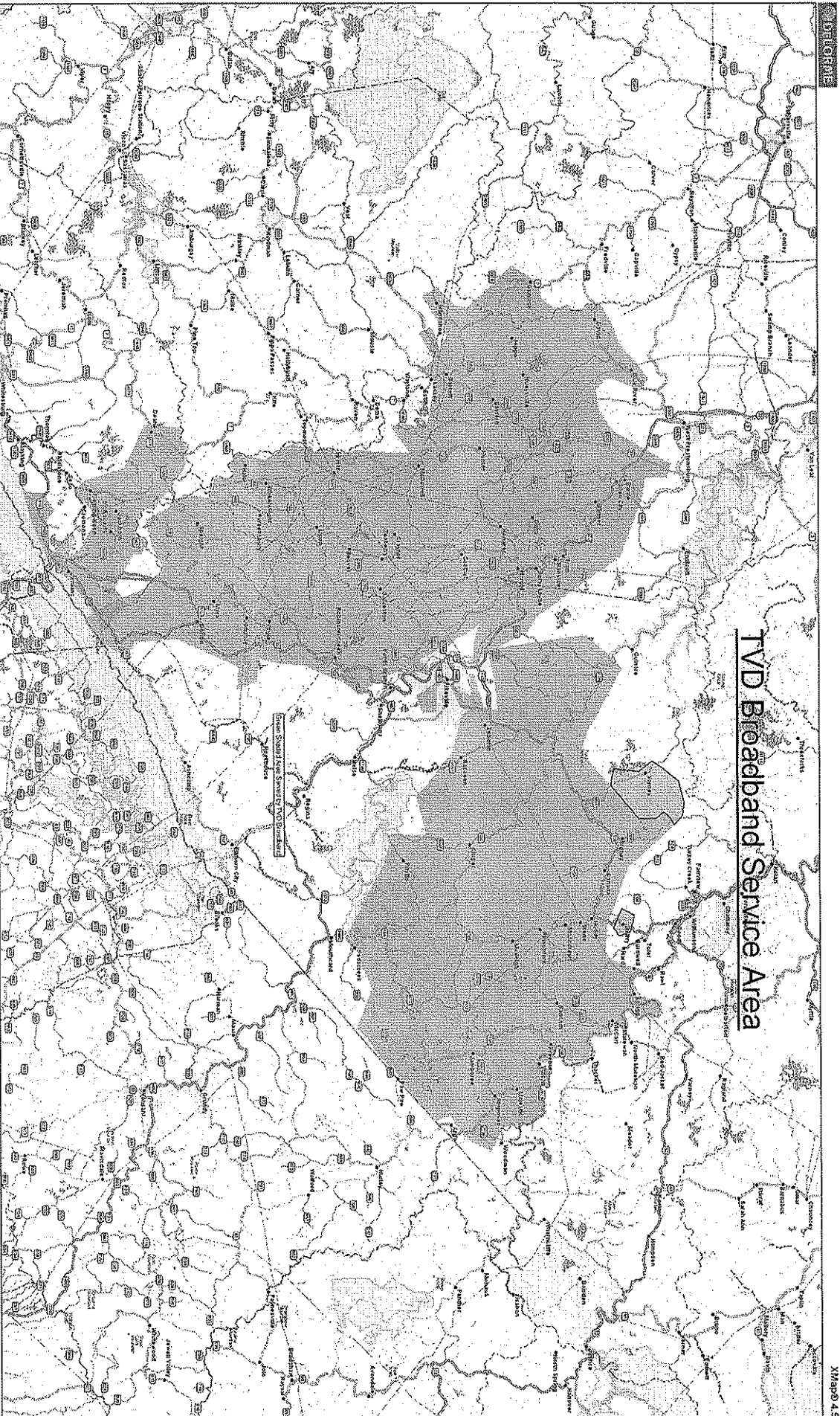
Subscribed and sworn to before me by Paul D. Gearheart on this 22 day of August, 2007.

NOTARY PUBLIC

Name NELL DAVIS TACKETT

Signature Nell Davis Tackett

Commission expiration Nov. 25, 2008



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EXHIBIT C

Designated Areas for Which TVD Broadband Seeks ETC Designation in Kentucky

<u>ILEC Name</u>	<u>Designation</u>	<u>Wire Center</u>
Windstream of KY	Non-rural	All
ATT of Kentucky	Non-rural	All
Gearheart Communications d/b/a Coalfields Telephone Company	Rural	All: Harold, Grethel, Wheelwright

EXHIBIT D

TVD Broadband's Proposed Calling Plans

<u>All Long Distance Plans</u>	<u>Monthly Fee</u>	<u>Volume</u>	<u>Overage</u>
Base rate / Local calling area ¹	<i>Included in base rate</i>	Unlimited	n/a

Long Distance rates for the completion of calls outside the local calling area:

- Platinum long distance – No monthly rate or minimum volume. Domestic rate 8¢ per minute interstate, 9¢ per minute, intrastate
- Emerald Plan (Residential only) – Monthly fee of \$4.75 and a 6.9¢ rate per minute.
- Biz Extra – Monthly fee of \$22.50 includes 500-domestic minutes and 8¢ per minute overage. Additional discounts available when purchased as part of a qualifying bundle of services / features.
- Biz Excel – Monthly fee of \$59.00 includes 2500-domestic minutes and 7¢ per minute overage. Additional discounts available when purchased as part of a qualifying bundle of services / features.
- Talk More – Monthly fee of \$11.00 includes 500-domestic minutes and 11¢ per minute overage. Additional discounts available when purchased as part of a qualifying bundle of services / features.
- Talk Max – Monthly fee of \$26.00 includes 1500-domestic minutes and 9¢ per minute overage. Additional discounts available when purchased as part of a qualifying bundle of services / features.
- Talk Max + – Monthly fee of \$20.00 includes 1,000-domestic minutes and 10¢ per minute overage. Additional discounts available when purchased as part of a qualifying bundle of services / features.

¹ Local calling areas defined to mirror that of the incumbent wireline provider pursuant to applicable tariff.