

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE PETITION OF THE )  
APPLICATION OF TORCH WIRELESS FOR )  
DESIGNATION AS AN )  
ELIGIBLE TELECOMMUNICATIONS CARRIER IN ) Docket No. TC22-005  
THE STATE OF SOUTH DAKOTA )**

**SDTA Petition to Intervene**

The South Dakota Telecommunications association (“SDTA”) hereby petitions the Public Utilities Commission (“Commission”) for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD 20:10:01:15.02, 20:10:01:15.04 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.
2. On or about February 17, 2022, Torch Wireless (“Torch” or “Applicant”) filed an Application/Petition with the Commission seeking designation as an Eligible Telecommunications Carrier (“ETC”) for the purpose of Lifeline support in the State of South Dakota. Specifically, as reflected in “Attachment A” to Torch’s Application, the company requests designation as an ETC for the purpose of providing Lifeline service in “all nonrural telephone company wire centers... all rural telephone company study areas...and all tribal areas within the nonrural and rural telephone company areas within the state.” These statements indicate that Torch is seeking a statewide ETC designation.

3. Torch notes in its application that it is a Commercial Mobile Radio Service (“CMRS”) provider that uses the last mile facilities of other providers to offer prepaid wireless service.

4. All of the SDTA member companies operate as “rural telephone companies” and “eligible telecommunications carriers” under the Federal Telecommunications Act of 1996 and applicable state laws. Given that Torch's Application appears to extend to all rural telephone company service/study areas in South Dakota, SDTA seeks intervention in this proceeding based on the individual interests of each of its affected member companies and their common interests in ensuring that all federal and state requirements pertaining to ETC designation, including the additional public interest protections afforded rural telephone company service areas, are properly considered and applied.

5. Specifically with regard to any Petition for ETC Designation extending to rural service areas, the additional “public interest” requirement set forth in 47 U.S.C. 214(e)(2), ARSD 20:10:32:43.07 and SDCL 49-31-78 applies. State commissions are not obligated to grant multiple ETC designations in such areas. SDTA questions whether granting the additional ETC designation requested by Torch is in the best interest of South Dakota consumers residing in rural service areas. As the FCC has appropriately noted, the Lifeline Programs do play a role in assisting with telecommunications network infrastructure utilization in high-cost areas, especially within Tribal areas where the enhanced “Tribal Lifeline discount” is available. And, to the extent any additional ETC designation within a rural carrier service area, even for Lifeline only purposes, causes end user customers to abandon existing wireline voice or broadband services, incumbent rural carrier end user

revenues and high-cost funding revenues are impacted putting continued broadband infrastructure deployment and upgrades at risk.

6. SDTA further believes that more information should be supplied by Torch regarding its ability to comply with the "minimum service standards" imposed on ETCs designated for Lifeline under 47 C.F.R. 54.408.

7. In addition, Torch's Application for ETC designation as filed is deficient for failing to include any financial information supporting its claims that the company does not rely exclusively on Lifeline reimbursement to operate and that it receives revenue from other sources. Applicant makes general statements indicating that "it receives revenue from a number of other sources" and that "it generates revenue from a diverse product portfolio," but produces no financial documentation providing the Commission and/or other parties in this Docket an ability to assess compliance with the requirement set forth under 47 C.F.R. 54.202(a)(4) (that carriers seeking ETC designation for Lifeline purposes only prove that they are "financially capable" of providing Lifeline services in accordance with all statutory and administrative rule requirements).

8. Based on the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status.

Dated this 10<sup>th</sup> day of March, 2022.

/s/ Kara Semmler

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