

**BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

Application of)	
)	
BIF IV Intrepid OpCo LLC)	
)	
for Certificates of Authority)	Docket No. _____
to Provide Resold and Facilities-Based)	
Local Exchange and Interexchange)	
Telecommunications Services in the)	
State of South Dakota)	
)	

APPLICATION OF BIF IV INTREPID OPCO LLC

BIF IV Intrepid OpCo LLC (“Intrepid” or “Applicant”), by its undersigned counsel and pursuant to 20:10:32:03 and 20:10:24:02 of the South Dakota Public Utilities Commission (“Commission”) Administrative Rules (S.D. Admin. Rules), applies for a Certificate of Authority (“Certificate”) to provide resold and facilities-based local exchange and interexchange telecommunications services throughout the State of South Dakota. At this time, Applicant only seeks a Certificate to provide local exchange telecommunications services that do not require an interconnection agreement. Applicant does not seek to provide switched access services. Applicant does not intend to provide other retail voice services.

The Applicant submits the following information in support of its request:

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

Applicant's legal name is BIF IV Intrepid OpCo LLC and its corporate headquarters are located at:

2033 11th Street, Suite 5
Boulder, CO 80302
Tel: 866-371-1860
Website: www.intrepidfiber.com
Email: info@intrepidfiber.com

The Commission's primary contact for Applicant's ongoing operations and regulatory matters is:

Jack Waters, CEO
BIF IV Intrepid OpCo LLC
2033 11th Street, Suite 5
Boulder, CO 80302
Tel: 866-371-1860
Email: jack.waters@intrepidfiber.com

- (2) A description of the legal and organizational structure of the applicant's company;**

Applicant is a duly formed limited liability company, organized under the laws of the State of Delaware. Copies of Applicant's Certificate of Formation and organizational structure chart are provided in **Exhibits A-1 & A-2**, respectively.

- (3) The name under which applicant will provide local exchange and interexchange services if different than in subdivision (1) of this section;**

Applicant will provide service in South Dakota under its legal name identified in subdivision (1) of this section, BIF IV Intrepid OpCo LLC.

- (4) 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;**

Applicant does not maintain an office or personnel within the State of South Dakota. Responsibility for South Dakota operations will be handled by Applicant's current management team from its Boulder, Colorado location. Applicant's registered agent in South Dakota is:

CT Corporation System
319 S. Coteau St.
Pierre, SD 57501-3187

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

A copy of Applicant's Certificate of Authority to transact business as a foreign limited liability company in South Dakota is attached as **Exhibit B**.

- (6) **A description of the applicant's experience providing any telecommunications services in South Dakota or in other jurisdictions, including the types of services provided, and the dates and nature of state or federal authorization to provide the services;**

Applicant does not currently provide and has not previously provided any services in South Dakota. Applicant is a newly formed company that does not yet provide services anywhere. Applicant is currently authorized to provide intrastate telecommunications services in Arizona, Colorado, Florida, Idaho, Iowa, Kentucky, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania (provisional), Utah, Virginia, Washington, and Wisconsin. Applicant has not had a certification or authorization denied, suspended, terminated, or revoked by any state. Applicant has pending applications to provide intrastate telecommunications services in California, Georgia, and North Carolina, and is in the process of seeking such authorization in other states. A chart noting the type of service and the dates on which Applicant obtained authorization in each state noted above is attached as **Exhibit C**.

At this time, Applicant does not hold any Federal Communications Commission authorizations or certifications.

- (7) **Names and addresses of applicant's affiliates, subsidiaries, and parent organizations, if any;**

Applicant is a direct, wholly owned subsidiary of BIF IV Intrepid Holdco LLC, which is owned and controlled by Brookfield Infrastructure Fund IV funds and entities (the "BIF IV

Entities”) managed by Brookfield Infrastructure Partners, LP. Attached as **Exhibit A-2** is an organizational chart of Applicant’s corporate structure.

(8) A list and specific description of the types of services the applicant seeks to offer and how the services will be provided including:

(a) Information indicating the classes of customers the applicant intends to serve;

Applicant will provide services to enterprise customers and to other communications providers in the State of South Dakota on a wholesale basis and does not intend to directly serve residential customers.

(b) Information indicating the extent to and time-frame by which applicant will provide service through the use of its own facilities, the purchase of unbundled network elements, or resale;

Intrepid proposes to build a fiber-based network in South Dakota, which Intrepid plans to construct to customer locations. Intrepid will provide services primarily using its own facilities. Applicant does not currently own or lease facilities in South Dakota but plans to construct facilities to provide its services. Intrepid will begin providing telecommunications service in South Dakota after it has obtained the requisite Certificate of Authority and construction of the fiber-based network is complete.

(c) A description of all facilities that the applicant will utilize to furnish the proposed local exchange and interexchange services, including any facilities of underlying carriers; and

Please see Response to (b) above. Applicant will not provide traditional switched local exchange services.

Intrepid proposes to build a fiber-based network in South Dakota, which Intrepid plans to construct to customer locations. Intrepid does not currently own or lease facilities in South Dakota but plans to construct facilities to provide its services. Intrepid intends to provide its services using

fiber optic cable along with other equipment and facilities to originate, terminate, and amplify signals.

(d) Information identifying the types of services it seeks authority to provide by reference to the general nature of the service;

Applicant will primarily provide point-to-point telecommunications services, such as Ethernet and other similar high-bandwidth services, for high-speed data transport. Intrepid intends to provide its services using fiber optic cable along with other equipment and facilities to originate, terminate, and amplify signals. Intrepid does not plan to furnish switched voice services or dial tone at this time.¹

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

Applicant seeks authority to provide its services throughout the state of South Dakota.

Accordingly, a map of Applicant's proposed service area is not attached.

(10) Information regarding the technical competence of the applicant to provide its proposed local exchange and interexchange services including:

(a) A description of the education and experience of the applicant's management personnel who will oversee the proposed local exchange and interexchange services; and

Applicant has the managerial and technical qualifications necessary to provide the proposed services in South Dakota. Intrepid is managed by a highly skilled team with substantial expertise and experience. Biographies of key management personnel of Applicant, who are responsible for the Applicant's operations, are attached as **Exhibit D**. These biographies reflect management's substantial communications industry experience and expertise and demonstrate that the Applicant possesses significant managerial and technical expertise operating a variety of communications services across multiple jurisdictions. Thus, Intrepid possesses the managerial

¹ In the event that Applicant decides to expand its services to include voice services as dictated by marketplace conditions, Applicant will seek such authority at that time.

and technical qualifications necessary to operate as a competing local exchange and interexchange telecommunications company in the State of South Dakota, consistent with the Commission's requirements.

Applicant's corporate officers are:

Jack Waters, *CEO*
Fred Day, *President*
Patrick Hildebrand, *Business Development Lead*
Hadley Peer Marshall, *Managing Director*
Bill Bates, *Senior Vice President*
Ralph Klatzkin, *Vice President*
Matthew Gross, *Vice President*

- (b) Information regarding policies, personnel, or arrangements made by the applicant which demonstrates the applicant's ability to respond to customer complaints and inquiries promptly and to perform facility and equipment maintenance necessary to ensure compliance with any commission quality of service requirements;**

Customer complaints and inquiries can be submitted to info@intrepidfiber.com or Applicant's toll-free phone number at 866-371-1860. Customer support will be available twenty-four (24) hours per day, seven (7) days per week to ensure the prompt handling of customer inquiries and complaints. Applicant will provide customers with high quality telecommunications services, and maintain dedicated staff focused on customer support. Applicant will work with each customer to customize services for their specific needs, and each customer will have their own service agreement, which will also lend to the specificity of their unique business.

Applicant will perform network and equipment maintenance necessary to ensure compliance with any quality of service requirements. Applicant will comply with all applicable Commission rules, regulations and standards, and will provide safe, reliable and high-quality telecommunications services in South Dakota.

(11) Information explaining how the applicant will provide customers with access to emergency services such as 911 or enhanced 911, operator services, interexchange services, directory assistance, and telecommunications relay services;

As Intrepid does not plan to furnish switched voice services or dial tone at this time within South Dakota, Intrepid will not have any interaction with emergency services such as 911 or enhanced 911, operator services, directory assistance, and telecommunications relay services. If Applicant desires to provide switched voice services or dial tone to end users in the future, it will seek such authority at that time and explain how it proposes to provide access to emergency services, operator services, directory assistance, and telecommunications relay services.

(12) For the most recent 12-month period, financial statements of the applicant consisting of balance sheets, income statements, and cash flow statements. The applicant shall provide audited financial statements, if available;

Applicant possesses the requisite financial resources to provide telecommunications services in South Dakota. Applicant is a wholly owned subsidiary of BIF IV Intrepid Holdco LLC, which is owned and controlled by Brookfield Infrastructure Fund IV funds and the BIF IV Entities managed by Brookfield Infrastructure Partners, LP. Applicant, as a newly-formed company, does not have historical financial statements. To demonstrate Applicant's financial qualification to operate in South Dakota, Applicant attaches as **Exhibit E-1** a balance sheet for Applicant and as **Exhibit E-2** an equity commitment letter from certain BIF IV Entities. As shown in these documents, Applicant has sufficient capital resources and is financially qualified to operate within the State of Wyoming.

(13) Information detailing the following matters associated with interconnection to provide proposed local exchange services:

At this time, Applicant only seeks a Certificate to provide facilities-based local exchange telecommunications services that do not require an interconnection agreement in the State of South Dakota. To the extent that Intrepid undertakes arrangements requiring an interconnection

agreement in the future, it will file the same with the Commission pursuant to all applicable requirements.

- (a) The identity of all local exchange carriers with which the applicant plans to interconnect;**

Not applicable. See Response to Question 13 above.

- (b) The likely timing of initiation of interconnection service and a statement as to when negotiations for interconnection started or when negotiations are likely to start; and**

Not applicable. See Response to Question 13 above.

- (c) A copy of any request for interconnection made by the applicant to any local exchange carrier;**

Not applicable. See Response to Question 13 above.

- (14) A description of how the applicant intends to market its local exchange and interexchange services, its target market, whether the applicant engages in multilevel marketing, and copies of any company brochures that will be used to assist in sale of the services;**

As previously noted, Applicant will provide services to enterprise customers and to other communications providers in the State of South Dakota on a wholesale basis and does not intend to directly serve residential customers. As a newly formed company, Applicant does not yet have any brochures or marketing materials and will not engage in multilevel marketing, but instead will primarily market its services through direct contacts with potential customers.

- (15) If the applicant is seeking authority to provide local exchange service in the service area of a rural telephone company, the date by which the applicant expects to meet the service obligations imposed pursuant to § 20:10:32:15 and applicant's plans for meeting the service obligations;**

Not applicable. Applicant will provide only non-switched services and will not provide traditional switched local exchange service to retail end users. Applicant also does not intend to provide service to residential customers in the service area of any rural telephone company, nor does Applicant seek status as an Eligible Telecommunications Carrier as described in

§ 20:10:32:15 of the S.D. Admin. Rules. In the future, if Applicant chooses to provide telephone exchange services or switched access services within any area served by a rural telephone company, Applicant will seek permission from the Commission in another proceeding before providing local service in that rural service area pursuant to 47 U.S.C. § 253(f). Applicant does not seek to affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f).

(16) 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;

Applicant is currently authorized to provide intrastate telecommunications services in Arizona, Colorado, Florida, Idaho, Iowa, Kentucky, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania (provisional), Utah, Virginia, Washington, and Wisconsin. Intrepid has pending applications to provide intrastate telecommunications services in California, Georgia, and North Carolina, and is in the process of seeking such authorization in other states.

Intrepid has not had a certification or authorization denied, suspended, terminated, or revoked by any state. Intrepid is currently in good standing with the respective regulatory agencies in the states in which it is authorized to provide service.

- (17) The names, addresses, telephone numbers, E-mail addresses, and facsimile numbers of the applicant’s representatives to whom all inquiries must be made regarding customer complaints and other regulatory matters;**

Correspondence concerning this Application should be directed to Applicants’ attorneys:

Russell M. Blau
Brett P. Ferenchak
Trina Kwon
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., N.W.
Washington, DC 20004
202-739-3000 (tel)
202-739-3001 (fax)
russell.blau@morganlewis.com
brett.ferenchak@morganlewis.com
trina.kwon@morganlewis.com

Following grant of this Application, the Commission should direct all correspondence regarding customer complaints and other regulatory matters to:

Jack Waters, CEO
BIF IV Intrepid OpCo LLC
2033 11th Street, Suite 5
Boulder, CO 80302
Tel: 866-371-1860
Email: jack.waters@intrepidfiber.com

- (18) Information concerning how the applicant plans to bill and collect charges from customers who subscribe to its proposed local exchange and interexchange services;**

Applicant will bill its customers directly for the proposed telecommunications services, typically on a monthly basis. Applicant’s name shall appear on customer’s monthly bills and invoices. Bills will be presented in paper or electronic format, as agreed to with each customer. Invoices will identify individual state and federal taxes, surcharges, and fees, as appropriate. All applicable taxes and surcharges will be collected and remitted to the proper authorities. Applicant’s pricing will be provided on an individual case basis in accordance with each customer’s unique business needs, and billing will be tailored to the specific contractual engagement.

- (19) 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 local service customers by the applicant, its employees, or agents;**

Applicant will primarily market its services through direct contacts with potential customers. Applicant does not intend to provide switched voice services, and therefore, anti-slamming measures are not applicable to Intrepid.

- (20) 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;**

Applicant has not been the subject of complaints for the unauthorized switching of a customer's telecommunications provider nor for charging customers for services that were not ordered.

- (21) 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;**

Applicant will offer its service on a non-discriminatory basis and at competitive rates but will do so through individual case basis contracts. Applicant will provide information regarding the general rates, terms and conditions of its services on its website.

- (22) 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;**

Intrepid will provide notice to its affected customers of any materially adverse change to any rate, term or condition of any telecommunications service consistent with the terms of their contracts with Intrepid and applicable law, at least thirty (30) days prior to the effective date of the change.

(23) A written request for waiver of those rules believed to be inapplicable;

As Applicant will not be providing traditional switched local exchange and voice services to end users, Applicant respectfully requests a waiver of S.D. Admin. Rule 20:10:32:10, which requires that South Dakota local exchange carriers make the following services available to their customers (1) access to the public switched telephone network; (2) access to emergency services such as 911 or enhanced 911; (3) access to a local directory and directory assistance; (4) access to operator services; (5) telecommunications relay service capability or access necessary to comply with state and federal regulations; (6) non-published service upon written request or verbal request of the customer; and (7) access to interexchange services. Waiver of this requirement is in the public interest and is not contrary to universal service, the public and safety and welfare of the public, or quality of service.

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

Intrepid's Federal Taxpayer Identification Number is 87-3657826. Intrepid has requested a South Dakota sales tax number and will supplement this Application with the number once it is assigned.

(25) Other information requested by the commission needed to demonstrate that the applicant has sufficient technical, financial, and managerial capabilities to provide the local exchange services it intends to offer consistent with the requirements of this chapter and other applicable rules and laws.

Granting this Application will promote the public interest by increasing competition in the provision of telecommunications services in South Dakota. Applicant's operations will be overseen by a well-qualified management team with substantial telecommunications experience and technical expertise. These benefits work to maximize the public interest by providing continuing incentives for carriers to reduce costs while simultaneously promoting the availability of potentially desirable services.

For the reasons stated above, Applicant respectfully submits that the public interest, convenience, and necessity would be furthered by a grant of this Application for the authority to provide facilities-based and resold local and interexchange telecommunications services. Accordingly, Applicant requests that the Commission expeditiously grant this Application.

Respectfully submitted,

By: */s/ Brett P. Ferenchak*

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Counsel for BIF IV Intrepid OpCo LLC

Dated: August 31, 2022