

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  AMG TECHNOLOGY INVESTMENT GROUP, LLC, d/b/a NEXTLINK INTERNET	DOCKET NO. ETA-2018-0006
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**ORDER DESIGNATING ELIGIBLE TELECOMMUNICATIONS CARRIER  
AND GRANTING WAIVER**

(Issued November 20, 2018)

**BACKGROUND**

On September 28, 2018, AMG Technology Investment Group, LLC d/b/a NextLink Internet (NextLink Internet), filed an Application for Designation as an Eligible Telecommunications Carrier (ETC) for purposes of receiving support from the federal Universal Service Fund (USF), including support through the Federal Communications Commission's (FCC) high-cost USF program. NextLink Internet seeks ETC designation in order to receive funding awarded through the recently completed Connect America Fund (CAF) Phase II Auction to deploy broadband and voice communications. The application was filed in Docket No. ETA-2018-0006. NextLink Internet also seeks a waiver of the requirements of Board rule 39.3(2)(i).

The CAF is the FCC's program to expand access to voice and broadband services for areas where they are unavailable. To ensure CAF support is used efficiently, the FCC has focused on areas that are found to be unserved or underserved by unsubsidized service providers. Through the CAF Phase II auction,

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the FCC is providing funding to local telephone companies to subsidize the cost of building new network infrastructure or performing network upgrades to provide voice and broadband service in areas where it is lacking. In the areas of states where the respective incumbent price cap carriers declined model-based support, the FCC has undertaken to award support through a competitive bidding process in which the FCC reviews applicants' requests for support by evaluating, among other things, the companies' operational history, financial qualifications and proposed services.

The companies that accept CAF Phase II support must meet several requirements for voice and broadband services. Service providers must offer broadband at speeds of at least 10 megabits per second downstream and 1 Mbps upstream and the network latency cannot be higher than 100 milliseconds round trip. Service providers must also offer at least one plan with a minimum usage allowance of at least 150 gigabytes per month, or in certain circumstances, a plan with 100 gigabytes of usage, and they must offer service at rates reasonably comparable to rates in urban areas.

As a winning bidder in the CAF Phase II auction, NextLink Internet states that it was awarded \$281,283,793.90 in funding for a total of 29,105 census blocks located in six states. Specifically in Iowa, the company was awarded \$50,614,528 to build out and operate a network for advanced communications serving 5,683 census blocks. For Iowa, NextLink Internet is seeking high-cost funding to extend broadband and digital voice services into a number of rural markets. NextLink Internet is

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therefore seeking ETC designation for a service area including the census blocks in Iowa where it won the CAF Phase II auction and has been awarded support.

No objections to the Application or the waiver request have been filed.

### **LEGAL STANDARDS**

Board rule 199 IAC 39.3(1) requires a telecommunications carrier to be designated as an ETC to qualify for support from the federal universal service fund. The Board reviews applications for designation as an ETC for compliance with 47 U.S.C. § 214(e)(1) and grants ETC designations to qualified applicants for a service area designated by the board.

Board rule 199 IAC 39.3(2) provides the means by which the Board can designate Iowa telecommunications companies to be eligible to receive funding from the USF pursuant to 47 U.S.C. § 254. A carrier must meet the requirements of Board rule 199 IAC 39.3(2) to be designated as an ETC.

Board rule 1.3 allows for the waiver of a rule upon request when the request satisfies four conditions: the application of the rule would impose an undue hardship, a waiver of the rule would not prejudice the substantial legal rights of any person, the provisions of the rule are not specifically mandated by statute or another provision of law, and substantially equal protection of public health, safety, and welfare will be afforded by means other than the rule for which a waiver is requested.

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## **ANALYSIS**

### **I. Waiver of Board rule 39.3(2)(i)**

NextLink Internet has sought a waiver of Board rule 39.3(2)(i), which requires the filing of five-year improvement plans. NextLink Internet asserts application of the rule would impose an undue hardship on it because it will already be required to submit detailed reports to the FCC confirming its deployment milestones are being reached. These reports effectively replace the need for five-year improvement plans, and requiring it to do so would result in duplicative work with little or no useful purpose. NextLink argues the granting of the waiver would not prejudice the rights of any other person because recipients of CAF Phase II funding must provide such information to the FCC. NextLink Internet argues the requirement is not otherwise mandated by law because the FCC has already waived such requirements for CAF Phase II auction winners, and the Board should do so as well. NextLink Internet also argues that equal protection of the public health, safety, and welfare will be maintained because other reporting requirements will ensure monitoring and oversight of its compliance.

The Board finds that the requirements of Board rule 1.3 have been met. Strict application of the rule would result in an undue hardship on NextLink Internet. The granting of the waiver will not prejudice the rights of any other person, and the requirements are not otherwise mandated by law. Substantially equal protection of public health, safety, and welfare will be afforded by the FCC's and the Board's other requirements. The Board will therefore grant the waiver of rule 39.3(2)(i).

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## **II. Designation as an ETC**

Under federal law, 47 U.S.C. § 214(e)(2), states have primary responsibility for designating ETCs. Board rule 39.3(1) provides the means by which the Board may designate a telecommunications carrier to be eligible to receive funding from the federal USF. Board rule 39.3(2) specifies the requirements for an application for ETC designation.

Board rule 39.3(2)(a) requires a clear statement of which entity is requesting the designation. NextLink Internet states it is a privately-held limited liability company formed in the State of Texas with its principal place of business in Hudson Oaks, Texas, and it is the entity requesting ETC designation.

Board rule 39.3(2)(b) requires an applicant provide a clear statement of the purposes for which the designation is sought. NextLink Internet is seeking ETC designation because it was awarded support as a successful bidder in the FCC's CAF Phase II auction. NextLink Internet intends to provide voice and broadband service in the census blocks in Iowa where the FCC has awarded support.

Board rule 39.3(2)(b) also requires an applicant to provide a statement of its financial and technical qualification to provide the supported service. NextLink Internet states it has been successfully operating in Texas for over five years and through its years of operation has demonstrated financial stability and the technical expertise to provide the proposed services. NextLink Internet provides information about its management team as Exhibit 3 to its application.

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Board rule 39.3(2)(c) requires an applicant to certify that it offers or intends to offer all services designated for support throughout the applicant's service area. Board rule 39.3(2)(d) requires that an applicant explain how it will provide voice telephony service. As identified in 47 C.F.R. § 54.101, the services designated for support are: (a) voice-grade access to the public switched network or its functional equivalent; (b) minutes of use for local service provided at no additional charge to end users; (c) access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911; and (d) toll limitation services to qualifying low-income consumers.

NextLink Internet states in its application that it commits to providing all of the aforementioned services throughout its territory. NextLink Internet intends to provide voice and broadband services using fiber and fixed wireless microwave platforms. It will provide voice-grade access through interconnected VoIP service and have unlimited local calling in its rate plans. NextLink Internet will provide access to emergency services through 911 and E911 arrangements with Bandwidth.com, a holder of a certificate of public convenience and necessity in Iowa. NextLink Internet states its calling plans do not apply any additional charge for toll calls since it does not distinguish between local exchange and long distance calls in its voice offering.

Board rule 39.3(2)(e) requires applicants to certify they plan to offer the supported services using their own facilities or a combination of their own facilities and resale of another carrier's services. NextLink Internet states in its application that it commits to providing all of the aforementioned services throughout its territory,

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and it will offer the services through its own facilities or a combination of its own facilities and the resale of another carrier's services.

Board rule 39.3(2)(f) requires an applicant to describe how it will advertise the availability of supported services and associated charges using media of general distribution. NextLink Internet states that it has successfully used various social media platforms as well as Google AdWords as a medium. NextLink Internet agrees to comply with all form and content requirements that are promulgated by the FCC or the Board, currently or in the future, and required of all similarly designated ETCs. NextLink Internet attached a sample of its advertising material as Exhibit 6 to its application.

Board rule 39.3(2)(g) requires an applicant to describe its proposed ETC service area. NextLink Internet has provided a list of all 5,683 census blocks for which it seeks ETC designation after successfully bidding in the CAF Phase II auction. The list and an associated map have been attached as Exhibit 4 to NextLink Internet's application.

Where an application is from a carrier seeking ETC designation for an area served by a rural carrier, Board rule 39.3(2)(h) requires an applicant to demonstrate the requested designation is in the public interest. NextLink Internet maintains that granting an ETC in Iowa will serve the public interest by facilitating the FCC's goal of deploying voice and broadband networks in unserved and underserved rural, high-cost areas. As a recipient of federal high-cost funding, NextLink Internet states it will deploy advanced communications to unserved and underserved areas in Iowa.

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NextLink Internet contends that it will be the only provider in its proposed service area that is approved to draw on federal CAF Phase II support for the deployment and development of this essential communications infrastructure. NextLink Internet maintains that its designation would directly benefit the residents of the proposed area by ensuring that they receive the benefits of this federal funding.

Board rule 39.3(2)(i) requires an applicant to submit a five-year improvement plan. NextLink Internet has sought a waiver of this provision, and as noted above, the Board will grant that waiver.

Board rule 39.3(2)(j) requires an applicant to make an affirmative statement explaining how the applicant will remain functional in emergency situations. NextLink Internet states that its network has been developed using state-of-the-art equipment and software that can continue operations even under major stress events. The network also includes redundancy to provide immediate back-up service in the event of power failures or other events. NextLink Internet has uninterrupted power supplies and generator backups and multiple routing options within each tower location.

As required by Board rule 39.3(2)(k), NextLink Internet commits to comply with all applicable FCC and Board service requirements.

Board rule 39.3(2)(l) requires an applicant to certify that it will comply with applicable consumer protection and service quality standards. NextLink Internet states it prioritizes customer service and considers compliance with consumer protection standards to be integral to its operations. Upon designation as an ETC, it



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will fully comply with all state and federal consumer protection and service quality standards.

The Board has reviewed NextLink Internet's Application. Based on the unopposed representations in those filings, the Board concludes that NextLink Internet has substantially complied with the Board's rules governing designation of ETCs. The Board will grant NextLink Internet's Application for designation as an ETC for purposes of receiving high cost and low-income support in the service areas identified in the census blocks identified in Exhibit 4 to the application.

#### **ORDERING CLAUSES**

##### **IT IS THEREFORE ORDERED:**

1. The "Application for Designation as an Eligible Telecommunications Carrier" filed by AMG Technology Investment Group, LLC d/b/a NextLink Internet, on September 28, 2018, is granted.
2. AMG Technology Investment Group, LLC d/b/a NextLink Internet, is granted such designation for the census blocks for which it has been awarded support through the Connect America Fund Phase II auction and which are identified in Exhibit 4 to its application.
3. The request for a waiver of Utilities Board rule at 199 IAC 39.3(2)(i) is granted.
4. AMG Technology Investment Group, LLC d/b/a NextLink Internet, shall be responsible for informing the Federal Communications Commission, the Universal

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Service Administrative Company, and any other applicable regulatory agency of the designation as necessary.

5. AMG Technology Investment Group, LLC d/b/a NextLink Internet, shall submit a telecommunications service provider registration prior to offering service in Iowa.

6. Once registered, AMG Technology Investment Group, LLC d/b/a NextLink Internet, shall complete and file Dual Party Relay Assessments as required by Iowa Code §§ 476.95 and 477C.7.

**UTILITIES BOARD**

/s/ Geri D. Huser

/s/ Nick Wagner

ATTEST:

/s/ Bradley Nielsen      /s/ Richard W. Lozier Jr.

Dated at Des Moines, Iowa, this 20<sup>th</sup> day of November, 2018.