

7812.1400 ETC DESIGNATION.

Subpart 1. **Automatic designation of LECs.** On and after July 28, 1997, each local exchange carrier (LEC) operating in Minnesota shall be designated an eligible telecommunication carrier (ETC), eligible to receive universal service support throughout its service area existing on July 28, 1997, under both the federal support mechanism established pursuant to section 254 of the act and any state fund established pursuant to Minnesota Statutes, section 237.16, subdivision 9.

Subp. 2. **Designation of CLECs upon petition.** Upon request and consistent with the public interest, convenience, and necessity, the commission shall designate a competitive local exchange carrier (CLEC) as an ETC and eligible to receive universal service support from the federal universal service support mechanisms under section 254 of the federal act and any state universal service fund established under Minnesota Statutes, section 237.16, subdivision 9, if the CLEC qualifies as an ETC under part 7812.0100, subpart 15. A request for designation as an ETC eligible to receive universal service support must be filed and decided according to the requirements of subparts 3 to 13.

Subp. 3. **Determining applicable universal service area.** A decision on a petition for designation to receive universal service support under this part must include a determination of the applicable universal service area. The commission shall determine whether the LEC serving the area for which the CLEC seeks designation to receive universal service support is a rural telephone company if the competitive local exchange carrier's petition or another party's initial comments under subpart 8 assert that the LEC is a rural telephone company. If the applicable LEC has 50,000 or more subscribers and is not found by the commission to be a rural telephone company, the commission shall designate the local exchange carrier's exchange area as the universal service area unless the commission finds that a smaller geographic unit would be more appropriate, based on consideration of the relevant high-cost areas designated by the FCC and the public interest.

Subp. 4. **Petition information.** A competitive local exchange carrier's petition for designation as an ETC to receive federal universal service support under section 254 of the act, or any state universal service support under Minnesota Statutes, section 237.16, subdivision 9, must include:

A. the legal name, address, and telephone number of the CLEC and its designated contact person;

B. the name, address, and telephone number of the attorney, if the CLEC will be represented by an attorney;

C. the proposed effective date of designation of eligibility to receive universal service support;

D. the signature and title of the CLEC officer or representative authorizing the petition;

E. identification of the service area for which designation is sought, the LEC serving that area and whether the petitioning CLEC considers that LEC to be a rural telephone company;

F. a statement supporting the petition, which specifies why the requested designation satisfies the requirements for receiving universal service support under part 7812.0700.

Subp. 5. **Filing and service.** A local service provider (LSP) filing a designation petition under subpart 1 shall file an original and 15 copies of the petition with the commission, unless otherwise directed by the executive secretary. A copy of the petition must also be served on the department, the Office of Attorney General-Residential Utilities Division (OAG-RUD), those persons on the applicable general service list, and on all other LSPs authorized to provide services in the area for which designation is sought.

Subp. 6. **Challenges to form and completeness.** A person wishing to challenge the form or completeness of a designation petition shall do so within ten days of its filing. The filing local service provider shall reply to the challenge within five days of its filing.

Subp. 7. **Rejection of filings.** The commission shall reject a designation petition found to be substantially out of compliance with this part. A filing under this part not rejected within 45 days of filing is considered accepted as in substantial compliance with applicable filing requirements.

Subp. 8. **Initial comments.** A person wishing to comment on a designation petition under this part shall file initial comments within 20 days of the filing. Initial comments must include a recommendation on whether the filing requires a contested case proceeding, expedited proceeding, or some other procedure, together with reasons for the recommendation.

Subp. 9. **Petition to intervene.** If a person who files initial comments is not entitled to intervene in a commission proceeding as of right and desires full party status, the person shall file a petition to intervene before the reply comment period expires. The intervention petition may be combined with comments on the filing.

Subp. 10. **Reply comments.** Commenting parties have ten days from the expiration of the original comment period to file reply comments. Reply comments must be limited in scope to the issues raised in the initial comments.

Subp. 11. **Nature of proceeding.** Unless all parties agree to the use of a different procedure or there are no unresolved issues of fact, the commission shall conduct an expedited proceeding under Minnesota Statutes, section 237.61, or refer the matter for a contested case proceeding.

Subp. 12. **Time frame for disposition.** The commission shall take final action within 180 days of the filing of the petition.

Subp. 13. **Unserviced areas.** The commission may order an LSP to provide the services that are supported by a federal universal service support mechanism to an otherwise unserved area only as provided in section 102(a) of the act and consistent with Minnesota Statutes, sections 237.081 and 237.16.

Subp. 14. **Relinquishment of universal service.** A local service provider may relinquish its ETC designation and accompanying universal service obligations as provided in items A to C.

A. A local service provider seeking to relinquish its ETC designation shall file a petition with the commission, specifying the service area for which it seeks to relinquish its designation, its proposed timetable for relinquishing its designation, and the identity of the other ETCs serving the service area. The petition to relinquish must be served on the department, the OAG-RUD, and all other local service providers serving the area for which the petitioner seeks to relinquish its ETC designation.

B. The commission shall permit a local service provider to relinquish its ETC designation if at least one other ETC serves the area for which the relinquishment is sought.

C. The petitioning ETC shall continue to meet its ETC obligations for the entire area for which it seeks to relinquish those obligations until the date specified in the commission's order approving the relinquishment. The commission shall specify the date upon which the local service provider may discontinue service based on the ability of other ETCs to serve the relinquishing provider's customers as provided in section 102(a) of the act.

Subp. 15. **Revocation.** The commission shall revoke a local service provider's ETC designation upon finding that the LSP does not qualify as an ETC under part 7812.0100, subpart 15.

Statutory Authority: *MS s 216A.05; 237.10; 237.16; 237.71*

History: *22 SR 46; 22 SR 2079*

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