



December 29, 2019

**VIA ELECTRONIC MAIL**

Ms. Debra Howland, Executive Director and Secretary  
New Hampshire Public Utilities Commission  
21 South Fruit Street  
Concord, NH 03301

**RE: Consolidated Communications of Northern New England Company, LLC's Request For Secretarial Letter Regarding ETC Status**

Dear Ms. Howland

Consolidated Communications Holdings, Inc. has been awarded funding in New Hampshire from the Rural Digital Opportunity Fund ("RDOF"). In order to receive this funding Consolidated Communications of Northern New England Company, LLC ("Consolidated") or an affiliate will need to be designated an ETC. As the Commission is well aware, Consolidated is designated as an ETC throughout its entire service territory in New Hampshire. Consolidated is not, however, designated an ETC in a few very small areas of the state where there is no designated excepted local exchange carrier but where Consolidated has been awarded funding. Attachment A to this letter is a screen shot showing the awarded areas overlaid with exchange boundaries. Consolidated is required under the RDOF to obtain ETC status in all areas where it accepts funding.

Through the RDOF program Consolidated intends to build fiber to these currently unserved locations and offer voice service via Voice over Internet Protocol ("VoIP") technology. Based on Consolidated's plans to only offer VoIP in these new areas, this letter seeks confirmation that the New Hampshire Public Utilities Commission ("the Commission") lacks jurisdiction to designate Consolidated as an ETC in the unserved areas where Consolidated has been awarded RDOF funding where it is not currently an ETC and it intends to offer only VoIP service.

Under the federal Telecommunications Act, the Commission is the primary authority for designating ETCs. 47 U.S.C. § 214(e)(2). However, where a provider's services are not subject to state jurisdiction, federal law authorizes the Federal Communications Commission ("FCC") to grant the ETC designation. 47 U.S.C. § 214(e)(6).

Pursuant to RSA 362:7(II): "no department, agency, commission, or political subdivision of the state, shall enact, adopt, or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law that regulates or has the effect of regulating

the market entry, market exit, transfer of control, rates, terms, or conditions of any VoIP service or IP enabled service or any provider of VoIP service or IP-enabled service. VoIP services and IP-enabled services are not public utility services and a provider of VoIP service or IP-enabled service is not a public utility under RSA 362:2, or an excepted local exchange carrier under RSA 362:7, I(c) and shall not be regulated as a public utility in any manner other than as set forth in paragraph III.” None of the exceptions in the RSA 362:7(III) apply.

Accordingly, since the Commission lacks jurisdiction to designate Consolidated an ETC in areas where it is not currently an ELEC and where it only intends to offer VoIP service, a fact confirmed earlier this month by the Commission in a Secretarial Letter issued on December 18, 2020<sup>1</sup>. Consolidated requests the Commission issue a Secretarial Letter similar to the one provided in DT 20-194, confirming that it lacks the jurisdiction to grant Consolidated ETC status in areas where it is not currently an ETC and where it intends to only offer VoIP service since the Commission has no jurisdiction over VoIP service under New Hampshire law.

A hardcopy of this letter will not follow, in accordance with your letter of March 17, 2020, waiving the NHPUC’s paper filing requirements. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah A. Davis', with a stylized flourish at the end.

Sarah A. Davis  
Senior Director Government Affairs  
Consolidated Communications  
5 Davis Farm Rd.  
Portland, ME 04103

w/encl.

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<sup>1</sup> See DT 20-194