

**ORIGINAL**

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman	√		
Krevda	√		
Ziegner	√		

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**IN THE MATTER OF THE EXPANSION OF )**  
**THE DESIGNATED SERVICE AREA OF )**  
**JACKSON COUNTY RURAL ELECTRIC ) CAUSE NO. 41052 ETC 94 S1**  
**MEMBERSHIP CORPORATION AS AN )**  
**ELIGIBLE TELECOMMUNICATIONS ) APPROVED: JUN 28 2022**  
**CARRIER IN THE STATE OF INDIANA )**

**ORDER OF THE COMMISSION**

**Presiding Officers:**  
**Sarah E. Freeman, Commissioner**  
**David E. Veleta, Senior Administrative Law Judge**

On March 7, 2022, Jackson County Rural Electric Membership Corporation (“Petitioner” or “Jackson County REMC”) filed its Verified Petition for Expansion of Designated Service Area as an Eligible Telecommunications Carrier in the State of Indiana (the “Verified Petition”) with the Indiana Utility Regulatory Commission (the “Commission”). Petitioner seeks Commission authority to expand the service area in which Petitioner is designated as an eligible telecommunications carrier (“ETC”) in the state of Indiana for purposes of receiving federal low-income universal service support, specifically Lifeline, for voice and broadband services. The requested expanded designated service area (the “Expanded Service Area”) was attached to the Verified Petition as Exhibit A, which was subsequently amended as filed in this Cause by Petitioner on April 22, 2022.

Also, on March 7, 2022, Petitioner filed the testimony and exhibits of Mark McKinney, president and chief executive officer of Petitioner, as well as a Motion for Confidential Treatment of Certain Exhibits of Mark McKinney, which was preliminarily granted by the Presiding Officers on March 30, 2022. On March 29, 2022, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its Notice of Intent Not to File Testimony. On April 11, 2022, the Presiding Officers issued a Docket Entry requesting the Petitioner provide additional information, and Petitioner responded in a filing on April 22, 2022.

The Commission set this matter for an Evidentiary Hearing to be held on May 17, 2022, at 10:30 a.m. in Room 222 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. Petitioner and the OUCC, by counsel, participated in the hearing, and the testimony and exhibits of Petitioner were admitted into the record without objection.

Based upon the applicable law and the evidence presented, the Commission finds:

**1. Notice and Jurisdiction.** Notice of the hearing in this Cause was given and published by the Commission as required by law. Pursuant to the Communications Act of 1934 (the “Act”), 47 USC § 151 *et seq.*, and 47 CFR §§ 54.201 and 54.203, the Commission is

authorized to designate ETCs, thereby enabling those so designated to apply for federal universal service support under 47 USC § 254, and in accordance with the Commission's Orders in Cause Nos. 40785, 41052 and 42067. The Commission also has limited jurisdiction over certain matters related to communications service providers ("CSPs") pursuant to Ind. Code § 8-1-2.6-13, including the designation of CSPs as ETCs and their associated ETC service areas. Therefore, the Commission has jurisdiction over Petitioner with respect to the subject matter of this Cause.

**2. Petitioner's Characteristics.** Jackson County REMC is an Indiana rural electric membership corporation with its principal office at 274 E. Base Road, P.O. Box K, Brownstown, IN 47220. Jackson County REMC is a member-owned rural electric cooperative with approximately 20,300 members and 25,000 accounts, 2,886 miles of electric service line and an average of 8.4 electric meters per mile. The service territory extends to 10 counties in southern Indiana. Jackson County REMC was founded in 1937 and is governed by a nine-member Board of Directors. The financial history of the cooperative has been steady throughout its history. Electric service reliability ratings over the past five years have been 99.95% with distribution automation and self-healing technologies.

Jackson County REMC has traditionally provided electric utility service within the service area designated by the Commission and last modified by Order of the Commission dated November 21, 2018 in Cause No. 45156. On May 9, 2018 in Cause No. 1804-2, the Commission officially acknowledged a Notice of Change to Jackson County REMC's Certificate of Public Convenience and Necessity ("CPCN") issued on April 30, 1937 in Cause No. 12551. This Notice of Change added broadband service to Jackson County REMC's authorized service offerings within its CPCN service area, including portions of Bartholomew, Brown, Clark, Jackson, Jefferson, Jennings, Lawrence, Monroe, Scott and Washington counties. On August 3, 2018 in Cause No. CSP1806-10, the Commission officially acknowledged a Notice of Change to Jackson County REMC's CPCN that added additional areas within Jackson, Jennings, Scott and Washington counties to Jackson REMC's authorized broadband service area. On January 11, 2021, Jackson County REMC filed a Notice of Change to its CPCN to become authorized to provide broadband service and interconnected VoIP as a telecommunications service throughout Indiana, which will encompass the requested Expanded Service Area. The Commission officially acknowledged Jackson County REMC's Notice of Change to its CPCN on March 4, 2021. Jackson County REMC also is or will be a "common carrier" and a "telecommunications carrier" as defined by 47 USC § 153.

By Order dated May 19, 2021 in Cause No. 41052-ETC 94 (the "ETC Designation Order"), the Commission designated Jackson County REMC as an ETC for the purpose of receiving high-cost support from the FCC's Rural Digital Opportunity Fund ("RDOF") Phase I auction and receiving low-income universal service support, specifically Lifeline, within Jackson County's originally designated ETC service area. In addition to the Expanded Service Area requested in Jackson County REMC's Verified Petition, the original designated ETC service area of Jackson County REMC was identified on Exhibit A attached to the Verified Petition, which was subsequently amended by an April 22, 2022 filing in this Cause.

**3. Petitioner's Evidence.** Mr. McKinney, president and chief executive officer for Petitioner, testified that, in accordance with Section 214(e)(2) of the Act and Section 54.201 of the

FCC's rules, Petitioner was requesting the Commission's approval of the Expanded Service Area in which Petitioner seeks to be designated as an ETC in order to receive federal low-income universal service support, specifically Lifeline support. Mr. McKinney testified that Petitioner's requested relief would enable Petitioner to expand the availability of Lifeline service to more eligible consumers in Indiana and to achieve administrative efficiencies through the provision of Lifeline service to all eligible subscribers within the area where it provides voice and broadband services.

Mr. McKinney stated that pursuant to the ETC Designation Order, Petitioner is required to provide Lifeline service, among other services, within its original designated ETC service area. The original designated ETC service area only represents the census blocks for which Petitioner was awarded RDOF Phase I support and does not include any other portions of the territory in which Petitioner currently provides or plans to provide voice and broadband services. Mr. McKinney testified that Petitioner now seeks to be designated as an ETC for purposes of receiving low-income support within the remainder of its service territory outside of its RDOF-awarded census blocks, which such area was identified on the map attached as Exhibit A to the Verified Petition. Mr. McKinney stated that all of Petitioner's requested service area falls within the Incumbent Local Exchange Carrier ("ILEC") study areas of Frontier North, Inc. (Study Area Code 320779), Indiana Bell Telephone Company Incorporated (Study Area Code 325080), Smithville Telephone Company, Incorporated (Study Area Code 320818), Southeastern Indiana Rural Telephone Cooperative Inc. (Study Area Code 320819), and Washington County Rural Telephone Cooperative Inc. (Study Area Code 320834). Mr. McKinney testified that, pursuant to 47 CFR § 51.5, Petitioner is not required to serve the entire study area of any rural telephone company as it is not seeking federal high-cost universal service support in this proceeding.

In his testimony, Mr. McKinney stated that Petitioner would offer to eligible Lifeline subscribers the same service plans that are available to its non-Lifeline subscribers and listed Petitioner's voice and broadband service plans and corresponding pricing. Mr. McKinney stated that Petitioner's voice telephony plans provide unlimited minutes of voice service at no additional charge per minute and do not distinguish between toll and non-toll calls; thus, toll limitation would not be required or offered. He further stated that none of the listed plans contained data caps or monthly usage allowances and that the terms and conditions of the plans, as well as Petitioner's Lifeline terms and conditions, could be found on Petitioner's website.

Mr. McKinney testified that Petitioner is financially and technically capable of providing the supported Lifeline services within the Expanded Service Area. To fulfill the filing requirements of the Commission's General Administrative Order ("GAO") 2019-5, Mr. McKinney provided Petitioner's Articles of Incorporation and, pursuant to the Commission's finding of preliminary confidentiality, Petitioner's audited financial statements for fiscal years ended June 30, 2021 and June 30, 2020. Mr. McKinney further stated that the Board of Directors and management team of Petitioner are familiar with the managerial, financial and technical needs of a utility. He testified that Petitioner has provided electric service to members within its rural service territory for more than 80 years, and its broadband internet project buildout began in 2017 and now serves more than 5,000 members with both electric and broadband service. Mr. McKinney described the relevant experience of Petitioner's management team in the provision of communications services and provided their resumes. Mr. McKinney testified that Petitioner had full financial capability to

underwrite its share of construction and start-up expenses for its fiber optic network to provide VoIP and broadband services. He stated that Petitioner had entered into loan and credit documents with CoBank, ACB and Rural Utilities Service/Federal Financing Bank to accomplish the same. Mr. McKinney stated that Petitioner would offer high-speed broadband service and resell VoIP service purchased from Momentum Telecom, an unaffiliated third-party provider. He further provided that Petitioner owns and operates various network facilities and back office, billing and customer support functions to provide the services required as an ETC. Mr. McKinney stated that the Commission's previous designation of Petitioner as a high-cost ETC in areas outside of the Expanded Service Area demonstrates that the Commission is satisfied that Petitioner is financially capable of providing the required services, which will be the same in the Expanded Service Area as those provided to both Lifeline and non-Lifeline customers throughout Petitioner's previously designated ETC service area.

Mr. McKinney stated that Petitioner would provide all of the required services in the designated ETC service area. Mr. McKinney further testified that Petitioner is a "common carrier" as defined by 47 USC § 153(11) because it will offer communications services for sale to the public by wire and transmit communications both interstate and intrastate. He further stated that Petitioner would provide all services required to be eligible for low income universal service support using its own facilities or, if necessary, through resale of another carrier's services. Mr. McKinney testified that Petitioner would use its own fiber-based network to provide services to end users in the requested ETC service area. He stated that interconnected VoIP service would be provided to allow subscribers voice-grade access to the public switched telephone network.

Mr. McKinney testified that Petitioner would provide all required services within the Expanded Service Area, including Lifeline-eligible voice service and broadband internet access service. Petitioner's broadband service would include speeds of up to 1/1 Gbps with no usage cap and would be capable of transmitting data to and receiving data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of communications service, but excluding dial-up service. Mr. McKinney testified that Petitioner would not prioritize between endpoints, and that there was no plan or intent to limit connectivity within or outside the network. Mr. McKinney provided that Petitioner would provide voice-grade access to the public switched telephone network by reselling interconnected VoIP service over its own fiber network, which would enable Petitioner to provide voice telephony service at the appropriate service levels. Petitioner's voice service offerings would provide minutes of use for local service at no extra charge and access to emergency services provided by local government, such as 911 and E911. Mr. McKinney confirmed that Petitioner's voice and broadband service offerings would be made available to both Lifeline-eligible and non-Lifeline customers.

Mr. McKinney stated that Petitioner would advertise the availability and rates for the voice telephony and broadband access services to be offered within the Expanded Service Area using media of general distribution, as required by 47 CFR § 54.201(d)(2). Specifically, Petitioner will advertise these services via outreach materials and methods designed to reach households that currently do not have telephone service and those likely to qualify for the service. Advertising will include, but not be limited to, targeted direct mail and email, advertisements in monthly Cooperative magazine, billboards and social media advertising. Petitioner will also coordinate with relevant state agencies, community outreach organizations and non-profit organizations to make

information regarding supported service offering available in their respective resource guides, other printed materials and offices. Mr. McKinney testified that Petitioner intended to follow the FCC's Lifeline advertising guidelines in establishing an advertising program for its Lifeline services to reach eligible households that do not currently receive service.

Mr. McKinney testified that Petitioner would not provide a five-year plan describing the improvements to its network and area or population to be served because Petitioner was seeking ETC designation in this Cause solely for the purpose of seeking reimbursement from the federal Lifeline program; thus Petitioner is not subject to the five-year plan requirement under FCC rules and GAO 2019-5.

Mr. McKinney testified that, during emergency situations, Petitioner would provide access to a reasonable amount of back-up power to ensure functionality without an external power source, the ability to reroute traffic around damaged facilities, and the capability of managing traffic spikes resulting from emergency situations. He stated that Petitioner could modify network routing and weighting as needed to reroute traffic around damaged facilities and that traffic management capabilities would allow Petitioner to manage traffic spikes throughout its network, as emergency situations require. Mr. McKinney provided that Petitioner had established reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in traffic, illness of operators, or from fire, storm or acts of God, including provisions to supply a reasonable amount of emergency power to provide a reasonable amount of battery service at members' premises. He stated that Petitioner's network facilities would have off-grid backup power available from its backup generator system and that, in the case of damaged facilities, Petitioner would be able to re-route traffic to circumvent such facilities by utilizing its secondary connections and would maintain adequate capacity to manage traffic spikes from emergency situations. Mr. McKinney testified that Petitioner had informed employees as to the procedures to be followed, including reasonable rerouting of traffic around damaged facilities and the deployment of emergency power in the event of emergency to prevent or mitigate interruption or impairment of telecommunications service. Finally, Petitioner's VoIP services contract arrangement imposes certain obligations on the third-party provider to ensure Petitioner's supported service offering remains functional during emergency situations. Mr. McKinney testified that Petitioner commits to satisfying all related applicable state and federal requirements related to consumer protection and service quality standards with respect to the supported services provided in the Expanded Service Area.

Mr. McKinney testified that Petitioner's Lifeline program provides low-income Indiana residents with the convenience and security offered by access to Petitioner's voice and broadband services, and that expansion of Petitioner's ETC service area would increase the number of low-income consumers who can benefit from these services. He stated that inclusion of the Expanded Service Area in the Lifeline program would serve the public interest by increasing participation of qualified consumers in the program, thereby contributing to an overall increase in the number of Indiana residents receiving Lifeline service and an increase to the amount of federal Universal Service Fund ("USF") dollars benefiting Indiana residents. Mr. McKinney further testified that authorizing Petitioner to offer Lifeline service within the Expanded Service Area would provide administrative efficiencies to Petitioner, saving time for both the customer service representatives and the subscriber when setting up a new account. He stated that this would also remove the

possibility of administrative error in determining a subscriber's Lifeline eligibility based upon their location. He testified that offering Lifeline service within the Expanded Service Area would benefit eligible subscribers within the entire service territory of Petitioner, which has a large population of economically depressed residents. Mr. McKinney further stated that any Lifeline support received by Petitioner would have a de minimis impact on the USF, which the FCC has determined would be outweighed by the benefit of increasing participation in the Lifeline program.

Finally, Mr. McKinney described Petitioner's planned Lifeline service offerings in the Expanded Service Area, including a discount in the amount of \$5.25 per month to qualifying consumers who purchase voice service only (until its expiration) and a discount in the amount of \$9.25 per month to qualifying consumers who purchase bundled broadband and voice services. Mr. McKinney stated that Petitioner's Lifeline terms and conditions would be posted on Petitioner's website and would be provided to eligible customers enrolling in Lifeline. He stated that Petitioner would determine Lifeline eligibility, enrollment, recertification and reimbursement in accordance with FCC rules. Mr. McKinney stated that Petitioner would advertise the availability of Lifeline services and charges through media of general distribution in a manner reasonably designed to reach potential Lifeline customers and make them aware of such offerings, as required by 47 CFR § 54.405(b). Specifically, he stated the Petitioner would advertise the availability of Lifeline services using the same media outlets used to advertise Petitioner's other communications services, including Petitioner's website and printed materials.

**4. Response to Commission's Docket Entry.** On April 11, 2022, the Presiding Officers issued a Docket Entry in this Cause seeking additional information. Petitioner filed its response to this Docket Entry on April 22, 2022. In its response, Petitioner provided additional information regarding its conformity with the FCC Wireline Bureau's reasonable comparability benchmark regarding Petitioner's "Unlimited Voice with telephone service only" rate. Petitioner also clarified that the non-usage standards described in 47 CFR § 54.507(c) do not apply to Petitioner's Lifeline plans because Petitioner will assess and collect a monthly fee for voice and broadband services. Petitioner explained that it is not required to determine and de-enroll subscribers for non-usage, but that Petitioner will comply with all applicable de-enrollment provisions of 47 CFR § 54.405(e). Finally, Petitioner filed with its response an amended Exhibit A to the Verified Petition identifying the boundaries of all census blocks in which it was granted RDOF support where Petitioner is already currently authorized as an ETC and the boundaries of the Expanded Service Area.

**5. Commission Findings.** In accordance with the Commission's guidelines in General Administrative Order 2019-5 – Appendix A, Petitioner has identified each incumbent local exchange carrier exchange area in which it seeks authorization to offer lifeline service in State of Indiana, and supplied maps which show the wireless coverage that will enable it to offer such service. Therefore, based on the evidence of record, we find that Petitioner's application to provide lifeline service to more areas in Indiana as set forth in its application and additional supporting evidence is in the public interest and should be granted.

**6. Confidentiality.** On March 7, 2022, Petitioner also filed a Motion for Confidential Treatment of Certain Exhibits of Mark McKinney, which was supported by an affidavit of Mr. McKinney demonstrating that documents to be filed with the Commission were trade secret

information within the scope of Ind. Code §§ 5-14-3-4 and 24-2-3-2. The Presiding Officers issued a Docket Entry on March 30, 2022, finding such information to be preliminarily confidential, after which such information was submitted under seal. We find all such information is confidential pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION THAT:**

1. Jackson County Rural Electric Membership Corporation's Verified Petition to expand the service area designated for it to provide lifeline service to qualified customers in Indiana as an ETC is granted.
2. This Order shall be effective on and after the date of its approval.

**HUSTON, FREEMAN, KREVDA, AND ZIEGNER CONCUR:**

**APPROVED: JUN 28 2022**

**I hereby certify that the above is a true and correct copy of the Order as approved.**

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**Dana Kosco**  
**Secretary of the Commission**