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FEB 3 2017

PUBLIC SERVICE  
COMMISSION

February 2, 2017

Executive Director Talina R. Matthews  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

Case No. 2017-00061

RE: Peoples Telecom, LLC Application for Eligible Telecommunications Carrier Designation

Dear Director Matthews:

Peoples Telecom, LLC ("PTC") by counsel hereby submits its Application for Eligible Telecommunications Carrier ("ETC") status. The company is requesting ETC designation so that it may provide lifeline services and participate in any programs that may require such designation.

Included with this filing are one (1) original and ten (10) copies of the Application and a Request for Confidential Treatment.

Please call or email me with any questions.

Sincerely,

Eileen M Bodamer  
Peoples Telecom, LLC

Enc.

Cc (email): Brian P. McCoy (atty)  
Keith Gabbard

RECEIVED

FEB 3 2017

PUBLIC SERVICE  
COMMISSION

BEFORE THE  
KENTUCKY PUBLIC SERVICE COMMISSION

*In the matter of:*

PETITION OF PEOPLES TELECOM, LLC )  
FOR DESIGNATION AS AN ELIGIBLE )  
TELECOMMUNICATIONS CARRIER )  
IN THE COMMONWEALTH OF )  
KENTUCKY )

Case No. 2017-00061

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

**I. REQUEST FOR ETC DESIGNATION**

1. Peoples Telecom, LLC (“PTC”) 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 throughout its service area in LATA 466 in the exchanges served by AT&T of Kentucky and Windstream<sup>1</sup>. Neither provider is a rural carrier. Grant of this Petition is in the public interest because it will allow PTC to bring high quality competitive services to subscribers, including those eligible for Lifeline services, in the communities in which it seeks ETC designation. An affidavit attesting to the Applicant’s use of funds is included in **Exhibit A**.

2. PTC provides service pursuant to its Tariff PSC No. 1 – Local Exchange on file with the Commission as well as through contracts for bundled, non-tariffed services.

<sup>1</sup> At this time, the company has either deployed or intends to deploy services in the following LATA 426 exchanges: Beattyville, Berea, East Bernstadt, Irvine, Livingston, London, Manchester, Mt. Vernon, and Oneida.

3. PTC is incorporated in the state of Kentucky and is wholly owned by Peoples Rural Telephone Coop. Corp., Inc. 1080 Main Street South / P.O. Box 159, McKee, KY 40447-0159.

4. PTC has been operating as a competitive local exchange carrier via its own facilities since 2015. The company has deployed or will deploy its own facilities to the exchanges in which it seeks ETC designation and will serve customers in those exchanges that are on its network.

5. PTC is one of the few, if not only, facilities-based providers of voice and broadband services in several of the exchanges in which it is seeking ETC designation. Several of its exchanges are among the poorest in the country and residents are more likely to be Lifeline eligible. Accordingly, PTC's lack of state and federal Lifeline support is a barrier to selecting PTC as a service provider.

6. PTC will have sufficient facilities and capacity to provide supported services throughout its service area in Kentucky.

## **II. PTC QUALIFIES FOR DESIGNATION AS AN ETC**

1. PTC 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. 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. 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. PTC 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.

2. Pursuant to §54.101(1)(a), PTC will provide voice services that meet the following requirements:

- a. Voice-Grade Access to the Public Switched Network – PTC will provide voice-grade access, or its functional equivalent, to the public switched network. PTC will have the capability to originate and terminate local and long distance telephone service for all of its subscribers.
- b. Local Usage – PTC offers unlimited local calling to all of its subscribers.
- c. Access to Emergency Service – PTC 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. Therefore, PTC meets the requirement to provide access to emergency service.
- d. Toll Limitation Services to Qualifying Low-income Consumers – Once designated as an ETC, PTC will participate in the Lifeline program for low-income subscribers as required, and will offer toll blocking to meet the FCC’s requirement.

3. Pursuant to §54.101(1)(b), PTC will provide broadband services<sup>2</sup> with the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service. Company broadband speeds will meet or exceed FCC required speed and usage allowances for fixed broadband offering.

4. Pursuant to 54.201(d)(1) PTC states that it will provide supported services using PTC’s network infrastructure, consisting of switching, trunking, and network equipment, together with any expansions and enhancements to that network. PTC will have the ability and willingness to provide service throughout its service area. PTC uses its own facilities for last mile connections with its subscribers. Its lease of facilities provided by other wireline carriers is

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<sup>2</sup> PTC recognizes that because the KY Public Service Commission does not regulate broadband, state lifeline support is not available for broadband-only service in Kentucky.

limited to the connection of its switch in McKee with the public switched telephone network for the exchange of local and toll traffic. Specifically, PTC uses the inter-office network facilities leased from its owner, Peoples Rural Telephone Cooperative, and affiliate, East Kentucky Network, for traffic exchange in LATA 466, as well as third party facilities used for toll and international calling, collocation services, and network diversity. The company further anticipates using facilities of other affiliated entities as the opportunity to further diversify its network become available.

5. Pursuant to §54.201(d)(2) PTC will advertise the availability of its ETC required service offerings, and the associated charges, using media of general distribution. The company will use these media, as necessary, to insure that consumers within its designated service area are fully informed of its services. As a locally owned provider of services in the very communities it serves, PTC is financially vested in its market and is uniquely capable of meeting the needs of that market. **Exhibit B** provides a sample of the company's advertising.

### **III. DESIGNATING PTC AS AN ETC WILL ADVANCE THE PUBLIC INTEREST**

PTC seeks designation in the exchanges served by Windstream and AT&T of Kentucky and is not seeking designation in any rural service areas. In areas served by non-rural ILECs a finding of advancing the public interest is not required.<sup>3</sup> However designation of PTC as an ETC would promote competition and facilitate the provision of advanced communications services and the use of innovative technologies to residents of these Kentucky exchanges. Therefore, designation of PTC as an ETC will serve the public interest.

### **IV. ADDITIONAL REQUIREMENTS**

1. Pursuant to §54.202(a)(1)(i) an affidavit supporting that PTC will comply with the service requirements applicable to the support that it receives in provided in **Exhibit A** of this

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<sup>3</sup> 47 USC §54.201(c)

Application. PTC has not estimated the amount of support for which it may be eligible. Its petition is made to give the company access to a full range of options for its subscribers. The company may, however, seek additional funds as an ETC should such opportunity present itself and would use its designation as an ETC, per this Application, as its basis for doing so.

2. Pursuant to §54.202(a)(1)(ii) a five year plan detailing its intended operating areas including population estimates in included in **Exhibit C** of this Application.

3. Pursuant to §54.202(a)(2) PTC states that it is capable of remaining functional in an emergency. PTC shares its ownership with Peoples Rural Telephone Cooperative, an incumbent local service provider in the LATA in which it seeks designation. 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. PTC states that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged ringed facilities, and is capable of managing traffic spikes resulting from emergency situations.

4. Pursuant to §54.202(a)(3) PTC will satisfy consumer protection and service quality standards. PTC anticipates that its service quality and variety of offerings will be its primary sales advantage in its market. Accordingly, the company intends to meet or exceed service quality standards. PTC will adhere to all applicable state and federal laws regarding, but not limited to, consumer protection. As previously noted, PTC will share the same employees and procedures with its parent company, Peoples Rural Telephone Cooperative, and accordingly brings a level of experience to meeting or exceeding consumer standards.

**V. PTC CERTIFICATION OF THE DISPOSITION OF FEDERAL UNIVERSAL SERVICE FUNDING.**

PTC 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 Affidavit (attached hereto as **Exhibit A** from Keith Gabbard, certifies such and fully describes the telecommunications services PTC will offer.

**VI. ANTI-DRUG ABUSE CERTIFICATION.**

PTC 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, PTC respectfully requests that the Commission issue an order as soon as is practicable designating PTC as an Eligible Telecommunications Carrier throughout the service areas identified in this Application.

Respectfully submitted,

  
\_\_\_\_\_  
Brian P. McCoy  
Attorney to Peoples Telecom, LLC

Triplett & McCoy Law Office  
464 Main St. South P.O. Box 1294  
McKee, KY 40447  
T: 606-287-3280  
F: 888-236-7146  
[brian@triplettmccoy.com](mailto:brian@triplettmccoy.com)

**Certificate of Service**

I hereby certify that a true and accurate copy of the above was served upon the following via Federal Express sent this 2<sup>nd</sup> day of February, 2017.

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

Tony Taylor  
AT&T Kentucky  
Executive Director Regulatory  
601 West Chestnut St  
Louisville, KY 40203



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Eileen M Bodamer  
Consultant to Peoples Telecom, LLC



**EXHIBIT A**

**Declaration of Keith Gabbard**

**Declaration of Keith Gabbard**

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

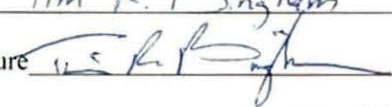
1. I am Keith Gabbard, President and General Manager Peoples Telecom, LLC ("PTC"). The foregoing "Petition of Peoples Telecom, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Kentucky" has been prepared under my direction, supervision and control. The factual statements and representations contained therein are true and accurate to the best of my knowledge and belief.
2. PTC intends to obtain low income universal service support funding upon receipt of ETC designation and 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, PTC will offer a reduced-rate universal service package to subscribers who are eligible for Lifeline support. PTC's service offerings will be competitive with the ILECs.
3. PTC 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."
4. 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.

  
 \_\_\_\_\_  
 Keith Gabbard, President and General Manager  
 Peoples Telecom, LLC

COUNTY OF Jackson )  
 )  
 STATE OF KENTUCKY )

Subscribed and sworn to before me by Keith Gabbard on this 1st day of February, 2017.

NOTARY PUBLIC

Name Tim R. Bingham  
 Signature   
 Commission expiration 5-20-20

**EXHIBIT B**

**Sample Advertising**



We're excited about the opportunity to serve your neighborhood with our **100% Fiber Network!**

## UNLIMITED INTERNET

We have the **SPEEDS** to meet your **NEEDS!**  
**WITH NO DATA CAP!**

Packages start at \$59.95 for \*15 Mb  
*\*Upload/Download speed*

Add voice with ALL features to your Broadband package for only \$15 per month.

## PHONE



Add our unlimited long distance calling package for \$9.50 per month.

## TELEVISION

We also offer great TV packages including local channels, exciting sports channels and premium movie channels.

Packages start at \$19.95

Visit [www.prtcnet.org](http://www.prtcnet.org) for more information



*We also offer bundle savings and paperless billing options.*

[www.prtcnet.org](http://www.prtcnet.org)

PEOPLES TELECOM

(606) 287-7101



We're excited about the opportunity to serve your business with our **100% Fiber Network!**

## UNLIMITED INTERNET

Add voice with ALL features to your Broadband package for only \$25 per month.

*Add additional lines for \$19 each*

We have the **SPEEDS** to meet your **NEEDS!**  
**WITH NO DATA CAP!**

Packages start at \$59.95 for \*15 Mb  
*\*Upload/Download speed*

## PHONE



*Add our unlimited long distance calling package for \$9.50 per month.*

## TELEVISION

We also offer great TV packages including local channels, exciting sports channels and premium movie channels.

**Packages start at \$19.95**



*Take advantage of our paperless billing option.*

**EXHIBIT C**

**5-Year Plan**

Peoples Telecom, LLC  
Application for ETC Status

CONFIDENTIAL Exhibit C

Date	Exchange	County	Upgrade	Add'l Premises Served
Current	Beattyville	Lee		
Current	E. Bernstadt	Laurel		
Current	Livingston	Rockcastle		
Current	Mt. Vernon	Rockcastle		
Current	Irvine	Estill		
3Q17				
3Q17				
through 2018				
2018-2019				
2019-2021				
2019-2021				
2020-2021	all	all	Maintenance / upgrades per requested or as needed	n/a

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

FEB 3 2017

PUBLIC SERVICE  
COMMISSION

In the Matter of:

PETITION OF PEOPLES TELECOM, LLC )  
FOR DESIGNATION AS AN ELIGIBLE )  
TELECOMMUNICATIONS CARRIER )  
IN THE COMMONWEALTH OF )  
KENTUCKY )

Case No. 2017-00061

**PETITION OF PEOPLES TELECOM, LLC  
FOR CONFIDENTIAL TREATMENT**

Peoples Telecom, LLC (“PTC”) hereby petitions the Kentucky Public Service Commission (the “Commission”), pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, to grant confidential treatment to certain information PTC is contemporaneously filing with its application for Designation as an Eligible Telecommunications Carrier (the “Application”). The information PTC seeks to protect as confidential is hereinafter referred to as the “Confidential Information.”

Pursuant to 807 KAR 5:001, Sections 13(2)(a)(3) and 13(2)(b), one (1) copy of the hardcopy pages containing Confidential Information, with the Confidential Information highlighted with transparent ink, printed on yellow paper, or otherwise marked “CONFIDENTIAL,” is being filed with this petition. A copy of those pages with the Confidential Information redacted is being filed with the original and each of the ten (10) copies of the application filed with this petition.

The Confidential Information is not publicly available, is not disseminated within PTC except to those employees and professionals with a legitimate business need to know and act



upon the information, and is not disseminated to others without a legitimate need to know and act upon the information.

If and to the extent the Confidential Information becomes generally available to the public, whether through filings required by other agencies or otherwise, PTC will notify the Commission and have the information's confidential status removed pursuant to 807 KAR 5:001, Section 13(1)(b).

As discussed below, the Confidential Information is entitled to confidential treatment based upon KRS 61.878(1)(c)(1), which protects "records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records."

#### **APPLICABLE LAW**

807 KAR 5:001, Section 13(2)(a), sets forth the procedure by which certain information filed with the Commission may be treated as confidential. The regulation provides that a party seeking confidential treatment of certain information must:

Establish specific grounds pursuant to KRS 61.878, upon which the Commission should classify that material as confidential;

State the time period in which the material should be treated as confidential and the reasons for the time period; and

Include[ ] in a separate sealed envelope marked confidential, one (1) copy of the material . . . which identifies by underscoring, highlighting with transparent ink, or other reasonable means only those portions which unless redacted would disclose confidential material.

The Kentucky Open Records Act, KRS 61.870, *et seq.*, exempts certain records from the requirement of public inspection. In particular, KRS 61.878(1)(c)(1) provides the following exemption from the requirement of public inspection:

records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would present an unfair commercial advantage to competitors of the entity that disclosed the records.

### **ARGUMENT**

#### **I. Disclosure of the Confidential Information Would Grant PTC's Competitors an Unfair Commercial Advantage**

The Confidential Information identified in Exhibit C of PTC's Application consists of information related to PTC's business plans for its network expansion including the exchanges and populations that it intends to target for future competitive ventures. This information "if openly disclosed would present an unfair commercial advantage to competitors" of PTC, and it therefore qualifies as protectable confidential information pursuant to KRS 61.878(1)(c)(1).

The highlighted information contained in PTC's Application would result in an "unfair commercial advantage to competitors" of PTC if disclosed. PTC, as a participant in the telecommunications and broadband markets, faces economic competition from other entities in the same markets it serves or will serve. Much of its success is in serving areas that have been ignored by incumbent providers. Premature disclosure of its deployment plans would provide an opportunity for the company's competitors to allocate resources to PTC markets as a pre-emptive competitive strike against PTC impeding its business plans.

The Confidential Information for which PTC seeks confidential treatment under KRS 61.878(1)(c)(1) is generally recognized as confidential or proprietary under Kentucky law.

Information about a company's detailed inner workings is generally recognized as confidential or proprietary. See, e.g., *Hoy v. Ky. Indus. Revitalization Auth.*, 907 S.W.2d 766, 768 (Ky. 1995) (“It does not take a degree in finance to recognize that such information concerning the inner workings of a corporation is ‘generally recognized as confidential or proprietary . . . .’”); *Marina Mgmt. Servs. v. Cabinet for Tourism*, 906 S.W.2d 318, 319 (Ky. 1995) (“The most obvious disadvantage may be the ability to ascertain the economic status of the entities without the hurdles systematically associated with the acquisition of such information about privately owned organizations.”).

The disclosure of this confidential and proprietary information would provide competitors an unfair competitive advantage, allowing them insight into PTC's planner operations and giving them the ability to unfairly tailor their competitive efforts against PTC in light of this Confidential Information. For these reasons, PTC respectfully requests that the Commission grant confidential treatment to the Confidential Information.

## **II. Time Period**

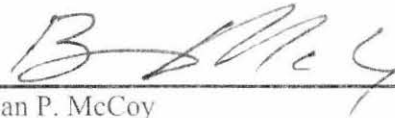
Pursuant to 807 KAR 5:001, Section 13(2)(a)(2), PTC requests that the Confidential Information remain confidential for a period of five (5) years from the date of this petition, which should allow sufficient time for the projected data to become sufficiently outdated that it could not be used to determine similar Confidential Information at that time.

## **CONCLUSION**

Based on the foregoing, the Confidential Information is entitled to confidential treatment. If the Commission disagrees that PTC is entitled to confidential treatment, due process requires the Commission to hold an evidentiary hearing. *Utility Regulatory Comm'n v. Kentucky Water Serv. Co., Inc.*, 642 S.W.2d 591 (Ky. App. 1982).

WHEREFORE, PTC respectfully requests that the Commission classify and protect as confidential the Confidential Information.

Respectfully submitted,



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Brian P. McCoy  
Attorney to Peoples Telecom, LLC

Triplett & McCoy Law Office  
464 Main St. South P.O. Box 1294  
McKee, KY 40447  
T: 606-287-3280  
F: 888-236-7146  
[brian@triplettmccoy.com](mailto:brian@triplettmccoy.com)

Certificate of Service

I hereby certify that a true and accurate copy of the above was served upon the following via Federal Express sent this 2<sup>nd</sup> day of February, 2017.

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

Tony Taylor  
AT&T Kentucky  
Executive Director Regulatory  
601 West Chestnut St  
Louisville, KY 40203



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Eileen M Bodamer  
Consultant to Peoples Telecom, LLC