

**STATE OF IOWA
IOWA UTILITY BOARD**

Skybeam, LLC)	
)	
)	Docket No.
Application for Designation as a Eligible)	
Telecommunications Carrier for Purposes of)	ETA-2014-0005
Receiving Federal Universal Service Support)	
For the purpose of participating in the FCC's)	
Rural Broadband Experiment program)	
)	

**APPLICATION OF SKYBEAM, LLC
FOR DESIGNATION AS A ELIGIBLE TELECOMMUNICATIONS CARRIER**

Now comes Skybeam, LLC (“Skybeam”) and pursuant to the Telecommunications Act of 1996, 47 U.S.C. §214(e)(2) (the “Act”) and the rules of the Federal Communications Commission (“FCC”) 47 C.F.R. §54.201, hereby requests that the Iowa Utility Board (“IUB” or “Commission”) designate Skybeam as a telecommunications carrier eligible under the provisions of Section 54.201(d) to receive federal universal service support. Skybeam seeks ETC designation in order to receive support from the federal Universal Service Fund (“USF”), including support through the FCC’s high-cost USF programs in order to receive funds pursuant to the FCC’s Rural Broadband Experiment program.

I. Introduction

Company Background

Skybeam, based in Englewood, Colorado, is a wholly owned subsidiary of JAB Wireless, Inc. (“JAB”). A copy of JAB’s Organizational Chart is included as Exhibit A. Skybeam is incorporated in Colorado and maintains a status of "active and in good

standing" with the Iowa Secretary of State. Copies of Skybeam's incorporation documents are included as Exhibit B. Skybeam's principle place of business is 400 Inverness Parkway, Suite 330, Englewood CO 80112. Skybeam also maintains in-state offices at four Iowa locations: 5065 Wolff Rd., Dubuque, Iowa; 400 35th Street, Marion, Iowa; 2703 19th Street SW, Suite 1, Mason City, Iowa; and 11291 Aurora Ave., Urbandale, Iowa.

JAB is one of the largest providers of fixed wireless broadband in the U.S and provides high-speed broadband and digital telephone services to residential, commercial and enterprise customers utilizing a combination of unlicensed and licensed frequencies. JAB has deployed a next generation fixed wireless network and targets rural markets outside of metropolitan areas that are either unserved or underserved. JAB now serves approximately 175,000 wireless broadband subscribers and provides digital telephone service to 20,000 customers in 15 states (Colorado, Wyoming, Utah, Idaho, Nevada, Texas, Oklahoma, Nebraska, Iowa, South Dakota, Kansas, Minnesota, Illinois, Wisconsin and Indiana). JAB currently employs approximately 750 persons nationwide.

JAB Wireless is a facilities-based wireless telecommunications carrier with its own switching, cell sites, and associated telecommunications facilities throughout its Proposed Service Areas. Skybeam has a demonstrated record of providing high-speed, high-quality fixed wireless broadband and VoIP services to residential customers, private business and public institutions in Iowa. The company provides broadband and voice services that are critical to customers and promotes economic

growth in rural Iowa communities by providing broadband and voice connections that are critical.

Skybeam intends, with needed support offered by the Connect America Fund, to extend broadband and digital voice services across select rural markets across five states: Texas, Kansas, Nebraska, Iowa, and Illinois. Through an FCC December 5, 2014 Public Notice, Skybeam was selected to participate in the Rural Broadband Experiment program.¹ One requirement of that program is that Skybeam obtain ETC authority in each state. Skybeam seeks an expeditious order from this Commission so that it may begin to provide service to eligible customers pursuant to the Rural Broadband Experiment program as quickly as possible.

Skybeam will use fixed wireless technology to offer VoIP and broadband service to residential and commercial locations with less than 100ms latency at speeds ranging from 5 Mbps downstream and 1 Mbps upstream to 25 Mbps downstream and 5 Mbps upstream. Commercial and Enterprise services are available to community anchor institutions and private enterprise. Enterprise data services deliver up to 1 gigabit per second.

Service offerings include voice service that will not exceed \$46.96 per month and a 10/1 Mbps broadband-only offering that will not exceed \$85.00 per month for up to 100 GB of monthly usage. Additionally, the network is designed to achieve 100/25Mbps service while offering a 25/5Mbps broadband service plan. Broadband service is designed for no greater than 100 millisecond roundtrip latency.

¹ See DA 14-1772 (December 5, 2014).

All correspondence, communications, pleadings, notices, orders and decisions relating to this Application should be addressed to:

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Rural Broadband Experiment Program

On July 14, 2014, the FCC adopted the *Rural Experiments Order*² and established a one-time program to award up to \$100 million to qualified applicants meeting certain criteria for the deployment of fixed broadband services in census blocks deemed by the FCC to be unserved by voice services and by broadband speeds of at least 4 Mbps downstream and 1 Mbps upstream. On November 10, 2014, Skybeam filed its application on FCC Form 5610. By *Public Notice* dated December 5, 2014 (attached as Exhibit C),³ the FCC provisionally selected Skybeam's application for 952 census blocks in Iowa. In so doing, the FCC determined that Skybeam proposed a cost-effective means of deploying broadband service to the designated census blocks. Skybeam's application

² See *Connect America Fund; ETC Annual Reports and Certifications*, WC Docket Nos. 10-90, 14-58, Report and Order and Further Notice of Proposed Rulemaking, 29 FCC Rcd 8769 (2014) ("*Rural Experiments Order*").

³ See *Public Notice*, DA 14-1772 (rel. Dec. 5, 2014) ("*Public Notice*").

pledged to deploy a network capable of delivering 100 Mbps downstream / 25 Mbps upstream with at least one service plan that provides 25 downstream / 5 upstream to all locations within the subject census blocks. Funding will be paid out to Skybeam over ten years. Among other things, the *Rural Experiments Order* requires Skybeam to become an ETC as a condition to receiving the funding. Skybeam is therefore requesting that the ETC designation granted to it in this request be for the specific purpose of receiving funding under the *Rural Experiments Order*. The *Rural Experiments Order* provides an opportunity for the industry and regulators to provide broadband service to rural areas of the country. As the FCC has indicated, delivery of a combination of broadband services and voice telephony services can be accomplished through the use of different technologies, which include the fixed wireless technology used by Skybeam.

FCC Review

Pursuant to the *Rural Experiments Order*, the FCC will perform a technical and financial review of Skybeam. Among other things, Skybeam is required to provide to the FCC: its most recent three consecutive years of audited financial statements⁴; “a description of the technology and system design that would be used to deliver voice and broadband service meeting the requisite speeds to all locations in the funded census blocks, including a network diagram, which must be certified by a professional engineer⁵; and “a description of spectrum access in the areas for which the applicant seeks

⁴ *Rural Experiments Order*, 29 FCC Rcd 8769, 8787-88, para. 54.

⁵ *Id.*

support.”⁶ Skybeam is also required to provide a Letter of Credit Commitment Letter (“LOC”) to the FCC pursuant to the terms and conditions of the FCC’s model LOC.⁷

II. Federal Act

Pursuant to Section 214(e)(2) of the Act, a state commission may, upon its own motion, or upon request, designate a common carrier to be an “eligible telecommunications carrier” for purposes of receiving universal service support under the Act. Section 214(e)(2) also requires that the carrier designated meet the requirements of Section 214(e)(1). Section 214(e)(1) states:

A common carrier designated as an eligible telecommunications carrier... shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received -

(A) offer the services that are supported by the Federal universal service support mechanism under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the service offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefore using a media of general distribution.

Section 54.201(b) of the FCC’s Rules states that the Commission shall, on its own motion or upon request, designate a common carrier an ETC so long as the carrier meets the requirements of Section 54.201(d), which restates the requirements found in Section 214(e)(1) of the Act. Section 214(e)(2) of the Act and Section 54.201(c) of the FCC’s Rules state that the Commission may, in the case of an area serviced by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area the Commission designates, provided each additional

⁶ Id.

⁷ Id. at 8805-06, App. A.

requesting carrier satisfies Section 214(e)(1) of the Act and Section 54.201(d) of the FCC's Rules. Before designating an additional ETC for an area serviced by a rural telephone company, the Commission shall find that such designation is in the public interest.

III. Designated Service Area

In its *Rural Experiments Order*, the FCC adopted a census block methodology for designating a service area for the Rural Broadband Experiment program:

By accepting proposals at the census block level, we hope to provide greater flexibility to parties and encourage a greater number of entities to participate in the rural broadband experiments. For example, smaller entities may not be able to serve areas as large as census tracts, but would be interested in submitting proposals for smaller neighborhoods that they may already be well positioned to serve. Permitting applicants to aggregate census blocks themselves, rather than having to work within the pre-defined framework of census tracts, will encourage greater participation among these entities. Moreover, this approach provides an opportunity for entities to engage in an incremental expansion into neighboring areas, allowing parties to leverage economies of scale to provide broadband in an efficient manner that benefits consumers.⁸

Further, in the *Public Notice*, the FCC stated:

The identified bidders must provide appropriate documentation of their eligible telecommunications carrier (ETC) designation in each census block for which they are provisionally selected to receive support and certify that the information submitted is accurate.⁹

Skybeam therefore requests ETC designation for a service area that includes the census block areas of Iowa listed on the CONFIDENTIAL attached Exhibit D. Also,

⁸ Id.

⁹ Public Notice, DA 14-1772 at Attachment B (Rel. Dec. 5, 2014).

attached as CONFIDENTIAL Exhibit E is a map of the census block area of Iowa comprising Skybeam's designated service area.

IV. Requirements for ETC Designation

A. Skybeam will offer the services that are supported by federal universal service support mechanisms throughout the service area for which ETC designation is received.

Skybeam commits to provide (i) voice grade access to the public switched telephone network ("PSTN") or its functional equivalent; (ii) minutes of use for local service provided at no additional charge to end users; (iii) access to emergency services; and (iv) toll limitation services to qualifying low-income consumers as provided in accordance with 47 C.F.R. §§54.400 *et seq.*

i. Voice grade access to the public switched telephone network

In its *USF/ICC Transformation Order*, the FCC modified the definition of a supported service to a technologically neutral approach, allowing companies to provision voice service over any platform, including the PSTN and IP networks.¹⁰ Thus, the FCC amended Section 54.101 to specify that the functionalities of eligible voice telephony services include voice grade access to the public switched network or its functional equivalent.¹¹ The FCC further explained that increasingly "consumers are obtaining voice services not through traditional means but instead through

¹⁰ *In the Matter of Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, 26 FCC Rcd 17663, 17692-93 (2011) ("*USF/ICC Transformation Order*").

¹¹ *Id.*; See also 47 C.F.R. §54.101(a).

interconnected VoIP providers offering service over broadband networks.”¹² Interconnected VoIP services “allow customers to make real-time voice calls to, and receive calls from, the PSTN, and increasingly appear to be viewed by consumers as substitutes for traditional voice telephone services.”¹³ Thus, the FCC concluded that its authority to promote universal services in this context “does not depend on whether interconnected VoIP services are telecommunications services or information services under the Communications Act.”¹⁴ Skybeam will therefore provide voice-grade access to the PSTN by providing interconnected VoIP service throughout the designated service area.

ii. Minutes of Use

“Local usage” means an amount of minutes of use of exchange services, prescribed by the FCC, provided free of charge to end users.”¹⁵ The FCC has not specified a minimum amount of local usage that an ETC must offer. Skybeam will meet the local usage requirement by including local usage in its rate plans. The Company will comply with any minimum local usage requirements adopted by the FCC or this Commission.

iii. Access to emergency services

ETCs are required to provide access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911(“E 911”), to the extent the local government in an ETC's service area has implemented 911 or enhanced 911 systems. Skybeam will provide access to emergency

¹² *USF/ICC Transformation Order* at ¶63.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ 47 C.F.R. § 54.101(a)(2).

services by providing 911 and E911 for all of its customers to the extent that the local governments in its designated service areas have implemented 911 and E911.

iv. Toll limitation for Qualifying Low-Income Consumers

Skybeam does not distinguish between toll and non-toll for its voice offering. To the extent Skybeam offers a service that distinguishes between toll and non-toll calls, it will offer toll limitation to qualifying low-income consumers at no additional charge.

B. Skybeam will comply with the requirements of 47 USC 214(e)(1).

Skybeam commits to, throughout its service area: (A) offer supported services “either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier)” and (B) advertise the availability of such services and the charges therefor using media of general distribution

i. Skybeam will use its own facilities to provide the supported services

Skybeam provides high-speed broadband and digital telephone services to residential, commercial and enterprise customers utilizing a combination of unlicensed and licensed frequencies. JAB has deployed a next generation fixed wireless network and targets rural markets outside of metropolitan areas that are either unserved or underserved. Skybeam, along with its affiliate JAB Wireless leases 2.5 GHz EBS spectrum in certain markets and has FCC microwave licenses in additional markets. The Company maintains one of the largest fixed wireless broadband networks in the U.S, providing high-speed broadband and digital telephone services to residential, commercial and enterprise customers utilizing a combination of unlicensed and licensed frequencies.

JAB has deployed a next generation fixed wireless network and targets rural markets outside of metropolitan areas that are either unserved or underserved.

- ii. Skybeam will advertise the availability of its service throughout its service area.

Skybeam will advertise the availability of the Supported Services throughout its designated service areas using media of general distribution in a manner that is designed to reach those likely to qualify for such services. Skybeam agrees to comply with all form and content requirements, if any, promulgated by the FCC and this Commission in the future and required of all designated ETCs. A sample copy of Skybeam's advertising material is attached hereto as Exhibit F.

C. Skybeam will satisfy consumer protection and service quality standards.

Upon designation as an ETC, Skybeam will satisfy all consumer protection and service quality standards as provided in 47 C.F.R § 54.202(a)(3), as well as all applicable state specific consumer protection and service quality standards.

D. Designation of Skybeam as an ETC is within the public interest.

Designation of Skybeam as an ETC will serve the public interest by facilitating the FCC's goal of developing voice and broadband networks in rural, high-cost areas. Under the 1996 Act, "upon request and consistent with the public interest, convenience and necessity" the Commission shall "designate more than one common carrier as an eligible telecommunications carrier for a service area designated" by the Commission.¹⁶ Before such a designation, the Commission shall find that the designation is in the public interest.¹⁷ In its *2005 ETC Order*, the FCC determined that the benefits of increased

¹⁶ 47 C.F.R. 54.201(c).

¹⁷ Id.

consumer choice, and the unique advantages of the applicant's service offering are components of a public interest analysis.¹⁸

Expedited designation of Skybeam will serve the public interest by ensuring that the company is eligible to receive federal USF support, including through the FCC's high-cost programs. Skybeam will use this funding to directly advance the FCC's goal of deploying voice and broadband-capable networks in rural, high-cost areas while ensuring that rural consumers and anchor institutions benefit from innovations in communications technology. In particular, Skybeam will use federal USF support to expand access to high-speed, high-quality broadband and voice provided through interconnected VoIP and fixed wireless for residents of rural Iowa. These advanced communications services will provide important connectivity to consumers, businesses, and community anchor institutions, including rural schools, libraries and medical facilities and are a unique alternative to services provided by traditional wireline carriers within the Company's designated service area.

Designation of Skybeam as an ETC is also in the public interest because it will promote increased competitive choice, thereby increasing innovation and incenting other carriers to improve their existing networks in order to remain competitive. This will result in greater access to high-speed broadband and voice services, as well as improved service quality for residents of underserved

¹⁸ *In the Matter of Federal-State Joint Board on Universal Service*, Report and Order, CC Docket No. 96-45, FCC 05-46, 20 *FCC Rcd* 6371, 6389 (rel. Mar. 15, 2005) (“*2005 ETC Order*”).

communities in rural Iowa. Skybeam's services will provide consumers with additional choices in communications service providers, as well as a variety of service offerings at competitive rates.

Having invested significant resources in rural Iowa to provide consumers with high-quality, high-speed broadband and voice services, Skybeam is well positioned to efficiently use federal *Rural Broadband Experiment* funding to expand its communications infrastructure and service offerings. The company currently is experienced and familiar with the Iowa markets for which it seeks ETC designation and will be able to use federal *Rural Broadband Experiment* funding to effectively expand the company's broadband and voice--enabled networks for the benefit of the residents, businesses, and community anchor institutions in rural areas of Iowa.

V. State ETC Requirements

Skybeam acknowledges that the FCC may require it to provide equal access if all other eligible carriers in its ETC designated service area relinquish their designations pursuant to Section 214(e) of the Telecommunications Act of 1996.

VI. Waiver Requests

Skybeam requests a waiver of Iowa requirements related to a “network improvement and maintenance plan” (199 IAC 39.2(3)(e), 199 IAC 39.5(476)(8), (9)). The *Rural Experiments Order* contains build-out requirements for the Rural Broadband Experiments program:

Build-Out Requirements for all Recipients. As we discuss above, all recipients of rural broadband support will receive support in 120 equal

monthly disbursements over a 10-year support term, consistent with the support term we have adopted for the Phase II competitive bidding process. The support term will begin with the first disbursement of support after the entities have been notified that they are the winning bidders and that they have met the requirements outlined above. During this support term, the recipients will be required to meet interim build-out requirements consistent with the build-out requirements we have adopted generally for recipients of Connect America Phase II funding. By the end of the third year, the recipients must offer service meeting the public service obligations we adopted for the relevant experiment category to at least 85 percent of the number of required locations and submit the required certifications and evidence. By the end of the fifth year, the recipients must offer service meeting the public service obligations we adopted for the relevant experiment category to 100 percent of the number of required locations and submit the required certifications and evidence. Recipients must comply with the terms and conditions of rural broadband experiment support for the full 10-year support term.¹⁹

Thus, the FCC concluded:

We find there is good cause, however, to waive on our own motion section 54.313(a)(1) of the Commission's rules for recipients of rural broadband experiment support. Because we adopt other requirements for the rural broadband experiments recipients that will ensure that we will be kept apprised of their build-out progress, we find that it is unnecessary to require these entities to file a five-year service quality plan.²⁰

VII. Relief Requested

In the *Rural Experiments Order*, the FCC stated:

for purposes of this [Rural Broadband] experiment, if after 90 days a state has failed to act on a pending ETC application, an entity may request that the Commission designate it as an ETC, pursuant to section 214(e)(6). Although we are confident that states share our desire to work cooperatively to advance broadband, and we expect states to expeditiously designate qualified entities that have expressed an interest in providing voice and broadband to consumers in price cap areas within their states, we also recognize the need to adopt measures that will provide a pathway to obtaining ETC designation in situations where there is a lack of action by the state.²¹

¹⁹ *Rural Experiments Order*, 29 FCC Rcd 8769 at ¶74 (internal footnotes omitted).

²⁰ *Rural Experiments Order*, 29 FCC Rcd 8769 at ¶77 (internal footnote omitted).

²¹ *Rural Experiments Order*, 29 FCC Rcd 8769, ¶23. (internal footnotes omitted).

For the reasons set forth above, Skybeam respectfully requests (i) an expeditious Order designating the Company as an ETC in Iowa for the specific purpose of being eligible to receive federal funding pursuant to the Rural Broadband Experiment program; and (ii) such other relief as this Commission deems to be just and equitable.

Respectfully submitted,

 s/ Thomas H. Rowland
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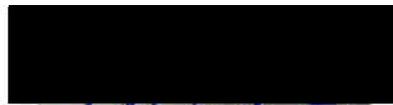
Counsel for Skybeam, LLC

STATE OF Colorado)

COUNTY OF Denver)

Verification

I, Jeff Kohler, being first duly sworn, depose and state that I am Chief Development Officer for JAB Wireless, Inc. and that I have read the foregoing Petition of Skybeam, LLC and know the contents thereof and the statements therein contained are true, to the best of my knowledge, information and belief.



Jeff Kohler, Chief Development Officer

JAB Wireless, Inc.

Subscribed and Sworn
to before me this 17th
day of December 2014.



My Commission Expires May 31, 2016