

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

IN THE MATTER OF THE PETITION OF NORTH AMERICAN LOCAL, LLC FOR APPROVAL OF RECLASSIFICATION AS A FACILITIES-BASED ELIGIBLE TELECOMMUNICATIONS CARRIER)	ORDER DENYING MOTION TO DISMISS; ORDER GRANTING MOTION TO CLARIFY; AND ORDER GRANTING IN PART AND DENYING IN PART MOTION TO COMPEL
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On September 29, 2023, North American Local, LLC (NAL) filed with the Commission a Petition for Reclassification as a Facilities-Based Eligible Telecommunications Carrier (Petition). In this docket, NAL seeks this reclassification for the purpose of offering Lifeline services on a wireless basis in the State of South Dakota.

On October 5, 2023, the Commission electronically transmitted notice of the filing and the intervention deadline of October 20, 2023, to interested individuals and entities on the Commission’s PUC Weekly Filing electronic listserv. On October 2, 2023, the South Dakota Telecommunications Association (SDTA) filed a Petition to Intervene. On October 12, 2023, the Commission issued an Order Granting Intervention to SDTA.

On January 22, 2024, SDTA filed a Motion to Dismiss and a Motion to Compel Discovery. In the Motion to Dismiss, SDTA requests the Commission dismiss the Petition or in the alternative that the Commission issue an order clarifying that the Petition will be handled as a new request for eligible telecommunications carrier (ETC) designation. In the Motion to Compel Discovery, SDTA seeks to compel NAL to provide documents in response to SDTA’s discovery requests. On January 31, 2023, the Commission issued a Notice of Hearing for these Motions setting the matter to be heard March 12, 2024. However, the Motions hearing was deferred by Commission Order dated March 19, 2024. Staff and NAL filed responsive briefs to which SDTA filed replies.

The Commission has jurisdiction over this matter pursuant to SDCL 1-26, 15-6, 49-1, 49-31, and ARSD Chapters 20:10:01 and 20:10:32.

At its regularly scheduled meeting on March 26, 2024, the Commission considered SDTA’s Motion to Dismiss and heard argument from the parties. Having thoroughly considered the filings in the docket and oral argument, the Commission voted 2-1, Commissioner Hansen dissenting, to deny SDTA’s Motion to Dismiss and to grant the request for clarification, finding that reclassification is not a remedy available under South Dakota law and that the docket must, therefore, be processed as a new request for ETC designation.

Also at its regularly scheduled meeting on March 26, 2024, the Commission considered SDTA’s Motion to Compel and heard argument from the parties. The Commission voted unanimously to grant SDTA’s Motion to Compel as to Data Requests 2, 3a, and 4, and to deny the Motion to Compel as to Data Requests 3b, 3c, and 7.

It is therefore

ORDERED, that SDTA's Motion to Dismiss is hereby denied. It is further

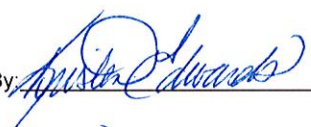
ORDERED, that the Commission hereby clarifies that this docket shall be processed as a new Petition for Eligible Telecommunications Carrier designation, notwithstanding any past docket or agreement between the parties outside of this current proceeding. It is further

ORDERED, that SDTA's Motion to Compel is hereby granted with respect to Data Requests 2, 3a, and 4; and that NAL shall provide the compelled responses to SDTA within ten business days unless otherwise agreed to by the Parties. It is further

ORDERED, that SDTA's Motion to Compel is hereby denied with respect to Data Requests 3b, 3c, and 7. It is further

ORDERED, that any information marked as confidential that is produced in discovery shall be treated as confidential unless otherwise agreed upon by the Parties or ordered by the Commission.

Dated at Pierre, South Dakota, this 28th day of March 2024.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically or by mail.
By: <u></u>
Date: <u>28 March 2024</u>

BY ORDER OF THE COMMISSION:


KRISTIE FIEGEN, Chairperson


GARY HANSON, Commissioner, dissenting in part


CHRIS NELSON, Commissioner