

**BEFORE THE SOUTH DAKOTA
PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE JOINT
APPLICATION FOR APPROVAL OF AN
AMENDMENT TO THE CERTIFICATE
OF AUTHORITY OF ROBERTS
COUNTY TELEPHONE COOPERATIVE
ASSOCIATION AND FOR WAIVER OF
CERTAIN REQUIREMENTS OF A.R.S.D.
20:10:32:03**

DOCKET NO. _____

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COME NOW, the Applicants, Roberts County Telephone Cooperative Association, a South Dakota cooperative corporation ("**Roberts County**") and its wholly-owned subsidiary, RC Communications, Inc., a South Dakota corporation ("**RC Communications**", Roberts County and RC Communications, jointly the "**Applicants**" or individually, an "**Applicant**"), by and through their undersigned counsel, in connection with the merger of RC Communications with and into Roberts County, as described in this Application, jointly request that, pursuant to the provisions of SDCL §49-31-3, §49-31-69 and §49-31-75, the South Dakota Public Utilities Commission (the "**Commission**") approve the following:

(1) an amendment to the Certificate of Authority held by Roberts County to permit it to offer local exchange service to the former customers of RC Communications in the Veblen, Peever, Wilmot and Summit local telephone exchanges (the "**RC Communications Exchanges**");

(2) an amendment to the Certificate of Authority held by RC Communications, to permit Roberts County, as the successor by merger of RC Communications, to operate as a competitive local exchange carrier in the areas presently served by RC Communications d/b/a RC Services, and in compliance with the terms, provisions and conditions of the applications of RC

Communications and the Order of the Commission granted under Docket No. TC 06-052 (covering the Milbank service area); and

(3) a request for waiver of the requirements under A.R.S.D. 20:10:32:03: (6), (7), (8)(c), (10), (13), (14), (15), (18), (19), (20) and (22).

IN SUPPORT THEREOF, Applicants do state and declare as follows:

1. Applicant Roberts County is a South Dakota cooperative corporation with its principal office located at 205 Main Street, New Effington, South Dakota 57255. The Federal Identification Number of Roberts County is 46-0182710 and the South Dakota Sales Tax Number is 1014-2084 ST. A copy of the authority to transact business in the State of South Dakota from the Secretary of State is attached hereto as Exhibit A and is incorporated herein by reference. Roberts County presently holds a Certificate of Authority issued by the Commission (the "**Roberts County Certificate**") and operates as a incumbent local exchange carrier ("**ILEC**") in two local telephone exchanges (New Effington and Claire City) serving approximately 422 access lines located within the State of South Dakota. Roberts County is the sole shareholder and parent corporation of RC Communications.

2. Applicant RC Communications is a South Dakota corporation with its principal office located at 205 Main Street, New Effington, South Dakota 57255. The Federal Identification Number of RC Communications is 46-0434741 and the South Dakota Sales Tax Number is 1016-7210 ST. A copy of the authorization to transact business in the State of South Dakota from the Secretary of State is attached hereto as Exhibit B and is incorporated herein by reference. RC Communications presently holds a Certificate of Authority issued by the Commission (the "**RC Communications Certificate**") and operates as an incumbent local exchange carrier in four local telephone exchanges (Veblen, Peever, Wilmot and Summit)

serving approximately 1,206 total access lines. RC Communications is a wholly-owned subsidiary of Roberts County. RC Communications also operates a division, called RC Services, which offers wireless voice over IP as a CLEC, with approximately 146 CLEC customers (outside the ILEC territory).¹ RC Communications d/b/a RC Services has been designated for ETC status for the Milbank, South Dakota service area, pursuant to Order TC 06-052, dated November 17, 2006. In addition, RC Communications d/b/a RC Services anticipates filing with the Commission a request for approval for the Watertown, South Dakota service area, which filing status and all rights thereunder would, at the time of the Merger, become an asset of Roberts County, which would step into the position of RC Services with respect thereto.

3. Both of the Applicants have previously submitted the information required by A.R.S.D. 20:10:32:03 and are in good standing with the Commission. Both of the Applicants are also in good standing with the Federal Communications Commission ("FCC").

4. Roberts County and RC Communications have entered into an Agreement and Plan of Merger, a copy of which is enclosed as Exhibit C and incorporated herein by reference (the "**Merger Agreement**"). On June 10, 2014, the cooperative members of Roberts County approved the merger (hereinafter the "**Merger**") of RC Communications (the wholly-owned subsidiary) into Roberts County (the parent company), in accordance with and subject to the terms of the Merger Agreement. Under the Merger Agreement, which is subject to the receipt of any required approval of state and federal regulatory authorities, including the Commission, is to be effective 11:59 p.m., December 31, 2014 ("**Merger Effective Time**"). The Merger Agreement was approved by the sole shareholder of RC Communications and its board of

¹ In addition to RC Communications, Roberts County also has a wholly-owned subsidiary, RC Technologies Corporation, which provides non-regulated internet and video services to customers.

directors as of April 29, 2014. Under the Merger Agreement, at the Merger Effective Time, the following transactions will occur:

(i) At 11:59 p.m. on December 31, 2014, RC Communications will be merged with and into Roberts County pursuant to the provisions of Section 47-18-5.1, South Dakota Cooperative Association Act;

(ii) Upon the consummation of the Merger, all of the assets and liabilities of RC Communications will become the assets and liabilities of Roberts County;

(iii) The customers of RC Communications formerly receiving local exchange telephone service from RC Communications that meet the requirements for patronage under the South Dakota Cooperative Association Act (Section 47-15-1(6)) will automatically become patrons of Roberts County upon the consummation of the Merger, receive patronage in accordance with Article 8 of the Roberts County Bylaws (a copy of the Amended and Restated Bylaws of Roberts County, as approved by the members of Roberts County at its 2014 Annual Meeting, and as such will be amended at the Merger Effective Time is enclosed as Exhibit D, and incorporated herein by reference);

(iv) The customers of RC Communications formerly receiving local exchange telephone service from RC Communications that meet the requirements for membership under the South Dakota Cooperative Association Act (Section 47-15-1(5)) and Article I of the Roberts County Bylaws will become eligible for membership in accordance with Sections 1.1 and 1.2 of the Bylaws.²

² Under Section 1.2 of Roberts County Bylaws (as amended at the Merger Effective Time), a customer must procure "telecommunications services through the Cooperative's central office by means of either dial tone or broadband... for a minimum of 12 months" through one of the following exchanges to become eligible for membership in the Cooperative: New Effington, Claire City, Veblen, Wilmot, Peever or Summit. Under Section 1.1 of Roberts County Bylaws, each person (including legal entities) eligible for membership is required to make a written application for membership, agree to purchase services (as defined) from the Cooperative, and agree to comply with the Articles of Incorporation and Bylaws of the Cooperative.

(v) Effective as of the close of business on December 31, 2014, Roberts County will allocate its 2014 operating margin and its accumulated non-operating margins to its existing patrons. No patron of Roberts County will lose any capital credits or any entitlement thereto, as a result of the Merger.

5. The Merger Agreement has received all necessary member and shareholder approvals:

(i) On June 10, 2014, at its Annual Meeting, the members of Roberts County approved the Agreement and Plan of Merger by a vote of 93 votes in favor, 7 votes against, and 2 abstaining;

(ii) As the sole shareholder of RC Communications, Roberts County approved the Merger by written consent as of April 29, 2014.³

6. In accordance with the Merger Agreement approved by the Roberts County members, at the Merger Effective Time, Article I of the Articles of Incorporation of Roberts County will be amended to change the legal name of Roberts County from "Roberts County Telephone Cooperative Association" to "RC Technologies" (Exhibit A to Merger Agreement). Therefore, commencing January 1, 2015, Roberts County Telephone Cooperative Association will be conducting business and operating its exchanges, both Roberts County exchanges and former RC Communications exchanges under the name "RC Technologies."

7. The contact information for Roberts County is as follows:

Roberts County Telephone Cooperative Association
Scott Bostrom
205 Main St
P.O. Box 197
New Effington, SD 57255-0197
Office: 605-637-5211

³ At the June 10, 2014 Annual Meeting, the members of Roberts County also approved the merger of the non-regulated subsidiary, RC Technologies Corporation, in Roberts County, effective as of December 31, 2014.

Fax: 605-637-5302
Email: sbostrom@rctca.net
Website: www.tnics.com

Following the Merger, the contact information for any complaints or regulatory matters, including those of RC Communications, should be directed to Roberts County (former name)/RC Technologies (new name), whose contact information shall remain the same. Further, the South Dakota Sales Tax Number and the Federal Identification Number of Roberts County shall remain the same following the Merger.

8. The service area maps indicating the geographic areas presently served by Roberts County and RC Communications as ILECs are presently on file with the Commission and will remain unchanged.

9. In addition to the service areas presently served by Roberts County and RC Communications as an ILEC, Roberts County will, as the successor by merger to RC Communications, operate as a CLEC in the areas presently served by RC Communications d/b/a RC Services.

10. The audited consolidated financial statements of Roberts County and its subsidiaries for the fiscal years ended December 31, 2013 and 2012 are attached hereto as Exhibit E (as confidential information, pursuant to ARSD 20:10:01:39).

11. Following the consummation of the Merger, Roberts County will assume full responsibility for any remaining liabilities of RC Communications, if any, including without limitation, any unpaid regulatory assessments. Further, Roberts County will be responsible for filing any other final annual reports, or comparable reports, on behalf of RC Communications prior to the applicable deadlines.

12. Upon the consummation of the Merger, any and all of RC Communication's interconnection agreements, if any, shall be assigned to, and assumed by, Roberts County.

13. There will be no changes in the telephone numbers, prefixes, or area codes (NXX codes) of any of the persons or entities receiving local telephone exchange service in the areas currently served by RC Communications as a result of the Merger.

14. None of the EAS arrangements of RC Communications or Roberts County shall change as a result of the Merger.

15. Following the Merger, the customers of RC Communications will change from being customers of a for-profit corporation to patrons of a cooperative (Roberts County) and will receive patronage allocations and dividends following the Merger. Those customers meeting the requirements for membership (as described in paragraph 4(iv) above), and becoming members of Roberts County following the Merger will be entitled to vote as a member on the same basis as all other members of Roberts County and will be eligible to become members of the Roberts County Board of Directors (in accordance with Roberts County Bylaw provisions). All of the customers of RC Communications will receive written notice by mail describing the transaction and its implications, including, without limitation information on Roberts County's current rates, terms and conditions for all telecommunications services. Such notice will be sent out following requisite regulatory and third party approvals to the transaction.

16. Roberts County has the managerial, technical and financial resources to adequately provide local telephone exchange services in the areas served by RC Communications. Both Roberts County and RC Communications are currently under common management, including Scott Bostrom as General Manager, have identical boards of directors, and are administered from the same headquarters in New Effington, South Dakota. The Merger

will not change the Board membership, management, operations or administrative responsibilities of Roberts County, but is intended to reduce regulatory time and costs, and increase efficiencies, through the combined entity. Roberts County and RC Communications have a proven record of providing high quality communications services in rural areas and complying with all regulatory and safety requirements. Both Roberts County and RC Communications presently provide enhanced 911 services in all of their local telephone exchanges and Roberts County will continue to provide it in the areas currently served by RC Communications following the Merger.

17. Following the Merger, the accounting practices employed by Roberts County will not change materially from the way Roberts County and RC Communications operate currently. As Roberts County and RC Communications share the same staff and management, they already account for their costs separately between each company. For instance, staff members presently track their time dedicated to work associated with each company. Such time is then separately accounted for by each company in the companies' respective general ledgers. With respect to accounting for the work of management, RC Communications is assessed a fee in accordance with a management agreement between the companies. Following the Merger, Roberts County will continue to account for separate costs of the ILEC operations and for the separate costs associated with the operation of the CLEC area presently operated by RC Communications. On a going forward basis, management will account for its time dedicated to ILEC operations and CLEC operations, respectively, and operate the single unified legal entity (Roberts County) with two distinguishable internal divisions, ILEC operations and CLEC operations.

18. Neither the public interest nor the current customers of Roberts County or RC Communications will be harmed, or otherwise adversely affected, by the Merger. There will be

no discontinuance, reduction, or impairment of any of the services presently offered by Roberts County or RC Communications following the Merger. There will be no change in rates for local telephone services offered in the areas served by Roberts County or RC Communications solely as a result of the Merger. There will be no change in the method of calculating or paying any of the taxes payable to the State of South Dakota to which Roberts County and RC Communications are currently subject. There will be no reduction in the labor force of Roberts County or RC Communications solely as a result of the Merger, and the number of available service technicians will not decrease. Because of the currently shared management and administrative functions, there will be no material change in the management, operations or administration of the companies.

19. Upon completion of the Merger, Roberts County as successor to RC Communications requests the withdrawal of the RC Communications Certificate of Authority, and the Roberts County Certificate of Authority would, by means of the Merger, include the authority formerly granted to RC Communications through its Certificate of Authority. Upon completion of the Merger, Roberts County would, as the successor by Merger of RC Communications, operate as a CLEC in the manner currently operated by RC Communications.

20. Roberts County and RC Communications CLEC division (RC Services) do not plan to consolidate their access tariffs upon completion of the Merger. Roberts County and RC Communications ILEC division concur in the LECA and NECA access tariffs and will continue to concur in these tariffs following the Merger. Roberts County will coordinate with NECA and LECA to revise their respective tariffs to combine Roberts County and RC Communications ILEC tariff listings as RC Technologies. In addition, Roberts County will propose to amend the

RC Communications CLEC tariff to substitute Roberts County as the carrier and further identify the access tariff as the Roberts County CLEC tariff (under the new name of RC Technologies).

21. Roberts County shall notify the South Dakota Department of Public Safety and the Statewide 911 Program, of the pending transaction.

22. Roberts County will provide the Commission with notification immediately following the closing of the Merger.

WHEREFORE, Applicants respectfully request that the Commission grant the following:

A. An amendment of the Roberts County Certificate to permit Roberts County to provide local telephone exchange service in the Veblen, Peever, Wilmot and Summit exchanges on and after January 1, 2015;


B. An amendment of the RC Communications Certificate to permit Roberts County, as the successor by merger to RC Communications, to operate as a competitive local exchange carrier in the areas presently served by RC Communications, and in accordance with the application of RC Communications and the corresponding Order of the Commission granted in Docket No.TC 06-052 (Milbank Service Area);

C. Waiver of the requirement to submit the information enumerated under A.R.S.D. 20:10:32:03: (6), (7), (8)(c), (10), (13), (14), (15), (18), (19) (20) and (22); and

D. Such other relief, consents, or authorizations as the Commission may deem necessary or appropriate and in the public interest to consummate the transactions described in this Application.

Dated this 20th of October, 2014.

BAIRD HOLM, LLP
Attorneys at Law

By:  _____

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