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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE JOINT  
APPLICATION OF KITE PARENT  
CORP. AND ITS SUBSIDIARIES AND  
CLARITY TELECOM, LLC FOR  
APPROVAL OF THE SALE OF  
TELEPHONE EXCHANGES

Docket No. TC \_\_\_\_\_  
  
JOINT APPLICATION FOR  
APPROVAL OF SALE OF  
TELEPHONE EXCHANGES,  
TRANSFER OF CERTIFICATES OF  
AUTHORITY AND ETC  
DESIGNATIONS, AND AMENDMENT  
OF TARIFFS

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**JOINT APPLICATION**

The following Joint Application is submitted to the South Dakota Public Utilities Commission (the “Commission”), pursuant to SDCL §§ 49-31-59, 49-31-3, 49-31-78, and 49-31-12.4 and 12.5, by Kite Parent Corp. (a subsidiary of WideOpenWest Finance, LLC, (“WOW!”)), on behalf of itself and its subsidiaries Knology of the Plains, Inc. (“Knology Plains”), Knology of the Black Hills, LLC (“Knology Black Hills”), Knology Community Telephone, Inc. (“Knology CT”), Knology of South Dakota, Inc. (“Knology SD”), and Black Hills Fiber Systems, Inc. (“Black Hills Fiber,” and together with each of the foregoing, “WOW! South Dakota”) and Clarity Telecom, LLC (“Clarity” and together with “WOW! South Dakota,” the “Applicants”), by and through their undersigned counsel.

WOW! South Dakota and Clarity have entered into an Asset Purchase Agreement as of June 12, 2014 (the “Purchase Agreement”), a copy of which is attached as Confidential Exhibit A. Pursuant to the Purchase Agreement, Clarity will purchase substantially all of the assets of WOW! South Dakota, or its designated subsidiaries (the “Purchase”).

The Applicants request any and all consents and approvals from the Commission necessary to perform the transactions contemplated under the Purchase Agreement, including but not limited to all consents and authorizations necessary for:

- (a) The completion of the Purchase and transfer of assets in accordance with the terms of the Purchase Agreement, pursuant to the provisions of SDCL § 49-31-59;
- (b) Clarity, following the Purchase, to: (a) own substantially all of the assets of Knology CT, Knology Plains, and Knology Black Hills used to operate their telecommunications exchanges in South Dakota; (b) provide service to the customers of Knology CT, Knology Plains, and Knology Black Hills; (c) amend the Certificates of Authority to the name of Clarity; (d) be designated as an eligible telecommunications carrier (“ETC”) in the exchanges owned and operated by Knology CT and Knology Black Hills where they currently have ETC status; and (e) amend the South Dakota Access Tariffs of Knology CT, Knology Plains, and Knology Black Hills, currently on file with the Commission, to the name of Clarity; and
- (c) Knology CT and Knology Black Hills to relinquish their ETC designations.

Applicants request that the Commission grant all consents and approvals to allow Applicants to complete the Purchase by September 30, 2014.

## **I. THE PARTIES**

1. WOW! South Dakota. WOW! South Dakota is owned by WOW!, a diversified communications service provider with corporate headquarters in Englewood, Colorado. Through its operating subsidiaries, WOW! provides an array of communications, video, and broadband

service, including digital cable, HDTV, DVR, high speed Internet and local and long distance phone service. WOW!'s wholly-owned subsidiary, Kite Parent Corp., is the parent company of the WOW! South Dakota companies -- Knology Plains, Knology Black Hills, Knology CT, Knology SD, and Black Hills Fiber.

Knology CT is a rural ILEC and former cooperative that provides local exchange services in 26 rural communities in southeastern South Dakota. Knology Plains is a rural CLEC that provides facilities-based competitive voice, cable and broadband Internet access services in Sioux Falls, South Dakota and in 39 rural communities in eastern South Dakota, southwestern Minnesota and Storm Lake, Iowa. Knology Black Hills is a rural CLEC that provides facilities-based competitive voice, cable and broadband Internet access services in Rapid City, South Dakota and in eleven other rural communities in an area of the Black Hills of western South Dakota known as the Northern Hills. The WOW! South Dakota companies provide communications services over their own fiber optic, copper, and coaxial cable facilities throughout their service areas and also provide interexchange services through resale arrangements with other carriers.

2. Clarity. Clarity is a newly formed telecommunications provider headquartered in Sikeston, Missouri. Clarity is managed by a team of experienced telecom professionals who have operated cable television systems together for more than twenty years, providing video programming services and a suite of advanced communications services, including high speed Internet access, digital voice, home monitoring, whole home solutions, and fiber optic transport connectivity. Clarity's management team previously managed and operated NewWave Communications, an integrated cable operator providing video, broadband and digital voice services to 160,000 customers in Kentucky, Tennessee, Indiana, Illinois, southeast Missouri, and

northeast Arkansas until its sale through multiple dispositions, the last in May 2013. The President and CEO of Clarity is James M. Gleason; its Chief Financial Officer is J. Keith Davidson; and its Executive Vice President and Chief Operating Officer is Larry Eby. Messrs. Gleason, Davision and Eby, were respectively, the CEO, CFO and COO of NewWave Communications until its sale.

## **II. THE TRANSACTION**

3. The Purchase Agreement. WOW! South Dakota and Clarity have entered into the Purchase Agreement which provides that, contingent upon the receipt of certain regulatory and third party approvals, Clarity will purchase substantially all of the assets of Knology Plains, Knology Black Hills, Knology CT, and Knology SD used in the business of providing residential and commercial cable television services, local exchange services and interexchange services and high speed Internet services in South Dakota, Minnesota and Iowa.

4. Closing. The Transactions contemplated in the Purchase Agreement will close as soon as practicable following the receipt of certain regulatory and third party approvals. Clarity will operate the Exchanges and provide local telephone exchange service within its exchanges following the closing.

## **III. THE PROPOSED TRANSACTION IS IN THE PUBLIC INTEREST**

5. Statutory Standards – Protection of Public Interest. The public interest of the customers affected by this transaction will be protected because transfer of the assets from WOW! South Dakota to Clarity will be a seamless change for the customers. The public interest will be enhanced, however, because under the previous two owners of these exchanges, many of the operational functions were completed out of state. Clarity's focus will solely be the operation and expansion of the networks located in South Dakota, Minnesota and Iowa. Clarity

plans to upgrade the network infrastructure to significantly improve Internet speeds, enhance the quality of voice services for both residential and commercial customers, and offer new video products such as whole home DVR service. In addition, Clarity will begin to offer advanced home automation, monitoring and security. Clarity prides itself on providing first class customer service and plans to implement training and service programs that will ensure all customers devices in their homes are always connected. Clarity will also provide a President's Promise hotline in the event that customers are not completely satisfied or have unaddressed issues.

Further, in accordance with the provisions of SDCL § 49-31-59, the proposed transaction is in the public's best interest for the following reasons:

(a) Adequacy of local service. Clarity will utilize a state-of-the-art computer system and an in-house customer service and marketing training program to ensure high-quality service and to smoothly assimilate newly acquired networks into the company's operations. The company has developed an operating philosophy and procedures specifically to enhance management's ability to operate mid-size networks by performing all customer service, technical service, billing, payment and data processing in-house. This enables the company to provide a high level of technical operations and customer service. Clarity provides strong customer service orientation, through its dispatch system, allowing field personnel to operate systems in the most efficient manner while providing customer repairs in a timely manner. Clarity's operational headquarters will be relocated to South Dakota. All customer calls will be handled in a call center located in Sioux Falls. Local technicians are located in local communities throughout the service areas for efficient service. Clarity will implement a mobile work force management system so that when issues arise technicians can be dispatched expeditiously.

(b) Reasonableness of local rates. There will be no change in rates for local telephone services offered in the Exchanges following their purchase by Clarity resulting from the Purchase.

(c) Public safety. Clarity will provide modern, state of the art telecommunications services in the same manner as WOW! South Dakota has. WOW! South Dakota presently provides enhanced 911 services in all of their local telephone exchanges and Clarity will also provide enhanced 911 services in the exchanges.

(d) Taxes. Clarity will be subject to the same methods of calculating and paying taxes to the State of South Dakota as those to which WOW! South Dakota is subject, and there will therefore be no reduction in tax revenues to the State of South Dakota resulting solely from the purchase and sale of the Exchanges.

(e) Ability and commitment. Clarity is committed to providing modern state of the art telecommunication services. The company plans to continue to invest in both the network's hybrid fiber-coax (HFC) architecture as well as in existing copper plant, and through these and investments in system electronics it intends to double Internet access speeds available to subscribers. There will be no discontinuance, reduction, or impairment of any of the services presently offered by WOW! South Dakota in the Exchanges following the Purchase by Clarity.

WOW! South Dakota currently serves approximately 24,400 telephone customers in the state of South Dakota. In addition to telephony services, WOW! South Dakota offers various other communications services in its own service territory, which Clarity will continue to provide. These additional services include: (i) high-speed DSL Internet access service; and (ii) cable television service to approximately 24,600 subscribers in South Dakota. Following the approval of this transaction, Clarity plans to continue to offer high-speed DSL Internet access

service in the Exchanges and cable television service where currently provided by WOW! South Dakota.

(f) Notice. The parties plan to jointly issue a letter to each of the persons and entities receiving local telephone exchange service in the Exchanges notifying such persons and entities of the transactions contemplated in the Purchase Agreement. This notification will direct the customers to the Commission if there are any questions or concerns. This will be in addition to the statutory Notification contemplated in SDCL § 49-31-59.

6. Services and Operations. The Purchase will not cause any significant changes to the services provided or operations of Knology CT, Knology Plains, and Knology Black Hills. Specifically:

(a) The Purchase will not cause any change in the local services provided to retail customers of Knology CT, Knology Plains, and Knology Black Hills, and will not cause any change in the retail interexchange services provided to customers of Knology CT, Knology Plains, and Knology Black Hills.

(b) The Purchase will not cause any change in the access services provided by Knology CT, Knology Plains, and Knology Black Hills, because Clarity will operate under the Knology switched access tariffs currently on file with this Commission.

(c) The Purchase will not cause any change in the intercarrier services provided to, and interconnection arrangements with, other carriers, as agreements covering said services will be assigned to Clarity pursuant to the terms of the Purchase Agreement.

(d) Any future changes to services to local customers, interexchange carriers, or other carriers will be made by Clarity only as provided by applicable laws and regulations.

(e) Clarity will be subject to applicable regulation for services and service quality, as modified by future Commission decisions; and

(f) There will be no changes to network routing arrangements or to NXX codes as a result of the Purchase.

7. Existing Agreements. Existing interconnection and other telecommunications agreements between Knology CT, Knology Plains, and Knology Black Hills and other carriers will continue, and said agreements will be assumed by Clarity.

#### **IV. CERTIFICATES OF AUTHORITY**

8. Transfer of COAs. In conjunction with the filing of this Application, Clarity is requesting a transfer of the applicable certificates of authority to provide local telephone exchange services and interexchange services in those portions of the Exchanges located within the State of South Dakota. In accordance with ARSD 20:10:24:04.01 and 20:10:24.02, Clarity provides the following information:

(a) The applicant's name, address, telephone number, facsimile number, web page URL, and E-mail address;

Clarity Telecom, LLC  
104 East Center Street, Suite 201  
Sikeston, MO 63801  
Phone: (573) 481-2265  
Facsimile: (573) 475-9460  
Attn: James M. Gleason, CEO  
jgleason@claritycomm.net

(b) A description of the legal and organizational structure of the applicant's company;

Clarity is a Delaware limited liability company. Upon closing of the transaction, Clarity Telecom Holdings, LLC, a Delaware limited liability company ("Clarity Holdings"), will be the sole member of Clarity.

(c) The name under which the applicant will provide interexchange services if different than in subdivision (1) of this section;



Clarity will provide service under its legal name. Clarity may use a new “DBA” in the future, and will notify the Commission if adopted.

(d) A copy of the applicant's certificate of authority to transact business in South Dakota from the Secretary of State;

See Exhibit B.

(e) The location of the applicant's principal office, if any, in this state and the name and address of its current registered agent, if applicable;

Clarity Telecom, LLC  
5100 S. Broadband Lane  
Sioux Falls SD 57108

Corporation Service Company (Registered Agent)  
503 South Pierre Street  
Pierre, SD 57501-4522

(f) A list and specific description of the telecommunications services the applicant intends to offer;

Clarity intends to provide local exchange and interexchange telecommunications services. Clarity will provide a variety of plan options to fit the needs of various customers, including plans featuring unlimited local calling, budget long distance, unlimited nationwide long distance (including a select number of international locations), voicemail and various other features, including call waiting, call forwarding, deluxe caller ID, automatic call-back, three-way calling, selective call acceptance, selective call forwarding, selective call rejection, automatic recall, call block and call block permanent.

(g) A detailed statement of how the applicant will provide its services;

Clarity is purchasing substantially all of the assets currently utilized by Knology CT, Knology Plains and Knology Black Hills to provide telecommunications services. The services will be provided in the same manner as they are currently over their own fiber optic, copper, and coaxial cable facilities throughout their service areas and Clarity will also provide interexchange services through resale arrangements with other carriers.

(h) A service area map or narrative description indicating with particularity the geographic area proposed to be served by the applicant;

Clarity will provide service as identified in Exhibit C.

(i) For the most recent 12 month period, financial statements of the applicant including a balance sheet, income statement, and cash flow statement. The applicant shall provide audited financial statements, if available;

See Attached Confidential Exhibit D.

(j) The names, addresses, telephone number, facsimile number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer service matters;

For Regulatory Matters:  
Regulatory Compliance Officer  
Clarity Telecom, LLC  
104 East Center Street, Suite 201  
Sikeston, MO 63801  
Phone: (573) 481-2265  
Facsimile: (573) 475-9460  
Email: Regulatorycompliance@claritycomm.net

For Customer Care:  
Clarity Telecom, LLC  
5100 S. Broadband Lane  
Sioux Falls SD 57108  
800-xxx-xxxx

A description of how Clarity handles customer service matters is discussed in Section III.5.a, above (adequacy of local service).

(k) Information concerning how the applicant plans to bill and collect charges from customers;

Clarity will bill customers directly on a monthly basis by utilizing its own software and a third-party billing company for distribution of billings. All billing statements will list the appropriate contact information to contact Clarity including name, address and customer service toll free telephone number for customer inquiries or concerns.

(l) Information concerning the applicant's policies relating to solicitation of new customers and a description of the efforts the applicant shall use to prevent the unauthorized switching of interexchange customers;

Clarity will comply with the rules of the FCC and the Commission relating to solicitation of new customers, including obtaining the necessary authorization from new customers in accordance with these rules to prevent unauthorized switching of local service and interexchange customers.

(m) Information concerning how the applicant will make available to any person information concerning the applicant's current rates, terms, and conditions for all of its telecommunications services;

Current rates, terms and conditions for telecommunications services will be listed on the website and available to the customer upon request in the local offices.

(n) Information concerning how the applicant will notify a customer of any materially adverse change to any rate, term, or condition of any telecommunications service being provided to the customer. The notification must be made at least thirty days in advance of the change;

Clarity will provide written notice at least thirty days in advance directly to the customer in the event of any materially adverse change to any rate, term, or condition of any telecommunications service.

(o) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

Clarity is currently not registered or certified to provide telecommunications services in any other state, but plans to file in Minnesota and Iowa in accordance with this transaction.

(p) A description of how the applicant intends to market its services, its target market, whether the applicant engages in any multilevel marketing, and copies of any company brochures used to assist in the sale of services;

Clarity will not engage in multilevel marketing. Clarity will market its services through its website and by radio, television and print. Its target market will include the current service areas.

(q) Federal tax identification number and South Dakota sales tax number;

Federal tax identification number: 46-2667900

Sales Tax license number: Application pending

(r) The number and nature of complaints filed against the applicant with any state or federal regulatory commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered.

No complaints have been filed.

**V. ETC DESIGNATIONS**

9. Relinquishment of ETC Designation. In accordance with ARSD 20:10:32:43, Knology CT and Knology Black Hills are requesting that the Commission approve relinquishment of their ETC designation, and Clarity is requesting that it be designated as an eligible telecommunications carrier in the exchanges in which Knology CT and Knology Black Hills are currently designated.

In support of said petition Clarity states as follows:

(a) The name, address, and telephone number of the applicant and its designated contact person;

Clarity Telecom, LLC  
104 East Center Street, Suite 201  
Sikeston, MO 63801  
Phone: (573) 481-2265  
Facsimile: (573) 475-9460  
Attn: James M. Gleason, CEO  
jgleason@claritycomm.net

(b) The proposed effective date of designation of eligible telecommunications carrier status;

The proposed effective date of designation of ETC status would be following the closing of the transaction identified herein.

(c) Identification of the service area, including a detailed map, for which the designation is sought;

See Exhibit E.

(d) A statement supporting the petition which specifies why the requested designation satisfies the requirements for eligible telecommunications designation and receiving federal universal service support under 47 C.F.R § 54.201 (January 1, 2006);

The Commission has previously granted ETC designation to Knology CT's and Knology Black Hills' predecessors in all of the Qwest exchanges in

South Dakota. Clarity will provide the same service and continues to serve the public interest by being designated as an ETC.

(e) If the applicant is seeking additional time to complete network upgrades pursuant to C.F.R. § 54.101(c) (January 1, 2006), the applicant shall list the reasons why additional time is needed and the estimated length of time to complete the network upgrades;

N/A

(f) A statement specifying why the applicant's proposed designation is in the public interest.

The designation of Clarity as an ETC is in the public interest for all of the reasons stated previously.

## **VI. TARIFF AMENDMENTS**

10. Pursuant to SDCL § 49-31-12, Applicants are also requesting approval of an amendment to the South Dakota Access Tariffs of Knology CT, Knology Black Hills and Knology Plains to reflect that Clarity is a new entity and will be operating under these tariffs. Applicants will submit revised tariff pages following approval of the transaction.

## **VII. POST-APPROVAL STATUS**

11. Status Following Amendments and Issuance. Following the transfer of Certificates of Authority to Clarity and completion of the Purchase, there will be no remaining regulated telecommunications arrangements in South Dakota that will remain in the names of Knology CT, Knology Plains, and Knology Black Hills.

12. Filings and Status Following the Purchase. Following the Purchase: (a) Knology CT, Knology Plains, and Knology Black Hills will cease to offer service in South Dakota; (b) revisions will be made to existing tariffs to substitute the name of Clarity; and (c) all filings necessary to reflect assumption by Clarity of interconnection and telecommunications agreements of Knology CT, Knology Plains, and Knology Black Hills will be made.

## **VIII. REQUESTED APPROVAL OF TRANSFER AND PROCEDURE**

13. Timing. In order to minimize the period of uncertainty and to facilitate the Purchase, the Applicants seek to complete the Purchase by September 30, 2014. Approval by the Commission, along with transfers and amendments as provided herein, are an essential condition to completion of the Purchase, and the Purchase cannot be completed without approval of this Commission. Accordingly, the Applicants request that the Commission grant such approval in an expedited manner to facilitate closing by September 30, 2014.

## **IX. CONCLUSION**

14. Certifications. The respective Chief Executive Officers of Kite Parent Corp. and Clarity certify as to the truth and accuracy of each of the statements, representations and warranties contained in the Application, as evidenced by the Officer's Certification of Accuracy executed and attached hereto as Exhibit F.

15. FCC Applications. In connection with the proposed transaction, Clarity has also filed an application with the Federal Communications Commission for the approval of the Purchase.

WHEREFORE, Applicants respectfully request that the Commission grant as follows:

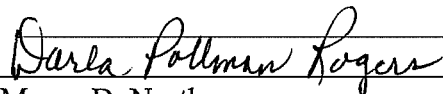
1. Approval pursuant to SDCL § 49-31-59 of the proposed purchase and sale of the Exchanges from WOW! South Dakota to Clarity, in the manner set forth in this Application and in the Purchase Agreement;
2. Approval pursuant to SDCL § 49-31-3 of transfer of the Certificates of Authority from WOW! South Dakota and its subsidiaries to Clarity;

3. Pursuant to the provision of SDCL § 49-31-78, approve relinquishment of Knology CT and Knology Black Hills of their ETC status and designate Clarity as an ETC within the service areas currently designated to Knology CT and Knology Black Hills;

4. Amend the relevant tariffs to reflect the change of ownership to Clarity;

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

DATED this 15<sup>th</sup> day of July, 2014.



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