

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
XIBER, LLC FOR DESIGNATION AS A
HIGH-COST RURAL COMPETITIVE
ELIGIBLE TELECOMMUNICATIONS
CARRIER.

CASE No. 21-141-TP-UNC

FINDING AND ORDER

Entered in the Journal on January 24, 2024

I. SUMMARY

{¶ 1} The Commission revokes Xiber, LLC's designation as a high-cost competitive eligible telecommunications carrier.

II. APPLICABLE LAW

{¶ 2} Pursuant to 47 U.S.C. 214(e)(2), a state commission shall, upon request, designate a common carrier that meets the requirements of an eligible telecommunications carrier (ETC) for a service area designated by the state commission.

{¶ 3} In accordance with 47 C.F.R. 54.101, to receive federal high-cost support, an ETC must offer voice telephony service and broadband service consistent with the rule.

{¶ 4} Consistent with 47 C.F.R. 54.201, an ETC is eligible to receive universal service support in accordance with 47 U.S.C. 254 provided it offers the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services and advertises the availability of such services and charges using media of general distribution.

{¶ 5} Ohio Adm.Code 4901:1-6-09 sets forth the requirements for a competitive ETC designation. Specifically, Ohio Adm.Code 4901:1-6-09(D) contemplates the revocation

or relinquishment of an ETC designation and notes that the Commission may revoke an ETC designation.

III. DISCUSSION

{¶ 6} In *Connect America Fund et al.*, WC Docket Nos. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011), the Federal Communications Commission (FCC) comprehensively reformed the universal service high-cost program to focus support on networks capable of providing voice and broadband services. As part of this process, the FCC created the Connect America Fund for the purpose of making voice and broadband-capable infrastructure available in high-cost areas where it is lacking. See *Connect America Fund et al.*, WC Docket Nos. 10-90 et al., Report and Order (rel. Dec. 18, 2014).

{¶ 7} Pursuant to *Connect America Fund et al.*, WC Docket Nos. 10-90 et al., Notice (rel. Feb. 1, 2018), the FCC established the parameters of the Connect America Fund Phase II (CAF Phase II) multi-round, reverse auction providing up to \$198 million in annual support for voice and broadband service in unserved, high-cost areas over a ten-year period.

{¶ 8} The FCC conducted Auction 903 from July 24, 2018, to August 21, 2018, to allocate CAF Phase II support for service providers that commit to offer voice and broadband services to fixed locations in unserved, high-cost areas. Pursuant to the auction, 103 bidders were selected to provide fixed-location broadband and voice services in unserved communities within 45 states for relatively lower levels of support. The FCC announced the winning bids on August 28, 2018.

{¶ 9} In *In re Rural Digital Opportunity Connect America Fund*, WC Docket Nos. 19-126 and 10-90, Report and Order, 35 FCC Rcd 686 (2020) (RDOF Order), the FCC established the Rural Digital Opportunity Fund (RDOF). The FCC will use the RDOF to continue to build on the success of the CAF Phase II model to connect millions more rural and small business customers to high-speed broadband networks.

{¶ 10} Pursuant to the RDOF Order, the FCC established the parameters of the RDOF Phase I single nationwide, multi-round reverse auction providing \$16 billion of support for voice and broadband service in unserved, high-cost areas over a ten-year period. For the purpose of the RDOF Order, unserved area signifies a census block group not receiving a download speed of at least 25 Mbps and an upload speed of at least 3 Mbps.

{¶ 11} The FCC conducted Auction 904 on October 29, 2020, to allocate RDOF Phase I support to service providers that commit to offer voice and broadband services to fixed locations in unserved, high-cost areas. Pursuant to the auction, 180 bidders were selected to provide fixed-location broadband and voice services in unserved communities within 49 states and one territory. The FCC announced the winning bids on December 7, 2020.

{¶ 12} Hawaii Dialogix Telecom LLC (HDT) was provisionally selected by the FCC as a recipient of RDOF Phase I support for various census blocks in three states, including five census blocks serving 74 end user locations in Ohio. Specifically, HDT was awarded a total support amount of \$102,786 to provide RDOF supported services in five Ohio census blocks and associated wire centers within the Ada, Alger, and Kenton exchanges, all located in Hardin County, Ohio. In accordance with the FCC's procedures allowing winning bidders to assign their bids to affiliated operating companies, HDT assigned its winning bid to its subsidiary, Xiber, LLC (Xiber or Applicant). See Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020, Notice and Filing Requirements and Other Procedures for Auction 904, Public Notice, 35 FCC Rcd 6077.

{¶ 13} On May 19, 2021, the Commission issued an order conditionally designating Xiber as a competitive ETC in order to receive RDOF support in the applicable five census blocks or portions thereof as determined by the FCC. The Commission conditioned Xiber's designation as a competitive ETC on obtaining final FCC approval following submission of the required documentation. (Finding and Order at 6-7).

{¶ 14} On May 1, 2023, the FCC released a Notice of Apparent Liability for Forfeiture related to Xiber's default and failure to comply with the FCC's requirements

regarding the winning bids addressed in this case. *See In re 22 Applicants for Rural Digital Opportunity Fund in Default*, FCC 23-33, (May 1, 2023).

{¶ 15} On October 16, 2023, Xiber filed a request to relinquish its designation as a competitive ETC. In the filing, Xiber explains that it was not awarded funding by the FCC because it was unable to satisfy all of the FCC's requirements for the designated Ohio census blocks. Xiber further states that because it never initiated operations in Ohio and has no high-cost or Lifeline customers in the state, its relinquishment will not impact any Ohio customers. Additionally, Xiber states that there are other designated ETCs that are able to serve the areas for which it sought designation.

{¶ 16} Upon review of the application, the Commission finds that Xiber will not receive final FCC approval, which was a condition of its designation as a competitive ETC in Ohio. Therefore, the Commission finds that Xiber's designation as a competitive ETC should be revoked pursuant to Ohio Adm.Code 4901:1-6-09(D).

IV. ORDER

{¶ 17} It is, therefore,

{¶ 18} ORDERED, That Xiber's designation as a competitive ETC is revoked. It is, further,

{¶ 19} ORDERED, That a copy of this Finding and Order be served upon each party of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair

Daniel R. Conway

Lawrence K. Friedeman

John D. Williams

CRW/dr

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Summary: Finding & Order revoking Xiber, LLC's designation as a high-cost competitive eligible telecommunications carrier electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.