

December 31, 2020

Nancy S. Malmquist, Esq.
Downs Rachlin Martin PLLC
67 Etna Road, Suite 300
Lebanon, NH 03766

Re: DT 20-209, Time Warner Cable Information Services (New Hampshire), LLC
Request for Designation as an Eligible Telecommunications Carrier

Dear Ms. Malmquist:

On December 29, 2020, Time Warner Cable Information Services (New Hampshire), LLC (TWC), filed a letter with the Commission stating that the Federal Communications Commission (FCC) had recently announced CCO Holdings, LLC (CCO Holdings), an affiliate of TWC, was selected as a winning bidder in the FCC's recent Rural Digital Opportunity Fund (RDOF) auction. CCO Holdings assigned its right to receive RDOF funding to TWC. Before it is eligible to receive RDOF funds, TWC is required to seek designation as an Eligible Telecommunications Carrier (ETC) in New Hampshire. TWC is seeking confirmation that the Commission lacks jurisdiction under state law to designate TWC as an ETC.

According to TWC, it intends to offer broadband internet access and Voice over Internet Protocol (VoIP) service to consumers in New Hampshire. TWC asserts that, as a provider of only VoIP services, it is not subject to the Commission's regulatory jurisdiction, pursuant to RSA 362:7, II.

Although state commissions, such as the Commission, are the primary authorities for designating ETCs under 47 U.S.C. § 214(e), in cases where a provider's services are not subject to state jurisdiction, federal law authorizes the FCC to grant the ETC designation. *See* 47 U.S.C. § 214(e)(6). Accordingly, TWC requested that the Commission issue a secretarial letter confirming that TWC's designation as an ETC is not subject to the Commission's jurisdiction under state law.

Pursuant to RSA 362:7, II, providers of VoIP service or Internet Protocol-enabled (IP-enabled) service are not public utilities, and the services they provide are not public utility services. VoIP service providers and IP-enabled service providers are subject only to the limited regulation specifically listed in RSA 362:7, III, which does not address market entry, although such providers may be subject to Commission assessment under RSA 363-A:2, I (d).

On December 31, 2020, the Commission issued a secretarial letter delegating to the Director of the Regulatory Innovation and Strategy Division the authority to provide written confirmation regarding the Commission's legal authority with respect to requests for ETC designations by VoIP and IP-enabled service providers. Based on that delegation of authority, and previous determinations by the Commission, this letter confirms that the Commission lacks authority under New Hampshire law to designate TWC as an ETC.

Sincerely,

Kath Mullholand
Director
Regulatory Innovation and Strategy Division

cc: Service List (Electronically)
Docket File