

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF  
THE STATE OF MISSISSIPPI**

TEPA CONNECT, LLC

DOCKET NO. 2021-UA-01

RE: PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS  
CARRIER PURSUANT TO SECTION 214(e)(2) OF THE ACT

**RECOMMENDED ORDER**

On January 4, 2021, TEPA Connect LLC (“TEPA Connect” or “Company”) filed with the Mississippi Public Service Commission (“Commission”), an application for designation as an Eligible Telecommunications Carrier (“ETC”), pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”), and in accordance with other applicable rules and orders of the Commission,<sup>1</sup> seeking ETC designation in all areas where TEPA Connect, through its participation in the Rural Electric Cooperative Consortium, has been allocated Rural Digital Opportunity Fund (“RDOF”) Phase I support by the Federal Communications Commission (“FCC”) as a winner in the RDOF Phase I auction (“Auction 904”), as well as Lifeline-only ETC designation status in additional areas. Please see Exhibit A attached hereto containing the application of TEPA Connect for designation as an ETC.

TEPA Connect is a wholly-owned direct subsidiary of TEPA, a member-owned not-for-profit corporation formed and operating under Mississippi's Electric Power Association Law,

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<sup>1</sup> *In the Matter of Eligible Telecommunications Carrier Designation for Federal Universal Service Support*, Docket No. 2005-AD-662, Order on Rehearing Reforming and Modernizing Universal Service Support and Adopting Changes of FCC Order 11-161 (adopted Nov. 15, 2012) (“*November 2012 Order*”). An “Eligible Telecommunications Carrier (‘ETC’) Checklist, Revised to Reflect Changes of FCC 11-161” (“ETC Checklist”) is attached as Exhibit A of the *November 2012 Order*. In 2018, the Commission sought comment on amending the ETC Checklist, stating that “[a]fter receipt of comments and reply comments, the Commission will issue an appropriate Order regarding the revised checklist.” *In the Matter of ETC Designation for Federal Universal Service Support*, Docket No. 2005-AD-662, Order Amending Checklist and Updating Reporting Requirements (adopted Nov. 6, 2018).

Miss. Code Ann. §77-5-201, et seq. TEPA has nearly 14,000 members and provides electric service in four counties in Mississippi -- TEPA, Benton, Union, and Alcorn - as well as Hardeman County in Tennessee. TEPA has been providing electric service to its members since 1937.

TEPA Connect will be a facilities-based provider that focuses on serving specific rural areas in Mississippi. TEPA will own the main line fiber optic network infrastructure, while TEPA Connect will own and manage the service drop and internet service equipment to the home. TEPA will lease excess capacity on its backbone network to TEPA Connect, with TEPA Connect responsible for deploying fiber connections from the poles to individual premises to provide voice and high-speed broadband Internet access services to TEPA's cooperative members throughout TEPA's electric service territory, including the census blocks for which TEPA Connect is seeking ETC designation, and adjacent areas. Exhibit A of the Company's Petition identifies the census blocks in Mississippi for which TEPA Connect seeks high-cost ETC designation from the Commission in order to receive RDOF support.

TEPA Connect plans to offer several tiers of Internet service, including service that meets the RDOF requirement of providing at least 1 Gigabit downstream/500 Mbps upstream, and will provide its customers with voice grade access to the Public Switched Telephone Network ("PSTN") through its interconnected VoIP service.

The Commission, being fully apprised in the premises and having considered the record before it, as authorized by law and the Commission's Public Utilities Rules of Practice and Procedure, and upon recommendation of the Mississippi Public Utilities Staff ("Staff"), finds as follows:

1. On January 30, 2020, the FCC issued a Report and Order enabling the FCC to move forward with Auction 904, committing up to \$16 billion over 10 years to support up to gigabit

speed broadband networks in rural America wholly unserved by 25/3 Mbps.<sup>2</sup> The FCC allocated Auction 904 funding through a multi-round, reverse, descending clock auction favoring faster services with lower latency.

2. TEPA Connect's parent, TEPA, participated in the RDOF Phase I auction as a member of the Prospero Broadband Consortium ("Prospero"), a group of electric cooperatives and their subsidiaries which ultimately was a winning bidder for more than \$100 million in RDOF Phase I support.<sup>3</sup> Pursuant to the process established in the *RDOF Auction Closing Public Notice*, Prospero has now assigned certain winning bids in Mississippi to TEPA Connect. Accordingly, TEPA Connect will be the entity that files a long form application for \$6,766,350.00 in funding to build and operate a network to serve the 308 census blocks, totaling 2,163 eligible locations listed in Exhibit A of the Company's Petition with voice and gigabit broadband service.<sup>4</sup>

3. On February 2, 2021, the Commission issued an Order referring North East Fiber's ETC application to Commissioner Brandon Presley, Northern District, for hearing, report and recommendation of an appropriate Order, or any other action necessary, pursuant to Miss Code Ann. § 77-4-40(6).

4. Staff issued its First Set of Data Requests to TEPA Connect on January 29, 2021, and the Company submitted its Responses to Staff on March 3, 2021.

5. TEPA Connect's receipt of RDOF Phase I Auction funding is conditioned upon the Company obtaining designation as a High-Cost and Low-Income ETC in the census blocks identified in Exhibit A of the Company's Petition. By June 7, 2021, absent a waiver being granted

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<sup>2</sup> *In the Matter of Rural Digital Opportunity Fund; Connect America Fund*, Report and Order, 35 FCC Rcd 686 (2020).

<sup>3</sup> *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, Public Notice, 35 FCC Rcd 13888 (2020).

<sup>4</sup> See <https://www.fcc.gov/file/20525/download>.

by the FCC, TEPA Connect must obtain ETC designation in all of the census blocks in which TEPA Connect has been awarded RDOF Phase I support and submit appropriate documentation of such ETC designation to the FCC.

6. Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e)(2) shall be eligible to receive specific federal universal service support.”<sup>5</sup> Section 214(e)(2) of the Act provides that state commissions “shall designate” common carriers that meet the statutory requirements as ETCs. The FCC has ruled that Section 214(e)(2) of the Act “provides state commissions with the primary responsibility for designating ETCs.”<sup>6</sup>

7. The Commission has stated that the FCC has “charge[d] states with the authority and obligation to certify that all federal high-cost and CAF [Connect America Fund] support is being used by carriers in a manner for which the support is intended[,]”<sup>7</sup> and that “Section 77-3-35 explicitly authorizes the Commission to regulate and further the provision of universal service ....”<sup>8</sup> Therefore, the Commission has the authority and the primary responsibility under federal law to designate TEPA Connect as an ETC for federal universal service support purposes. The *November 2012 Order* and Section I of the ETC Checklist establish the requirements that an applicant must meet in order to be designated as an ETC.

8. To be designated as an ETC, an applicant must be a common carrier.<sup>9</sup> For the customers and locations where RDOF Phase I support has been allocated, TEPA Connect will

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<sup>5</sup> 47 U.S.C. § 254(e).

<sup>6</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371, 6372 (¶ 1, n.2) (2005) (emphasis added) (interpreting 47 U.S.C. § 254(e)(2)).

<sup>7</sup> *November 2012 Order* at 3 (¶ 8).

<sup>8</sup> *Id.* at ¶ 11 (citing M.C.A. § 77-35).

<sup>9</sup> 47 U.S.C. § 214(e)(1) (providing that a “common carrier” must be designated as an ETC to receive universal service support). The Act defines a “common carrier” as “any person engaged as a common carrier

provide its services on a common carrier basis. TEPA Connect is a common carrier for purposes of Section 214(e) of the Act.<sup>10</sup>

9. To be designated as an ETC, an applicant must offer throughout the area in which it proposed to be an ETC, the services set forth in Section 54.101(a) of the FCC's rules,<sup>11</sup> either by using its own facilities or a combination of its own facilities and the resale of another carrier's services. TEPA Connect will offer, upon designation as an ETC, all of the supported services throughout the areas in which it is requesting designation as an ETC through the provision of VoIP-enabled voice communications service that is interconnected to the PSTN, as well as high-speed broadband services. The Company commits to provide these services consistent with applicable FCC rules relating to high-cost universal service support.<sup>12</sup>

10. TEPA Connect will offer both voice telephony service throughout its proposed ETC designation area and will offer such service at rates that are reasonably comparable to urban rates. This service will include minutes of use for local service provided at no charge to end users and access to emergency service via E-911, wherever available from local government or public safety organizations. If required, TEPA Connect also commits to provide toll limitation services to qualifying low-income consumers as provided in Sections 54.400-54.423 of the FCC's rules.<sup>13</sup>

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for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy ...." 47 U.S.C. § 153(11).

<sup>10</sup> 47 U.S.C. § 214(e).

<sup>11</sup> 47 CFR § 54.101(a).

<sup>12</sup> This commitment also complies with Section I.A.1.a. of the ETC Checklist (required services).

<sup>13</sup> *Id.*, §§ 54.400-54.423. TEPA CONNECT's compliance and commitments with respect to the applicable federal rules also constitute compliance with Section I.A.4. of the ETC Checklist (voice telephony service). TEPA CONNECT does not distinguish between toll and non-toll calls in the pricing of its services and, as a result, toll limitation services do not need to be offered for any Lifeline service offered by TEPA CONNECT.

11. TEPA Connect's broadband Internet offering will provide the capability to transmit data to, and receive data from, all or substantially all Internet endpoints, including any capabilities that are incidental to, and enable the operation of, communications services.<sup>14</sup> TEPA CONNECT will offer service at rates that are reasonably comparable to rates in urban areas. To meet its RDOF public interest obligations, TEPA Connect plans bring state-of-the-art low-latency, gigabit-speed broadband service to rural consumers and communities in Mississippi.

12. As required by Section 54.405(a) of the FCC's rules,<sup>15</sup> TEPA Connect will offer subsidized Lifeline voice and broadband services, including a standalone voice service offering, to qualifying low-income consumers within its proposed ETC designation area and in accordance with the FCC's rules.<sup>16</sup>

13. TEPA Connect will comply with the RDOF Phase I service requirements applicable to the federal universal service support that it receives,<sup>17</sup> including the requirements for receipt of RDOF Phase I support. Specifically, TEPA Connect, as an FCC Form 683 applicant for RDOF Phase I support,<sup>18</sup> has:

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<sup>14</sup> See 47 CFR § 54.101(a)(2) (stating that "[e]ligible broadband Internet access services must provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service").

<sup>15</sup> *Id.*, § 54.405(a).

<sup>16</sup> *Id.*, §§ 54.400-54.423.

<sup>17</sup> See ETC Checklist, § I.A.1.b.vi.

<sup>18</sup> Each Auction 904 winning bidder "is required to file an application for Rural Digital Opportunity Fund support, referred to as a long-form application ...." *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020, Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34, *et al.*, Public Notice, 35 FCC Rcd 6077, 6163 (¶ 286) (2020) ("Auction 904 Public Notice").

a. certified to the FCC that it complies with all statutory and regulatory requirements for receiving the universal service support that it seeks as of the long-form application filing deadline;<sup>19</sup>

b. certified to the FCC that it is financially and technically capable of meeting the relevant public interest obligations for each performance tier and latency combination in the geographic areas in which it seeks support;<sup>20</sup>

c. certified to the FCC that it will meet the relevant public interest obligations for each performance tier and latency combination for which it was deemed a winning bidder, including the requirement that it will offer service at rates that are equal to or lower than the FCC's reasonable comparability benchmarks for fixed services offered in urban areas;<sup>21</sup>

d. demonstrated to the FCC that it has a design plan with supportable technologies to meet its RDOF Phase I public interest obligations in the areas covered by its winning bids, by submitting technical information to support the operational assertions made;<sup>22</sup> and

e. certified to the FCC that it will have available funds for all project costs that exceed the amount of RDOF support to be received for the first two years of its support term and also described how the required construction will be funded.<sup>23</sup>

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<sup>19</sup> *Id.* at 6165 (¶ 296) (citing 47 CFR § 54.804(b)(2)(v)).

<sup>20</sup> *Id.* at 6166 (¶ 298) (citing 47 CFR § 54.804(b)(2)(ii)).

<sup>21</sup> *Id.* at 6166 (¶ 299) (citing 47 CFR § 54.804(b)(2)(iii)).

<sup>22</sup> *Id.* at 6167 (¶ 301) (citing 47 CFR § 54.804(b)(2)(iv)).

<sup>23</sup> *Id.* at 6174 (¶ 312) (citing 47 CFR §§ 54.804(b)(2)(v), 54.804(b)(2)(vi)).



14. TEPA Connect's commitment to comply with the service requirements applicable to the federal universal service support that it receives satisfies the Commission's requirement that applicants for ETC designation must comply with these federal universal service requirements.<sup>24</sup>

15. TEPA Connect commits that its network will have the ability to remain functional in emergency situations, will have a reasonable amount of back-up power to ensure functionality without an external power source, will be able to reroute traffic around damaged facilities, and will be capable of managing traffic spikes resulting from emergency situations.<sup>25</sup>

16. Under the FCC's regulations, an ETC applicant must "[d]emonstrate that it will satisfy applicable consumer protection and service quality standards."<sup>26</sup> TEPA Connect commits to satisfying all FCC requirements related to consumer protection and service quality standards. In addition, with respect to Lifeline service, TEPA Connect commits that it will annually certify compliance with consumer protection and service quality rules consistent with Section 54.422(b)(3) of the FCC's rules.<sup>27</sup>

17. TEPA Connect commits that it will offer the supported services specified in Section 214(e)(1)(A) of the Act<sup>28</sup> throughout its proposed ETC designation area.<sup>29</sup>

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<sup>24</sup> See *November 2012 Order* at 5 (ordering clauses 3 and 4).

<sup>25</sup> See 47 CFR § 54.202(a)(2) (providing that a common carrier seeking an ETC designation by the FCC must "[d]emonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations"). TEPA Connect's commitment also satisfies the requirements of Section I.A.2.a. of the ETC Checklist (emergency operations).

<sup>26</sup> 47 CFR § 54.202(a)(3).

<sup>27</sup> *Id.*, § 54.422(b)(3).

<sup>28</sup> 47 U.S.C. § 214(e)(1)(A).

<sup>29</sup> ETC Checklist, § I.A.1.b.iv.



18. TEPA Connect commits to comply with: (1) all applicable provisions of the Commission's Rules and Regulations Governing Public Utility Service;<sup>30</sup> (2) "designated service quality standards applicable to each carrier;"<sup>31</sup> and (3) the requirement to submit to the Commission the number of consumer complaints per 1,000 access lines, as required in annual ETC filings.<sup>32</sup>

19. TEPA Connect commits that it will advertise the availability of its broadband and interconnected VoIP-enabled voice services, and their associated charges, in media of general distribution,<sup>33</sup> and that it will include Lifeline services in its advertising materials.<sup>34</sup> TEPA Connect will communicate its fiber availability and construction progress to its potential customers<sup>35</sup> in three or more, or any combination of, the following methods:

- a. Direct mail (e.g., postcards, letters);
- b. Door hangers or similar door-to-door communications;
- c. Electronic mail;
- d. Social media or similar electronic communications;
- e. Online (with the option to subscribe);
- f. Live events (with the option to subscribe); and/or

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<sup>30</sup> *Id.*, § I.A.3.b.i.

<sup>31</sup> *Id.*, § I.A.3.b.ii.

<sup>32</sup> *Id.*, § I.A.3.b.iii.

<sup>33</sup> *Id.*, § I.A.1.b.i. *See* 47 CFR § 54.201(d)(2).

<sup>34</sup> ETC Checklist, § I.A.1.b.i.

<sup>35</sup> Nothing herein shall be interpreted to require the disclosure of any competitive data or information by TEPA Connect. TEPA Connect may in its business judgment determine the timing of such communications. TEPA Connect is expected to inform potential customers of the availability of service in advance of or, at a minimum, simultaneously with such service availability in specific areas. Upon request, TEPA Connect shall also provide its best estimate as to service availability in response to customer inquiries.

g. Other forms of advertising.

20. TEPA Connect will offer Lifeline service in compliance with FCC rules. The Commission's ETC Checklist requires information concerning Lifeline plans that an applicant for ETC designation intends to offer.<sup>36</sup> TEPA Connect commits to implement its Lifeline plans in accordance with the current rules and policies adopted by the FCC.

21. TEPA Connect will price its Lifeline service at discounted rates and pass through the monthly support amounts for voice and/or broadband services established by the FCC. TEPA CONNECT's Lifeline service will represent a dollar-for-dollar reduction from its comparable non-Lifeline rates, providing a pass-through of the full amount of federal Lifeline support to qualifying customers.

22. TEPA Connect commits to adhering to any FCC reporting requirements relating to the reporting of service outages, and also commits to provide copies of any such reports to the Commission, upon request.<sup>37</sup>

23. As a prerequisite to receiving RDOF support, TEPA Connect is required to certify to the FCC "that it is financially and technically capable of meeting the relevant public interest obligations for each performance tier and latency combination in the geographic areas in which it seeks support."<sup>38</sup> With respect to financial resources, TEPA Connect will be able to rely on TEPA for loan funds at market rates, advances of capital and loaned or leased employee support by TEPA Connect, if necessary, in addition to the RDOF Phase I support being made available to the Applicant. In addition, TEPA Connect must obtain an irrevocable standby letter of credit from a

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<sup>36</sup> *Id.*, § I.A.1.b.ii.

<sup>37</sup> *Id.*, § I.A.2.b.

<sup>38</sup> *Auction 904 Public Notice*, 35 FCC Rcd at 6166 (¶ 298) (footnote omitted).

bank acceptable to the FCC.<sup>39</sup> Therefore, TEPA Connect is financially capable of providing supported services in accordance with FCC and Commission rules.

24. With respect to technical capabilities, TEPA Connect is required to submit a detailed technology and system design description that explains how the design and technologies chosen will meet the relevant performance requirements, including information regarding quality, coverage, voice service, network management and on-going operations. This submission must include a detailed network diagram. The network diagram must be certified by a professional engineer.<sup>40</sup> Further, TEPA Connect must “provide a project plan that describes a network build-out schedule that includes but is not restricted to plans for constructing last mile and middle mile facilities.”<sup>41</sup> These various FCC requirements ensure that TEPA Connect possesses the financial and technical capabilities to pay for all start-up expenses (*e.g.*, equipment, operations, *etc.*) to deploy its fiber optic network, and to begin the provision of interconnected VoIP-enabled voice and broadband services throughout its proposed ETC designation area.

25. Designating TEPA Connect as an ETC will clearly serve the public interest by enabling the Company to provide low-latency, gigabit-speed broadband, and interconnected VoIP-enabled voice services, to consumers in its proposed ETC designation area, as well as to provide subsidized voice and broadband services to those households that seek and qualify for federal Lifeline benefits. TEPA Connect is well-positioned to help close the digital divide in its service area, allowing improved access to health care, education services, and other social services,

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<sup>39</sup> *Id.* at 6177 (¶ 319).

<sup>40</sup> *Id.* (footnotes omitted). The FCC’s requirements include a certification from a professional engineer that the long-form applicant’s fiber optic network is capable of delivering voice and broadband service that meets the requisite performance requirements and is capable of providing sufficient capacity to meet customer demand at or above the prescribed levels during peak usage periods. *Id.*

<sup>41</sup> *Id.* at 6171 (¶ 307).

helping to create jobs and boosting the economy. Approval of TEPA Connect's ETC application will help to address the urgent need to deliver broadband to rural Mississippi, enabling consumers and businesses in these regions of the state to have access to broadband services comparable to those in urban areas.

26. TEPA Connect's service offerings will preserve and advance universal service<sup>42</sup> by providing unique advantages to consumers in its proposed ETC designation area. Most importantly, the Company's provision of high-speed broadband Internet access and interconnected VoIP-enabled voice services will provide enormous benefits that previously have been beyond the reach of consumers and businesses in many of Mississippi's rural areas. The network will ensure reliable access to gigabit tier broadband, thus enhancing educational programs, promoting business growth, generating jobs, and expanding cultural opportunities for Mississippi residents.

27. Designation of TEPA Connect as an ETC in Mississippi will also ensure the availability of quality services at just, reasonable, and affordable rates<sup>43</sup> by facilitating the provision of high-quality communications services to those living and working within its proposed ETC designation area.

28. TEPA Connect seeks a waiver of the ETC Checklist requirement for the submission of a five-year improvements and upgrades plan. Such a waiver is appropriate because deployment obligations and timetables imposed on RDOF Phase I support recipients by the FCC are sufficient to ensure timely deployment of voice and broadband services, consistent with the policies reflected in the Commission's five-year plan requirement. Specifically, the FCC requires RDOF Phase I support recipients to commercially offer voice and broadband service to "40% of [a calculated]

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<sup>42</sup> ETC Checklist, § I.B.1.

<sup>43</sup> ETC Checklist, § I.B.2.

number of locations in a state by the end of the third full calendar year following funding authorization, and 20% each calendar year thereafter.”<sup>44</sup> In addition, the FCC requires support recipients to file annual reports containing location and technology data, and to certify when they have met their service milestones.<sup>45</sup>

29. TEPA Connect meets all the statutory and regulatory requirements for designation as an ETC in the State of Mississippi and is in full compliance with all applicable Commission orders, rules, and regulations and, therefore, is in good standing with the Commission.<sup>46</sup>

IT IS, THEREFORE, ORDERED that:

1. TEPA Connect’s Application for Designation as an Eligible Telecommunications Carrier to Receive Rural Digital Opportunity Fund Phase I Auction (Auction 904) Support for Voice and Broadband Services in the State of Mississippi is hereby approved. Designation of TEPA Connect as an ETC in the State of Mississippi in the census blocks identified in Exhibit A and the area map included in Exhibit B of the Company’s Petition is in the public interest.

2. TEPA Connect is hereby granted a waiver of the ETC Checklist requirement for the submission of a five-year improvements and upgrades plan. Such a waiver is appropriate because deployment obligations and timetables imposed on RDOF Phase I support recipients by the FCC are sufficient to ensure timely deployment of voice and broadband services, consistent with the policies reflected in the Commission’s five-year plan requirement.

3. At least thirty days before offering service within its ETC designation area, TEPA CONNECT shall provide an informational tariff for its ETC designated areas in Exhibit A that

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<sup>44</sup> *RDOF Order*, 35 FCC Rcd at 709 (¶ 45).

<sup>45</sup> *Id.* at 712 (¶ 56).

<sup>46</sup> ETC Checklist, § I.A.1.b.v.

outlines its regulatory contact information, customer service contact, terms, and conditions as well as Lifeline Programs. TEPA Connect will also post this same information on its website where rates, terms and conditions may be found.

4. TEPA Connect will file any future changes to its informational tariff with the Commission at least seven days prior to the effective date of change.

5. At least thirty days before offering service within its ETC designation area, TEPA Connect will provide Staff copies of marketing materials, including advertising specific to Lifeline.

6. TEPA Connect will comply, where applicable, with service and reporting requirements of the FCC's High-Cost and Lifeline Programs, the Commission's ETC Docket 2005-AD-662, and the Commission's Lifeline Docket 2007-AD-487.

7. Exceptions to this Recommended Order may be filed with the Commission within a period of fifteen (15) days from the date of issuance of this Order, in accordance with the provisions of Miss. Code Ann. § 77-3-40. If exceptions are not timely filed, this Recommended Order shall then become the Order of the Commission.

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This Order shall be deemed issued on the day it is served upon the parties herein by the Executive Secretary of this Commission who shall note the service date in the file of this Docket.

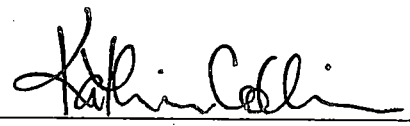
SO ORDERED this the 7<sup>th</sup> day of April, 2021.



MISSISSIPPI PUBLIC SERVICE COMMISSION

  
BRANDON PRESLEY, COMMISSIONER

ATTEST: A True Copy

  
KATHERINE COLLIER, EXECUTIVE SECRETARY

Effective this the 5<sup>th</sup> day of April, 2021.



Before the  
Mississippi Public Service Commission

FILED

JAN 04 2021

MISS. PUBLIC SERVICE  
COMMISSION

In the Matter of )  
TEPA Connect, LLC )  
Petition for Designation as an )  
Eligible Telecommunications Carrier )  
Pursuant to Section 214(e)(2) of the Act )

Docket No. '21-UA-01

Exhibit A

**PETITION FOR ELIGIBLE  
TELECOMMUNICATIONS CARRIER DESIGNATION**

Pursuant to section 214(e)(2) of the Communications Act of 1934 ("Act") and the requirements of the Mississippi Public Service Commission ("Commission"),<sup>1</sup> TEPA Connect, LLC ("TEPA Connect" or "Company") respectfully requests designation as an eligible telecommunications carrier ("ETC") in the State of Mississippi. In particular, TEPA Connect seeks a high-cost ETC designation for a service area comprised of the funded census blocks in Mississippi in its winning bids in the recent Federal Communications Commission's ("FCC") Rural Digital Opportunity Fund ("RDOF") Phase I auction, and a Lifeline-only ETC designation for additional areas in Mississippi within the electric service territory of its parent, Tippah Electric Power Association ("TEPA"), as more fully described below.

On December 7, 2020, the FCC announced the winning bidders for the RDOF Phase I auction.<sup>2</sup> As receipt of \$6,766,360 in additional FCC funding for areas in Mississippi over a ten-year period (\$676,636 annually) is contingent upon the Company's designation as an ETC for the supported areas, TEPA Connect respectfully requests that the Commission expeditiously review and approve this Application in order to accelerate the deployment of critical broadband and voice services in these rural

<sup>1</sup> *In re: In the Matter of Eligible Telecommunications Carrier Designation for Federal Support, Order on Rehearing Reforming and Modernization Universal Service Support and Adopting Changes of FCC Order 11-161*, Docket No. 2005-AD-662 (Nov. 15, 2012).

<sup>2</sup> *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes, Winning Bidders Announced*, Public Notice, DA No. 20-1422 (OEA/WCB rel. Dec. 7, 2020) (*RDOF Auction Closing Public Notice*).

areas. TEPA Connect is obligated to submit to the FCC documentation of its ETC designation within 180 days of the *RDOF Auction Closing Public Notice* in order to be authorized to receive RDOF support,<sup>3</sup> and it therefore requests action on this Petition before June 7, 2021, in order to meet this FCC deadline.

I. BACKGROUND

A. The Company

TEPA Connect is a wholly-owned direct subsidiary of TEPA, a member-owned not-for-profit corporation formed and operating under Mississippi's Electric Power Association Law, Miss. Code Ann. §77-5-201, *et seq.* TEPA has nearly 14,000 members and provides electric service in four counties in Mississippi – TEPA, Benton, Union, and Alcorn – as well as Hardeman County in Tennessee. TEPA has been providing electric service to its members since 1937.

In 2019, Mississippi's Legislature passed the Mississippi Broadband Enabling Act to authorize electric cooperatives to provide broadband services to the public through an affiliate. In 2020, TEPA began construction of a fiber network that would provide its electric system with a state-of-the-art smart grid, which also could be used potentially to provide broadband internet service to its members through a subsidiary. As of November 1, 2020, TEPA had constructed 243 miles of fiber, and begun the process of connecting end user customers to that network in order to offer broadband service.

TEPA Connect was formed as an LLC in the State of Mississippi on November 21, 2019, with the intention of providing high-speed broadband Internet access and Voice over Internet Protocol (“VoIP”) services to cooperative members. TEPA Connect is in full compliance with all Commission orders, rules and regulations. It is in good standing with this Commission.

TEPA's initial focus has been to fast track the construction and installation of a pilot project funded under the Mississippi Electric Cooperatives Broadband COVID-19 grant program. The plan is to expand service in TEPA's electric service territory beyond the pilot project with assistance from the

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<sup>3</sup> See 47 CFR § 54.315(b)(5).

FCC's RDOF, constructing a broadband network in phases with the goal of ultimately bringing fast, reliable broadband to all households and businesses within TEPA's service territory. Upon completion of the FCC's application process and authorization of funding, TEPA Connect will receive \$6,766,360 in RDOF Phase I support over a ten-year period in exchange for offering voice and broadband services to 2,163 homes and small businesses located in specific census blocks within the TEPA electric service territory and adjacent areas. Exhibit A is a list of the census blocks in Mississippi for which TEPA Connect seeks high-cost ETC designation from the Commission in order to receive RDOF support.<sup>4</sup>

TEPA Connect will be a facilities-based provider that focuses on serving specific rural areas in Mississippi. TEPA will own the main line fiber optic network infrastructure, while TEPA Connect will own and manage the service drop and internet service/equipment to the home. TEPA will lease excess capacity on its backbone network to TEPA Connect, with TEPA Connect responsible for deploying fiber connections from the poles to individual premises to provide voice and high-speed broadband Internet access services to TEPA's cooperative members throughout TEPA's electric service territory, including the census blocks for which TEPA Connect is seeking ETC designation, and adjacent areas.

TEPA Connect plans to offer several tiers of Internet service, including service that meets the RDOF requirement of providing at least 1 Gigabit downstream/500 Mbps upstream, and will provide its customers with voice grade access to the Public Switched Telephone Network ("PSTN") through its interconnected VoIP service.

Once authorized to receive RDOF funding, TEPA Connect plans to prioritize and accelerate construction in the RDOF-funded areas, with the goal of completing deployment in those census blocks by the end of 2022, well before the FCC's final deployment milestone. TEPA has successfully provided

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<sup>4</sup> See Exhibit A (List of Census Blocks in which TEPA Connect, LLC Seeks Eligible Telecommunications Carrier Designation). These census blocks are located within the areas shaded in blue on the map provided as Exhibit B. As described more fully below, TEPA Connect also seeks Lifeline-only ETC designation in additional areas not receiving RDOF funding, as shown on the map provided as Exhibit B.

electricity to its members for 83 years, and TEPA Connect will provide the same member-focused service commitment in its provision of voice and broadband services in the RDOF-funded areas.

B. The Rural Digital Opportunity Fund

The FCC established the RDOF as a continuation of its efforts over nearly a decade to accelerate the deployment of high-speed fixed broadband service to all Americans. The program is being implemented in two phases, with the recently completed Phase I auction focused on areas that are wholly unserved under the FCC's current 25/3 Mbps standard for fixed broadband. The FCC will authorize RDOF support to companies that commit to deploy and maintain voice and broadband service meeting the FCC's requirements to a specified number of locations (homes and small businesses) in the identified high-cost areas.

In order to participate in RDOF, interested parties must complete a two-step application process, with competitive bidding to determine who will receive funding and the amount of funding to be provided for a particular geographic area. The FCC determined which applicants were qualified to bid in the auction by evaluating information submitted in the so-called "short-form" application. The RDOF Phase I auction began on October 29, 2020 and concluded on November 25, 2020. As noted above, on December 7, 2020, the FCC issued a Public Notice, officially announcing the results of the competitive bidding process. In order to receive funding, winning bidders must complete a "long-form" application review process to demonstrate their financial and technical qualifications to deliver the intended service and meet other requirements.

TEPA Connect participated in the RDOF Phase I auction as a member of the Prospero Broadband Consortium ("Prospero"), a group of electric cooperatives and their subsidiaries which ultimately was a winning bidder for more than \$100 million in RDOF Phase I support. Pursuant to the process established in the *RDOF Auction Closing Public Notice*, Prospero has now assigned certain winning bids in Mississippi to TEPA Connect. Accordingly, TEPA Connect will be the entity that files a long-form

application for \$6,766,360 in funding to build and operate a network to serve the 308 census blocks listed in Exhibit A with voice and gigabit broadband service.

As discussed in more detail below, the Commission has the authority to grant TEPA Connect's petition for ETC designation pursuant to section 214(e)(2) of the Act, and TEPA Connect meets all of the statutory and regulatory requirements for ETC designation.

## II. THE COMMISSION HAS AUTHORITY TO GRANT THE REQUESTED ETC DESIGNATION

The Commission has authority to designate TEPA Connect as an ETC. Pursuant to section 214(e)(2) of the Act, a "State commission shall on its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission."<sup>5</sup> Section 214(e)(1), in turn, states:

A common carrier designated as an eligible telecommunications carrier . . . shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received –

(A) offer the services that are supported by the Federal universal service support mechanism under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the service offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefore using media of general distribution.

## III. TEPA CONNECT MEETS THE STATUTORY AND REGULATORY REQUIREMENTS TO BE DESIGNATED AS AN ETC

As demonstrated herein, TEPA Connect satisfies each of the statutory and regulatory requirements set forth in the Act and the Commission's rules.

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<sup>5</sup> 47 U.S.C. § 214(e)(2).

A. TEPA Connect Will Provide Service as a Common Carrier

For purposes of obtaining ETC designation, TEPA Connect certifies that it will offer the supported service in its requested service area as a common carrier under sections 214(e)(1) and 214(e)(2) of the Act.<sup>6</sup>

B. TEPA Connect Will Offer the Services Supported by the Federal Universal Service Support Mechanisms Throughout the Service Area for Which ETC Designation is Granted

For RDOF Phase I support recipients, the FCC defines the supported service as qualifying voice service and conditions grant of funding on the offering of qualifying broadband service.<sup>7</sup> In the 2011 *USF/ICC Transformation Order*, the FCC modified the definition of a supported service to reflect a technologically neutral approach, enabling companies to provision voice service over any platform, including both the PSTN and Internet Protocol (“IP”) networks.<sup>8</sup> Section 54.101 of the FCC’s rules was amended to specify that the functionalities of eligible voice telephony services include voice grade access to the PSTN *or its functional equivalent*.<sup>9</sup>

As described below, TEPA Connect certifies that it will provide the following services that are supported by the federal universal service support mechanisms.<sup>10</sup>

1. Voice Telephony – TEPA Connect will offer interconnected VoIP service on a stand-alone basis using a third-party vendor, Alianza.<sup>11</sup> TEPA Connect will be

<sup>6</sup> See Exhibit C (Affidavit of Tim Smith, General Manager, TEPA Connect, LLC (“Smith Affidavit”).

<sup>7</sup> 47 CFR § 54.101 (including both eligible voice telephony and eligible broadband internet access as services “supported by federal universal service support mechanisms,” and characterizing the provision of eligible broadband service as a high-cost public interest obligation); see also *Connect America Fund: A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17692-94, 17695, paras. 77-83, 86 (2011) (*USF/ICC Transformation Order*), *aff’d sub nom. In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) (defining “voice telephony service” as the supported service and requiring high-cost support recipients to offer broadband as a condition of receiving support).

<sup>8</sup> See *id.* at para. 78.

<sup>9</sup> 47 C.F.R. § 54.101(a) (emphasis added).

<sup>10</sup> See Exhibit C (Smith Affidavit).

<sup>11</sup> See *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, WC Dockets No. 09-197, 10-90, DA 18-

legally responsible for dealing with customer problems and for providing service consistent with the FCC's universal service requirements.

This service will include minutes of use for local service provided at no charge to end users (specifically, TEPA Connect's service plans will offer unlimited usage within the U.S.) and access to emergency services via 911 or E-911. TEPA Connect will not distinguish between the pricing of toll and non-toll calls in the pricing of its voice service, and accordingly it is not obligated to provide toll limitation services to qualifying low-income consumers.<sup>12</sup>

2. Broadband Internet Access Services – TEPA Connect's broadband Internet offering will provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.

TEPA Connect will offer service at rates that are reasonably comparable to rates in urban areas.

To meet its RDOF public interest obligations, TEPA Connect plans to offer 1 Gbps/1 Gbps broadband service for \$99.95 per month. TEPA Connect will offer standalone voice telephony for \$49.99 per month. It also expects to offer the following additional service tiers: 200 Mbps/200 Mbps for \$64.95 and 500 Mbps/500 Mbps for \$ 74.95. All service offerings will have unlimited usage.

TEPA Connect commits to provide service consistent with the FCC's high-cost universal service support rules applicable to it.<sup>13</sup> In addition, TEPA Connect will offer Lifeline discounts to qualifying low-income consumers consistent with the FCC's Lifeline rules in the RDOF-funded census blocks and also in the additional areas where TEPA Connect is seeking a Lifeline-only ETC designation.<sup>14</sup>

### C. TEPA Connect Will Provide Service Using Its Own Facilities

TEPA Connect will be a facilities-based broadband Internet access and VoIP service provider.

TEPA Connect's parent, TEPA, is in the process of constructing a fiber optic network for electric

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714, at 5 (WCB rel. Jul. 10, 2018) (*ETC Process Public Notice*) ("a broadband provider may satisfy its voice obligation by offering voice through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor").

<sup>12</sup> 47 CFR § 54.401(a)(2).

<sup>13</sup> See 47 CFR §§ 54.101(c), 54.805-54.806.

<sup>14</sup> See *id.* § 54.101(d); *Lifeline Reform Order*, 31 FCC Rcd at 3974, 4074-75, paras. 35, 311-12 (requiring all high-cost recipients to meet Lifeline obligations in all areas where they deploy a network pursuant to a broadband service obligation and are commercially offering qualifying service).



purposes and will lease the excess capacity in those fiber facilities to TEPA Connect.<sup>15</sup> TEPA Connect will deploy additional facilities, including fiber drops to the home, to initiate service for end user customers. As noted above, TEPA Connect plans to offer interconnected VoIP service to its end user customers in the RDOF-funded areas pursuant to an agreement with a third-party vendor, Alianza.

D. TEPA Connect Will Provide Supported Service Throughout Its Designated Service Area

TEPA Connect commits to providing the supported services throughout its ETC designated service area, consistent with all applicable requirements. TEPA Connect's requested ETC designated service area for high-cost support – specifically, the Rural Digital Opportunity Fund – is limited to the census blocks identified in Exhibit A. In addition, TEPA Connect seeks a Lifeline-only designation for additional areas not receiving RDOF support, generally encompassing the remainder of its parent's electric service territory, as shown in the areas shaded in light green on the map provided in Exhibit B.

E. TEPA Connect Will Advertise the Availability of Its Services and Charges Using Media of General Distribution

TEPA Connect will advertise the availability of, and charges for, its supported service offerings, including its Lifeline offerings, using media of general distribution in a manner that is designed to reach those likely to qualify for such service and plans to undertake outreach initiatives to increase consumer awareness of its service offerings, consistent with all applicable requirements. TEPA Connect is eager to announce the availability of these new services to its members that have supported the decision of the cooperative to move forward on this major initiative to improve the community's quality of life.

TEPA Connect will advertise its supported services to all eligible customers using a mix of printed materials such as flyers, newsletters, and direct mail, supplemented with digital advertising and

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<sup>15</sup> See *ETC Public Notice* at 3 ("Facilities are the ETC's 'own' if the ETC has exclusive right to use the facilities to provide the supported services or when service is provided by any affiliate within the holding company structure.").

social media,<sup>16</sup> with a goal of ensuring every potential customer knows the TEPA Connect brand is available. TEPA Connect also is considering marketing its service through radio, local newspapers, and outdoor advertising.

F. TEPA Connect Will Comply with the FCC's Additional Requirements for Designation as an ETC

TEPA Connect certifies that it possesses the financial and technical capabilities to complete construction of its planned broadband network and to meet its ETC obligations by offering voice and broadband services throughout the proposed service area. TEPA Connect expects to be able to obtain the requisite amount of lending under existing lines of credit, and additional financing as necessary, with the financial backing of its parent. As part of the FCC's long-form application process, TEPA Connect will be providing an overview of how it will finance its planned network in the RDOF-funded areas and a certification from a professional engineer that the fiber optic network is capable of delivering voice and broadband service that meets the requisite RDOF performance requirements with sufficient capacity to meet customer demand at or above the prescribed levels during peak usage.

TEPA Connect will be subject to the FCC's mandated deployment obligations – specifically, to deploy service to 40% of the requisite number of locations by the end of the third year after funding authorization, 60% by the end of the fourth year, 80% by the end of the fifth year, and 100% by the end of the sixth year. TEPA Connect accordingly requests a waiver of the Commission's ETC Checklist requirement (section I.A.1.c) that ETCs submit a USF utilization plan when seeking ETC designation.

TEPA Connect certifies that it will satisfy all consumer protection and service quality standards required by the FCC,<sup>17</sup> as well as all state-specific consumer protection and service quality standards

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<sup>16</sup> Communications channels have evolved considerably in recent years to include channels beyond traditional print and broadband media. The FCC has recognized this transition for advertising to Lifeline eligible customers as well. See *Lifeline Reform Order*, paras. 362-365; *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, para. 46 (2004) (including in its guidelines that carriers may post outreach material on the Internet).

<sup>17</sup> See 47 CFR. § 54.202(a)(3).

applicable to wireline ETCs.<sup>18</sup> In accordance with section I.A.1.b.iii of the Commission's ETC checklist, TEPA Connect will have a designated representative with authority to resolve customer service, quality of service and/or Lifeline service inquiries.

TEPA Connect further certifies in accordance with FCC rules<sup>19</sup> and section 1.A.2 of the Commission's ETC checklist that its fiber optic network will have the ability to remain functional in emergency situations, will provide 8 hours of battery back-up power to ensure functionality without an external power source, will be able to reroute traffic around damaged facilities, and will be capable of managing traffic spikes resulting from emergency situations. TEPA Connect's fiber optic network will support telephone service using Session Initiation Protocol-based VoIP technology and will support all phone features, including 911 services.

TEPA Connect plans to offer the same Lifeline service to all customers, both in RDOF-funded areas and those areas where it seeks a Lifeline-only ETC designation. The Lifeline offering will enable low-income households to apply the FCC's Lifeline discount to all broadband service tiers that are generally available to all of TEPA Connect's customers: specifically, 1 Gbps symmetrical broadband service for \$99.95 per month, 500 Mbps symmetrical service for \$74.95 per month, and 200 Mbps symmetrical service for \$64.95 per month. All broadband service offerings will have unlimited usage. As such, TEPA Connect's Lifeline offerings will significantly exceed the FCC's current 25/3 Mbps minimum service standard for fixed broadband Lifeline service. The standalone voice will include unlimited local and continental United States calls for a monthly rate of \$49.99. The Lifeline subsidy will be used to reduce the amount charged for each service offering.

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<sup>18</sup> See section I.A.3.b of the Commission's ETC Checklist.

<sup>19</sup> See 47 CFR. § 54.202(a)(2).

IV. DESIGNATION OF TEPA CONNECT AS AN ETC WILL BE IN THE PUBLIC INTEREST

Designation of TEPA Connect as an ETC in Mississippi will serve the public interest by facilitating the FCC's goal of deploying voice and high-speed broadband networks in rural, high-cost areas lacking 25/3 Mbps broadband service. As a recipient of federal high-cost funding, the Company will deploy advanced communications to unserved and underserved areas in Mississippi. Moreover, TEPA Connect will be the *only* provider in its proposed service area that is authorized to receive federal RDOF support for the development and deployment of this essential communications infrastructure. TEPA Connect will be obligated to bring new broadband service to 2,163 homes and small businesses in Mississippi. Consequently, designating the Company as an ETC will directly benefit more than 4,300 residents of the proposed service area in Mississippi by ensuring that they receive the benefits of this federal funding.

Expedited designation of TEPA Connect will serve the public interest by ensuring that the Company is eligible to receive federal high-cost USF support and able to deploy critical communications facilities as soon as possible. Events of the last year have made it clear, more than ever, how essential broadband is to maintain critical connections with family, education, healthcare, jobs, and more. The pilot project funded with state grants is already impacting the households it has touched by giving broadband access to students required to attend classes from home, employees needing to work from home, or the opportunity to have a virtual doctor's visit. TEPA Connect will use RDOF funding to expand broadband to more residents of Mississippi, directly advancing the FCC's goal of deploying voice and high-speed broadband-capable networks in rural, high-cost areas, while ensuring that rural communities benefit from innovations in communications technology.

In addition, designating TEPA Connect as a Lifeline-only ETC in the requested service area set forth in Exhibit B will serve the public interest by making available robust fixed broadband Lifeline offerings with unlimited usage for additional low-income households outside of the RDOF-funded areas.

TEPA Connect's Lifeline offerings will greatly benefit low-income consumers within the requested service area in Mississippi by expanding their choices for Lifeline service.

V. CONCLUSION

For all of the foregoing reasons, TEPA Connect respectfully requests that the Commission designate it as a high-cost ETC for the areas set forth in Exhibit A so that it may be authorized to receive RDOF Phase I support on a timely basis, and designate it as a Lifeline-only ETC in additional areas, as shown in Exhibit B.

Respectfully submitted,

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**EXHIBITS**

**EXHIBIT A:**

**LIST OF CENSUS BLOCKS IN WHICH TEPA CONNECT, LLC SEEKS  
ELIGIBLE COMMUNICATIONS CARRIER DESIGNATION**

**EXHIBIT B:**

**MAP OF REQUESTED SERVICE AREA FOR ELIGIBLE  
TELECOMMUNICATIONS CARRIER DESIGNATION**

**EXHIBIT C:**

**AFFIDAVIT OF TIM SMITH, GENERAL MANAGER, TEPA CONNECT, LLC**

**EXHIBIT D:**

**NOTICE TO ALL CERTIFICATED PROVIDERS OF  
TELECOMMUNICATIONS SERVICES IN THE STATE OF MISSISSIPPI**